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**Our Lady of Mercy**
**Administrative Variance**
Request Statement

The requested administrative variance is for a ± .22-acre property located between West Railroad Avenue and a 10-foot wide unnamed alley. The property is within the Urban Community Future Land Use category and is zoned RS-1. The property consists of an existing single residence under STRAP # 14-43-20-01-00006.0110. The existing residence is proposed for demolition to allow construction of a new parish hall. The Our Lady of Mercy Church campus located at 240/250 Park Ave under the STRAP #14-43-20-01-00006.0060 is just north of the subject property.

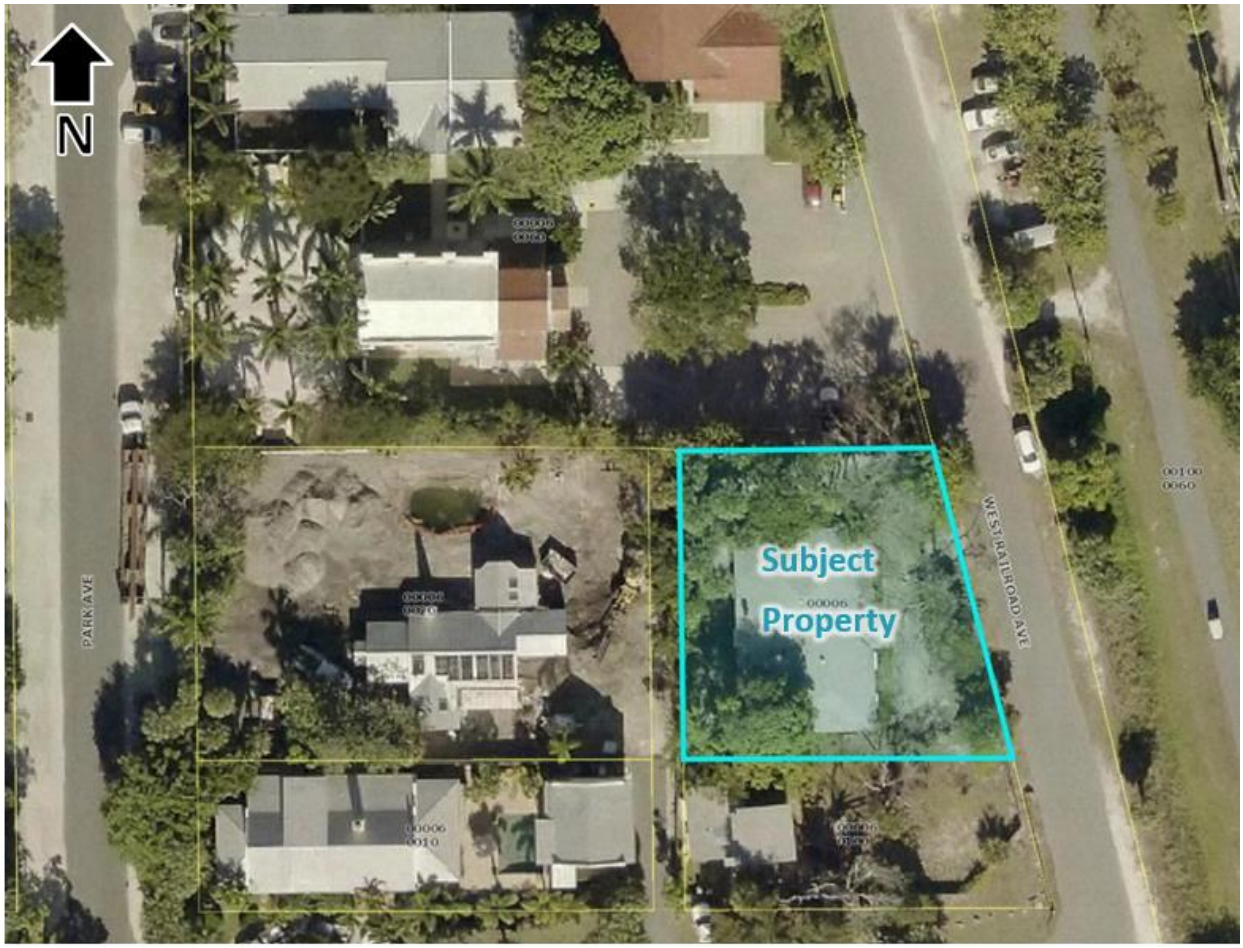


**Figure 1: Aerial of Subject Property**

**Background:**

Our Lady of Mercy Church purchased the residence in December 2017. The parcel consists of lots 11 and 12 of the revised plat of Boca Grande. The intention of the acquisition was to provide additional land to expand the church campus for construction of a new parish hall to accommodate the growing congregation.

