

Summary of Request for an exception to the NC (Neighborhood Center) District for the maximum tenant size of Arbor Creek Building H located at 16509 – 16529 S. Bradley Drive, Olathe, Kansas (the “Property”) owned by Murlen 159, LLC, a Kansas limited liability company.

The purpose of this letter is to request an exception to the Neighborhood Commercial Zoning District (“NC District”) which limits tenant size to 5,000 square feet or less, with certain exceptions. Pursuant to Section 18.14.100(F)(3) of the City Code of the City of Olathe, Kansas (“City”), an exception may be granted upon an express finding that unique characteristics of the property impose an unnecessary hardship upon the property owner if the regulations are strictly applied, and that granting an exception will not adversely affect the rights of adjacent property owners or residents. We are requesting an exception to the 5,000 square foot maximum tenant size for the entirety of Building H. This will permit the expansion of an existing approximately 4,000 square foot liquor store into adjoining space to create a new store containing approximately 6,364 square feet. The limitation of 5,000 square feet for tenants at the Property imposes an unnecessary hardship on the owner of the Property and permitting a commercial establishment of 6,364 square feet will not adversely affect the rights of the adjacent property owners or residents.

We have owned the Property for 11 years. A portion of this space was originally occupied by a hardware store. Upon the opening of the Sutherlands on 151st and Murlen, the hardware store could no longer compete due to its lack of size compared to the new Sutherlands. A portion of the space was then occupied by a barbeque store selling grills, rubs, spices, and meats. However, the barbeque store was unable to generate sufficient revenue to continue operations in the space. Due to current economic conditions and competition with the surrounding retail centers that do not suffer from the NC District size limitations, the existing liquor store needs to expand into larger space to provide an improved product selection, depth and pricing that the customer base in Arbor Creek Village and surrounding areas require. In addition, owner plans to continue to carry a selection of barbeque products in the expanded space to better serve customer needs and anticipates that retail use to utilized approximately 1,000 square feet, or well over half of the requested exception space. The lack of flexibility in the maximum tenant size within Building H presents an undue hardship on the property owner.

Increasing the size of a retail liquor store from the current 4,000 square feet to 6,364 square feet will not adversely affect the rights of adjacent property or residents. The use will not increase traffic volume or result in parking overflows because the center was designed to include the retail square footage and due to the short nature of customer visits in the store. Increasing the size of the proposed retail liquor store will not result in an increase in noise or pedestrian volume over what would be permitted under the NC District because the entirety of Building H is designed to be filled with retail tenants regardless of whether it is two, three or four tenants within Building H.

In granting the exception request, the City would be alleviating an undue hardship that will not have any adverse effects on the rights of adjacent property owners or residents. If you have any questions or desire additional information, please let me know.

In addition, it was brought to our attention that another tenant in Building H, Casa Amigos Mexican Restaurant, requested and was granted a permit in November, 2022 to expand their restaurant from 3,298 square feet to approximately 5,500 square feet. This request was made in order to meet the

overwhelming demand from the neighborhood and surrounding Olathe community for Casa Amigo's product and service. Casa Amigo was experiencing excessive wait times and, in order to better serve their customers, the expansion was necessary. Similar to the expansion requested here, the Casa Amigo increase over the 5,000 square foot maximum tenant size has not and will not adversely affect the rights of the adjacent property owners or residents. We request an exception to the 5,000 square foot limit on this tenant space as well.