

**AD-24-10**

**LOCATION:** 7725 Lem Turner Road, 0 Wainwright Court

**REAL ESTATE NUMBER:** 024225-0000, 023685-0000

**DEVIATION SOUGHT:**

1. Reduce the dumpster setback from the required five feet along the east property line to 0 feet.
2. Reduce the perimeter landscape buffer area between vehicle use area and abutting property from 5 feet minimum width required along the north property boundary to 0 feet.
3. Reduce the perimeter landscape buffer area between vehicle use area and abutting property from 5 feet minimum width required along the south property boundary to 0 feet.
4. Reduce the uncomplimentary land use buffer width from 10 feet wide required along the north property line to 0 feet wide.

**PRESENT ZONING:** CCG-2

**CURRENT LAND USES:** CGC

**PLANNING DISTRICT:** 5

**COUNCIL DISTRICT:** 10

**SIGNS POSTED:** 2

**OWNER:**

Vicente Tome  
Burger King Company, LLC  
5707 Blue Lagoon Drive  
Miami, FL 33126

**AGENT:**

John Stoeckel  
MJ Stokes Consulting LLC  
9872 Montague Street  
Tampa, FL 33626

**STANDARDS, CRITERIA AND FINDINGS**

<p><b>1. Is this situation unique or similar to other properties in the neighborhood?</b></p>	<p><b><u>Recommendation:</u></b> Similar. The subject properties are 1.21 acres located along Lem Turner Road and Wainwright Court. The subject properties are located within the Commercial Community General-1 (CCG-1) zoning district, which allows for restaurants with a drive-thru.</p> <p>The applicant is seeking to make improvements to the properties as a Burger King drive-thru restaurant. The applicant is seeking to reduce the dumpster setback along the east property line from 5 feet required to 0 feet, reduce the perimeter landscape buffer area between vehicle use area and abutting property along the north and south property lines from 5 feet minimum width to 0 feet minimum width, and to reduce the uncomplimentary land use buffer along the north property line from 10 feet width required to 0 feet.</p>
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	<p>This lot is considered similar to other properties in the area as there are several commercial properties along Lem Turner that would require similar requests, should they make improvements in the future.</p> <p><b>Findings:</b></p>
<p><b>2. There are practical or economic difficulties in carrying out the strict letter of the regulation in that...</b></p>	<p><b>Recommendation:</b> Yes. There are practical and economic difficulties associated with carrying out the strict letter of the regulation as the proposed development would be functionally and operationally limited without the setback reduction and vehicle use area reduction. As such, configuring the site to accommodate the efficient flow of traffic necessitates the deviation. However, it is suggested to provide the uncomplimentary land use buffer as this is abutting residential properties with the north access point.</p> <p><b>Findings:</b></p>
<p><b>3. The request is not based exclusively upon a desire to reduce the cost of developing the site, but would accomplish a result that is in the public interest.</b></p>	<p><b>Recommendation:</b> Yes. The request is not based upon a desire to reduce the cost of developing the site. Rather, granting the deviations would promote maneuverability on the site and provide a sufficient vehicle use area (VUA). As granting the uncomplimentary land use buffer is not based upon a desire to reduce the cost of developing the site, granting the deviation would not be in the public's best interest.</p> <p><b>Findings:</b></p>
<p><b>4. The proposed deviation will not substantially diminish property values in, nor alter the essential character of the area surrounding the site and will not substantially interfere with or injure the rights of others whose property would be affected by the deviation, in that...</b></p>	<p><b>Recommendation:</b> Yes. Staff finds no evidence that the proposed deviations to reduce the dumpster setback and perimeter landscape buffer between vua's is likely to diminish property values in the surrounding area or alter the essential character of the area. However, staff finds the reduction in the uncomplimentary land use buffer will alter the character given the neighboring properties being residential.</p> <p><b>Findings:</b></p>
<p><b>5. The proposed deviation will not be detrimental to the public health, safety, or welfare, result in additional public expense, the creation of nuisances, or conflict with any other</b></p>	<p><b>Recommendation:</b> Yes. The proposed deviations to reduce the dumpster setback and the perimeter landscape buffers between vehicle use areas are unlikely to have a detrimental effect on the public health, safety</p>

<p>applicable law, in that...</p>	<p>or welfare, nor create a public expense or potential nuisance. Rather, the reduced setbacks with the dumpster and vua's will positively facilitate development to the best and highest use for the property by providing efficient space for the public to maneuver on site.</p> <p>However, it is anticipated that the uncomplimentary land use buffer width reduction will be detrimental to the public as this property is abutting single family dwellings and as an access point off the cul-de-sac of single-family dwellings.</p> <p><b>Findings:</b></p>
<p>6. The effect of the proposed deviation is in harmony with the spirit and intent of the Zoning Code.</p>	<p><b>Recommendation:</b> Yes. The proposed deviation requests are in harmony with the spirit and intent of the Zoning Code, which seeks to allow development of sites, encourage adequate vehicle use areas (VUA's), and promote the health, safety and general welfare of the public as outlined in the 2045 Comprehensive Plan.</p> <p><b>Findings:</b></p>
<p>7. The City landscape architect has/has not recommended the proposed deviation.</p>	<p>The City landscape architect has reviewed the submitted requests and recommends approval with the following condition:</p> <ol style="list-style-type: none"> <li>1. The uncomplimentary buffer width shall not be reduced.</li> </ol>
<p>8. The existing violation was not created by the applicant with an intent to violate the Zoning Code.</p>	<p>N/A</p>

**PLANNER RECOMMENDATION: APPROVE WITH CONDITION**

**DATE OF REPORT: 5/7/2024**

**Condition:**

1. The property shall be required to meet the 10-foot uncomplimentary buffer width along the north property line.



The Notice of Public Hearing signs were posted.