**Lee Plan Consistency:**

The following portion of the request statement narrative outlines how the Administrative Variance is consistent with the goals, objectives, policies, and intent of the Lee Plan.

*Planning Community – Boca Grande:*

The subject property is located within the designated Planning Community of Boca Grande. Boca Grande is described in the Vision Statement of the Lee Plan as an area of particular natural beauty containing abundant plant and wildlife. As a result, the State of Florida recognized the need to preserve the island which resulted in the Gasparilla Island Conservation District Act of 1980 (GICDA). Land vacancy on the island is less than 15%, therefore there is virtually no capacity for additional new development, while substantial population growth is expected in adjacent areas of Charlotte and Sarasota Counties. The Boca Grande community is dedicated to preserving its historic character and scale and its unique island residential character so that the community will look substantially as it does today through 2030, including its unique mix of vital small businesses and tourism-oriented destinations.

Additionally, Goal 19 and the supporting objectives and policies of the Lee Plan outlines the future growth management of Boca Grande by identifying the need to preserve and conserve the environment, recreation, open spaces and historic resources of the community.

***Objective 19.1*** describes the future land use designations as a means by which to limit densities and intensities in the community to maintain the current scale and development pattern of the community. Furthermore, ***Policy 19.1.5*** specifies the importance of adhering to traditional setbacks in cases of new development and redevelopment citing the front and side yards as being of particular significance to the subject of traditional setbacks. The site plan demonstrates that the proposed Parish Hall will mimic the orientation of the existing Rectory Building in the northeast corner of the site, however, due to the site's unique geometry, exact setbacks cannot be accomplished and can only be closely reproduced.

***Policy 19.1.3*** requires the applicant/agent of a special exception or rezoning to conduct a public information session prior to being found sufficient. The applicant will comply with this requirement by presenting the project details through a virtual meeting prior and provide a

meeting summary. The virtual meeting will be advertised. The project materials will be made available to the public via a project website, these activities will provide the public with project details satisfying ***Policy 17.3.3*** and ***Policy 17.3.4***.

***Objective 19.2*** delves into transportation and circulation by which the proposed project is adhering. More specifically, ***Policy 19.2.1*** which enforces limited growth, building height, and advertising and ***Policy 19.2.6*** which supports improved pedestrian safety and circulation in the Historic District. The existing church and accessory buildings are compliant with building development regulations such as height. Additionally, the compact campus-like site plan promotes the internal movement of pedestrians through the use of interconnected sidewalks. These design features further promote the scale and character of the Boca Grande Historic District. The proposed parish all is oriented toward the existing Our Lady of Mercy campus. A cover walkway is provided between the Church and the new parish hall. As shown in Figure 2.

**Figure 2: Parish Hall Oriented to Church and Cover Walkway Provided**

Parking in the Boca Grande community is addressed in ***Objective 19.3*** and ***Policy 19.3.1*** confirms the need for a long-term strategy to address the increasing parking demand on the island. Some proposed strategies include revising traffic count thresholds, revised minimum parking

requirements, and shared parking agreements. In support of these strategies is LDC Section 34-2052(b) which requires parking for ancillary religious facilities to be calculated per the requirements of Division 26, however, "where the ancillary facilities will not be used at the same time, parking will be based upon the peak anticipated attendance at one time, for all facilities." Because the members of the congregation will not utilize the proposed Parish Hall adjacent to the existing Church (referred to the North parcel) at the same time as Church service, the peak use will be used to satisfy parking requirements in compliance with the strategies outlined in ***Policy 19.3.1***.

Open space, recreation, and beautification are described in ***Objective 19.7*** as elements which enhance the aesthetic qualities of the Boca Grande community. ***Policy 19.7.1*** supports the protection and enhancement of the Boca Grande Bike Path which lies east of West Railroad Ave. The proposed site plan demonstrates landscaping along the western boundary of West Railroad Ave that would significantly improve the area's aesthetics and enhance the views for users of both West Railroad Ave and the Boca Grande Bike Path from which the subject property is visible. Furthermore, ***Policy 19.7.8*** supports the addition of native plantings within the Historic District citing greater community aesthetics, safer pedestrian movement, and more efficient traffic flow. Native plantings make up 100% of the required code minimum landscaping in the proposed plan for the Parish Hall.

***Objective 19.8*** addresses historic preservation within the Boca Grande community. More specifically, ***Policy 19.8.3*** and ***Policy 19.8.5*** refer to Lee County's support in review of permit application materials to adhere to the design parameters of the Historic District of Boca Grande. ***Policy 19.8.5*** specifies Lee County's support of modification to design components that propose features that are inconsistent with the historic character of the community. The companion Certificate of Appropriateness further details the design efforts by which the historic character of the area is maintained through the proposed site plan.

*Future Land Use:*

As stated previously, the subject property is within and surrounded by the Urban Community Future Land Use category (See Figure 3.).

**Figure 3. Future Land Use Map Categories**

*POLICY 1.1.4: The Urban Community areas are areas outside of Fort Myers and Cape Coral that are characterized by a mixture of relatively intense commercial and residential uses. Included among them, for example, are parts of Lehigh Acres, San Carlos Park, South Fort Myers, Iona/McGregor, Pine Island, and Gasparilla Island. Although the Urban Communities have a distinctly urban character, they should be developed at slightly lower densities. As the vacant portions of these communities are urbanized, they will need to maintain their existing bases of urban services and expand and strengthen them accordingly. As in the Central Urban area, predominant land uses in the Urban Communities will be residential, commercial, public and quasi-public, and limited light industry (see Policy 7.1.6) with future development in this category encouraged to be developed as a mixed-use, as described in Objective 11.1, where appropriate. Standard density ranges from one dwelling unit per acre (1 du/acre) to six dwelling units per acre (6 du/acre), with a maximum total density of ten dwelling units per acre (10 du/acre). The maximum total density may be increased to fifteen dwelling units per acre (15 du/acre) utilizing Greater Pine Island Transfer of Development Units.*

***Policy 1.1.4*** describes the Urban Community future land use category in which the subject property is designated. The category is described as having a distinct urban character but should

be developed at lower densities than typical urban areas. The compact development footprint of the property, along with numerous architectural and site design features, allow the site to maintain its historically pedestrian-oriented urban character. The policy affirms the importance of maintaining and strengthening urban services as vacancies in these communities are reduced. As previously stated, Boca Grande is described in the Vision Statement of the Lee Plan as having less than 15% land vacancy. Among the predominant land uses listed in the Urban Community category per ***Policy 1.1.4*** are public and quasi-public uses further indicating the uses suitability at the proposed location. It should be noted, per ***Policy 2.1.3***, that churches, among other public and quasi-public uses listed, are permitted in all land use categories.

Based on the analysis of the subject property and surrounding area, there are no documented or indications of any environmentally critical and sensitive areas and natural resources. As a result, the requested Administrative Variance to allow for a Religious Facility will not negatively impact environmentally critical and sensitive areas and natural resources and is consistent with ***Standard 4*** within the Lee Plan as well as ***Objective 19.4*** and ***Objective 19.5***.

**Zoning – Special Exception Request**

A companion special exception was filed that included the parish hall and the Church campus. The subject property is currently within the RS-1 zoning district, however the Church campus is in both the RS-1 and CS-1 zoning districts (See Figure 4) within the Boca Grande Planning Community. Places of Worship are permitted by Special Exception within the RS-1 zoning district and by right within the CS-1 zoning district.