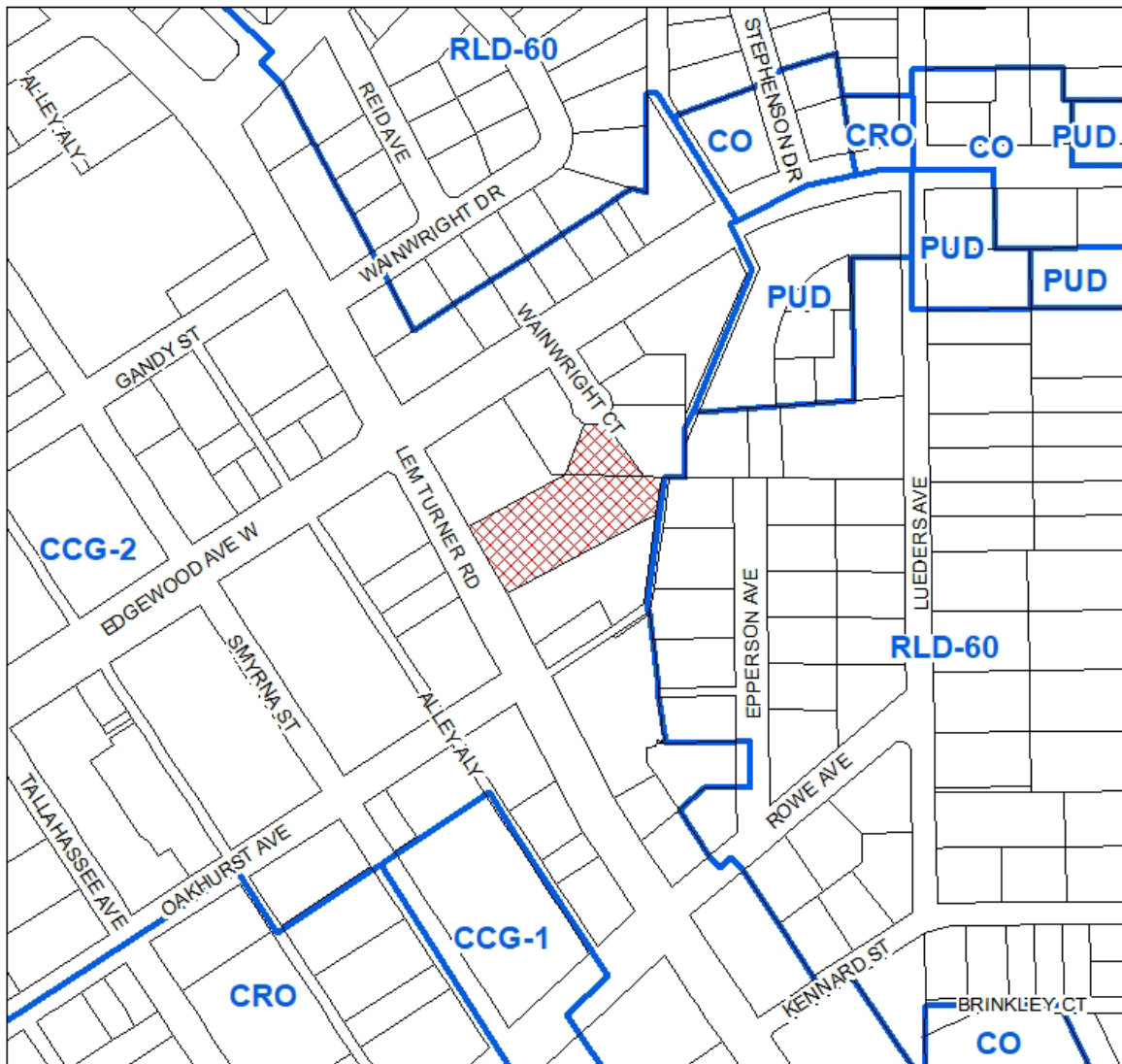
View of the subject property Lem Turner Road.



**View of the subject property.**



**Aerial view of the subject site.**



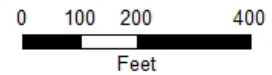
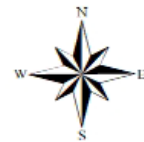
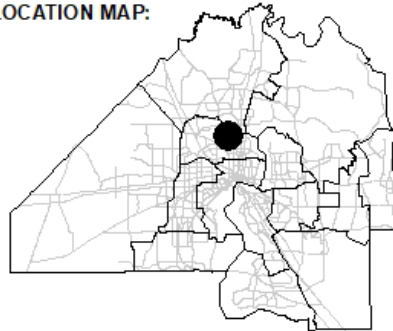
**REQUEST SOUGHT:**

REDUCE THE DUMPSTER SETBACK FROM THE REQUIRED 5 FEET ALONG: EAST TO 0 FEET

REDUCE THE PERIMETER LANDSCAPE BUFFER AREA BETWEEN VEHICLE USE AREA AND ABUTTING PROPERTY FROM 5 FEET MINIMUM WIDTH REQUIRED ALONG: NORTH BOUNDARY TO 0 FEET SOUTH BOUNDARY TO 0 FEET

REDUCE THE UNCOMPLIMENTARY LAND USE BUFFER WIDTH FROM 10 FEET WIDE REQUIRED ALONG: NORTH PROPERTY BOUNDARY TO 0 FEET WIDE

**LOCATION MAP:**



**COUNCIL DISTRICT:**

**10**

**TRACKING NUMBER**

**T-2024-5398**

**EXHIBIT 2  
PAGE 1 OF 1**

**Legal Map**