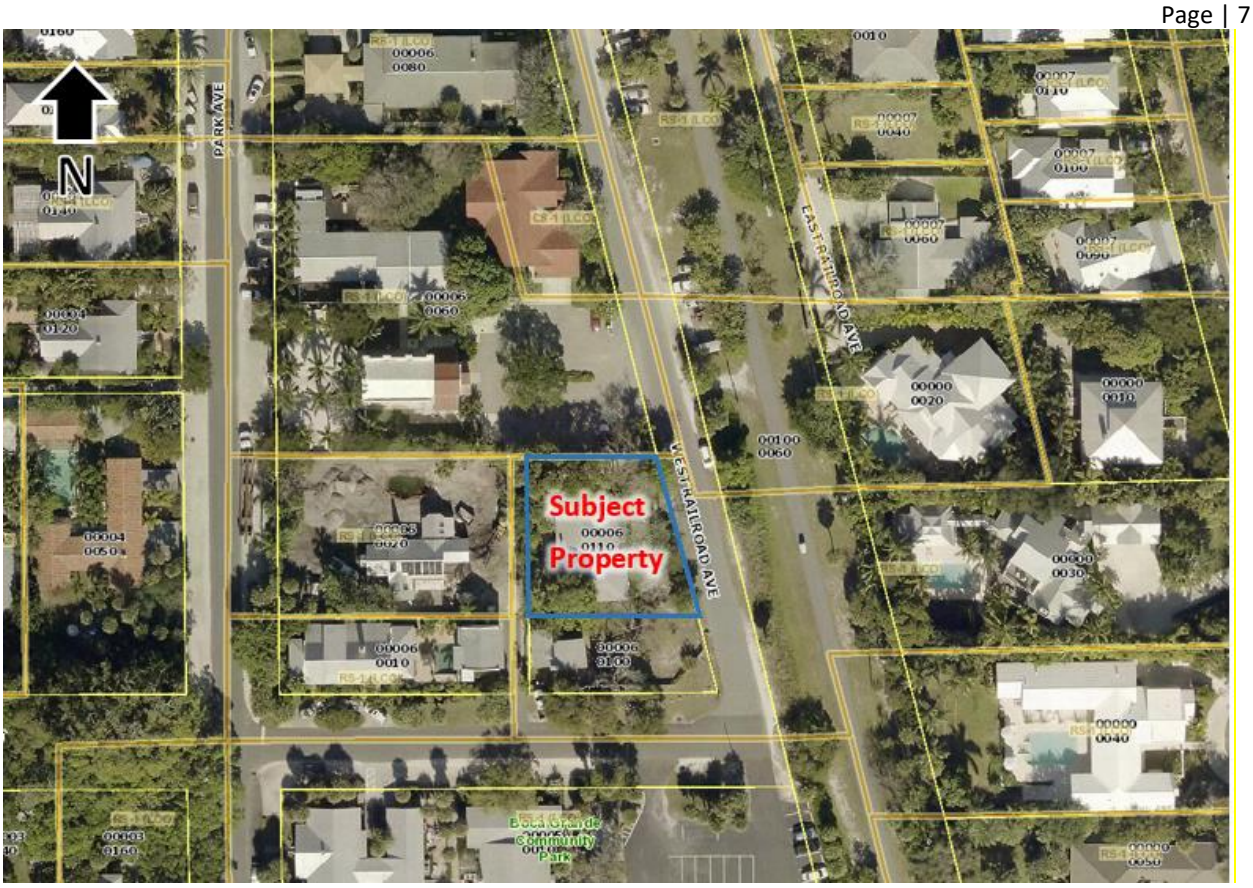


**Figure 4. Zoning Exhibit**

**Zoning – Administrative Relief**

The existing Our Lady of Mercy Church and accessory uses represents the aggregation of properties over several years to service the growing needs of the community. The requested Administrative Relief seeks to memorialize the existing conditions associated with the historical Church Building and the accessory Church Rectory and Meeting Building which provides educational space for Parish Members and their children. This application also seeks to memorialize the existing landscape buffers at the property boundaries. A Certificate of Appropriateness, which is a companion to the Special Exception and this Administrative Relief applications, is requested to allow demolition of the existing home on the subject property and construction of a new parish hall.

**Zoning– Administrative Variance & Public Hearing Variance**

The Parish Hall requires several variances. LDC§ 34-174 allows the Zoning Director to grant administrative variances from the property development regulations for all religious facilities and places of worship for properties zoned residential and in platted subdivision. The subject property is zoned RS-1 and is part of the revised plat of Boca Grande. The requested variances for administrative approval include:

- minimum lot area less than 2 acres, where 2 acres is required;
- minimum lot depth of less than 100 feet, where 100 feet is required;
- maximum lot coverage of 40.3 percent, where maximum lot coverage of 40 percent is allowed;
- varying right of way setback of 11.15 feet to 23.50 feet along east property line, where a 25-foot setback is required;
- right of way setback of 8.5 feet along the west property line, where a 25 foot setback is required and
- a side setback of 11.33 feet along south property boundary, where 20 feet is required.

The justifications and exceptional circumstances are outlined in the attached list of variance requests.

While the Director may provide relief for the required property development regulations outlined by LDC Section 34-2051, any reductions necessary in the required landscape buffers may only be provided by the Hearing Officer. The requested reduced right of way and side setbacks result in the need to request relief from the required landscape buffer width requirements. A companion variance request will be filed requesting relief of the landscape buffer width requirement for final consideration by the Hearing Officer. All of the required landscape plantings will be provided within the requested reduced buffers.

The following relief will be sought by the variance to be heard by the Hearing Examiner:

- The buffer width along the east property line with vary between 9.54 feet and 26.98 feet. A 15-foot Type D buffer is required along the east property line.
- The buffer width along the west property line will be 8.5 feet. A 15-foot Type D is required along the east property line.
- The palm trees provided in the east and west buffers will not be clustered as required. Palm trees placed within right of way buffers required to be clustered.
- The buffer along the south property line will be 11.33 feet and no wall be provided. A Type C buffer is required and along with a wall and/or a berm.

**Surrounding Uses**

The subject property is located within an area of Boca Grande consisting of a mixture of existing improved commercial and residential development. Immediately north of the subject property is a place of worship, Our Lady of Mercy, which the subject property is accessory to. To the west of the subject property is an existing single-family residence under construction. To the south is an existing single-family residence. Directly to the east is West Railroad Ave. With the purchase and development of the Parish Hall on the subject property, the Our Lady of Mercy Campus will take a majority of frontage along West Railroad Avenue from 3rd Street to Banyan.

| | Future Land Use | Zoning | Existing Use | Notes |
|---|---|---|---|---|
| **North** | Urban Community | RS-1/CS-1 | Place of Worship | Our Lady of Mercy |
| **East** | Urban Community | RS-1 | Right of Way | West Railroad Ave, Boca Grande Bike Path |
| **South** | Urban Community | RS-1 | Single-family residence | |
| **West** | Urban Community | RS-1 | Single-family residence | |

**Table 1. Uses surrounding Subject Property**

**LDC Consistency**

Based on the Site Plan (See Attached), the existing structures and various existing site improvements (concrete pads, decking, etc.) will be demolished and removed from the property to provide additional and more effective use of the property for a Religious Facility. The companion Special Certificate of Appropriateness and Administrative Relief applications further address design parameters for the Property.

The principal church is located on STRAP #14-43-20-01-00006.0060 which has two (2) zoning districts; RS-1 and CS-1. Places of worship are permitted in the RS-1 district as existing only (EO) or via special exception (SE) per Table 34-694. LDC Section 34-2053 is specific to the expansion of existing places of worship as is the case with the current project. The code section affirms that that places of worship which lawfully existed as of August 1, 1986 are a legal use. Lee County Property Appraiser data dates the principal church building back to 1950 with an effective year built of 1978, both preceding the 1986 limitation and satisfying the EO criteria for the principal structure in the RS-1 zoning district. The CS-1 zoning district permits the use by right without need for a special exception. The subject property is zoned RS-1 which prompts the need for the special exception.

The attached site plan specifically identifies and notes the location of the proposed Parish Hall and proposed buffering/screening/landscaping in accordance to the maximum extent possible with all applicable sections and divisions in Chapter 34. Where needed variances have been requested.

**Urban Services**

The subject property is in the Boca Grande Planning Community with a Future Land Use category of Urban Community, which as stated previously is an urban category that promotes a mixture of relatively intense commercial and residential uses.

*Public Utilities* – The subject property is served by Gasparilla Island Water Association. Currently there is both potable water and sanitary sewer service to the subject property.

*Solid Waste* – Solid waste is available through Lee County, with Waste Management as the current contracted provider for the subject property.

*Emergency Services* -The subject property is serviced by Boca Grande Fire, and the Lee county Sheriff. The property will likely be served by Boca Grande Fire Department, approximately 0.1 miles from subject property located at 360 East Railroad Ave, Boca Grande, FL 33921. The sheriff's Gulf District (Boca Grande) Patrol Unit is located at 131 1st Street West, Boca Grande, FL 33921 approximately .3 miles from the subject property.

*Public Transit (Lee Tran)* – There is no Lee Tran service to Boca Grande.

*Transportation/Traffic* - The subject property fronts on W. Railroad Avenue which is an arterial road in Boca Grande Approval of the request will allow for a Religious Facility to be established on the property as an accessory to the existing church on the abutting property to the north.

**Findings**

Before approving any administrative variance, the Director must find the following review criteria are satisfied:

a. There are exceptional or extraordinary conditions or circumstances that are inherent to the property in question;

**Response:**

The subject property at 221 W. Railroad Avenue consists of lots 11 and 12 of Block 6 of the Revised Plat of Boca Grande which combined are approximately .22 acres in size. The plat was approved in 1925 prior to adoption of the first county zoning code. The combine lots have an

irregular trapezoid shape. While the lot width is approximately 100 feet the lot depth varies from north to south between approximately 83.35 feet and 107.91 feet.

**Figure 5: Reduced Lot Depth Due to Trapezoid Shape**

The lot depth of less than 100 feet is a historical condition. Lots along the east side of Block 6 are bounded by W. Railroad Avenue on the east and a midblock alley on the west. This results in two frontages. Given the required 25 foot right of way setback for each of the two frontages, the code eliminates 50 foot of lot depth, leaving only 40 foot of buildable area. When the code required side setbacks of 20 feet are included 40 foot of lot width is eliminated leaving only 60 feet of buildable area or 2,400 square feet. The buildable area when the code required setbacks are applied is less than 40 percent of the total lot area of 9,563.79 sqaure feet and is insufficient to support the Parish Hall.

The limitations due to the historic plat along with the restrictions placed on places of worship and religious facilities have resulted in this requested Administrative Variances. The intention of LDC § 34-2051 is to address larger places of worship and religious facilities that are typically developed on green field sites and serve a much larger population in inland Lee County. The Our Lady of Mercy church has been a fixture of the Boca Grande community (a barrier island community) for many years. Without the requested variances the church will be unable to grow its facilities to continue to support the growing community in the area.

The subject property is located within the designated Planning Community of Boca Grande. The

State of Florida recognized the need to preserve the island which resulted in the Gasparilla Island Conservation District Act of 1980 (GICDA). Future development on Boca Grande is restricted to residential and non-residential uses must remain within the zoning districts that existing in 1980. Land vacancy on the island is less than 15%, therefore there is virtually no capacity for additional new development, while substantial population growth is expected in adjacent areas of Charlotte and Sarasota Counties. The Boca Grande community is dedicated to preserving its historic character and scale and its unique island residential character so that the community will look substantially as it does today through 2030, including its unique mix of vital small businesses and tourism-oriented destinations.

As the island's population increases existing facilities like those occupied by the Our Lady of Mercy congregation will need expand to accommodate additional parishioners. The acquisition and development of the southern parcel into a parish hall will allow the Our Lady of Mercy campus to grow to meet the needs of its growing congregation.

b. The variance granted is the minimum variance that will relieve the applicant of an unreasonable burden caused by the application of the regulation in question to the property; and

**Response:**

The proposed reduction in lot area, lot depth, setbacks and the slight increase in the maximum lot coverage are the minimum necessary variances to permit the development of the parish hall. The proposed setbacks are consistent with other structures in the area. The addition of lots 11 and 12 to the Our Lady of Mercy campus will improve the existing non-conformity in overall acreage toward the required minimum 2 acres. To achieve a greater lot area would require the purchase of a surrounding residential lots which are developed with existing homes. The taxable value of properties in the area of the proposed parish hall is 2.6 million to 1 million.

The subject property has a trapezoid shape with an eastern property boundary that is angled due to the W. Railroad Avenue right-of-way. This condition is the result of the historical Revised Boca Grande plat recorded in 1925. The subject property consists of 2 existing platted lots, 11 and 12. A review of the Revised Boca Grande Plat demonstrates at the time of recording the maximum depth of lot 11 was 95 feet; less than the required 100 feet. The requested reduction represents the minimum request to allow the existing platted condition to continue and relieve the condition created by the property development regulations and the historic plat.

The buildable area of the subject parcel when the code required front and side setbacks are applied is approximately 2,737.8 square feet. This area represents 28.6 percent of the permitted 40 lot coverage. The combine lots are approximately 9,563.79 square feet. Forty percent of 9,563.79 square feet is 3,825.59 square feet. The proposed parish hall is 3,642 square feet. By applying the code minimum setbacks, the lot coverage is limited to less than the amount

permitted by the land development code due to the historical plat and trapezoid shape of the subject property. The setbacks do not permit the full utilization of 40 percent lot coverage making it impossible to develop the parish hall without the required setback reductions.
As demonstrated by the provided supporting documentation to the Special Certificate of Appropriateness, the proposed parish hall has a maximum building occupancy of approximately 163 people. The existing church has a seating capacity of between 85-90 people. The parish hall is not meant to be a standalone structure and is oriented to provide accessibility for the existing church campus to the north.
Additional parking is being provided on the north portion of the subject property to address the exiting non-conforming parking on the existing church campus. To accommodate the parking area and maintain a larger front setback from W. Railroad Avenue, the proposed building was moved closer to the south property boundary. By moving the structure to the south, the setback between the building and W. Railroad Avenue can be maximized. The trapezoid shape of the subject property, which is a function of the historical plat results in a larger setback from W. Railroad Avenue the further south the structure is placed on the subject property.

c. The granting of the variance will not be injurious to the neighborhood or otherwise detrimental to the public welfare.

**Response:**
The reduction of the front setback along W. Railroad Avenue is consistent with the existing setback of the Rectory of approximately 19 feet on Park Avenue and the existing Meeting Building with of approximately 10.10 feet on W. Railroad Avenue. The side setback of the existing Meeting Building is 7.5 feet; consistent with the side setback for single family residences in the RS-1 zoning district. The side setback for the parish hall is 11.33 feet. The existing setbacks for the Our Lady of Mercy campus do not have a negative effect of the surrounding neighborhood nor are they detrimental to the public welfare. The new parish hall will allow the church to better serve the community as it grows. The building will provide a uniform appearance and updated landscaping will help to beautify the neighborhood. The reduced setbacks will promote a more uniform appearance of the church campus and continue to maintain the community character of the area. The smaller lot depth and limitations of two road frontages reduced the buildable area of the southern parcel.

The proposed parish hall is similar in mass and scale of the other buildings on the Our Lady of Mercy campus. Despite the request for reduced setbacks the required landscape plantings will be provided ensuring appropriate visual screening for the new parish hall.

The front setbacks of the proposed parish hall are similar to other non-residential buildings in the neighborhood. One block north of the Our Lady of Mercy Campus is a commercial building owned

by Boca Grande Health Clinic Inc, that has multiple front setbacks. The building is at 320 Park Street, the approximate setback from Park Street is 8 feet and the setback from W. Railroad Avenue is approximately 12 feet. The building is within the CS-1 zoning district. One block south of the subject property is the Boca Grande Historical Society. There are several buildings being used by the Historical Society and the average approximate front setback for these building from Banyan Street is 10 feet. The are many more examples within just a few blocks of the proposed parish hall of structures with similar front setbacks. It is anticipated that the proposed parish hall will not be detrimental to the public welfare as reduced setbacks exist throughout the surrounding area. The proposed relief appears to be in harmony with the existing conditions in the surrounding area.