

**REPORT OF THE PLANNING AND DEVELOPMENT DEPARTMENT****APPLICATION FOR SIGN WAIVER SW-23-05 (ORDINANCE 2023-0266)****June 6, 2023**

***Location:*** 7504 Atlantic Boulevard

***Real Estate Number:*** 145176-0000

***Waiver Sought:*** Reduce sign setback from 25 feet to 8.5 feet and 10 feet to 2.9 feet

***Current Zoning District:*** Commercial Community General-2 (CCG-2)

***Current Land Use Category:*** Community General Commercial (CGC)

***Planning District:*** Greater Arlington/Beaches, District 2

***Applicant /Agent:*** Shutts & Bowen LLP  
Attorneys for Checkers Drive-In Restaurants, Inc.  
300 South Orange Avenue, Suite 1600  
Orlando, Florida 32801

***Owner:*** Thomas J. Meeker  
423 Stacey Road West  
Jacksonville, Florida 32250

***Staff Recommendation:*** **APPROVE**

**GENERAL INFORMATION**

Application for Sign Waiver **Ordinance 2023-0266 (SW-23-05)** seeks to permit a reduction in the required minimum setback for an existing pylon sign from the property line abutting Atlantic Boulevard from 25 feet to 8.5 feet and from the property line along Arlington Road South from 10 feet to 2.9 feet. The site is within a Commercial Community General-2 (CCG-2) zoning district and has a Community General Commercial (CGC) functional land use category as defined by the Future Land Use Map series (FLUMs) contained within the Future Land Use Element (FLUE) adopted as part of the 2030 Comprehensive Plan.

The 0.45± acre property is located at the corner of Atlantic Boulevard and Arlington Road South and is developed as a Checkers Drive-In Restaurant with one pylon sign. The property was constructed in 1992 with the gas station and two-pole pylon sign, which was replaced with its current one-pole pylon sign (S04-64170.000) and has remained in the same location since that new

sign was put in place. The property owner wishes to change the sign face for the current pylon sign which is resulting in the need for the existing sign to come into compliance with the current zoning code or seek a sign waiver.

### NOTICE TO OWNER / AGENT

Section 656.1310, Ordinance Code, sets forth procedures and criteria for evaluating waivers of the Part 13 sign regulations. Section 656.1310 of the Ordinance Code defines a sign as “a painting, structure or device which is placed, erected, or constructed or maintained on or in the ground, or on or outside of an enclosed building or other object or structure or affixed or painted on or inside an exterior window of a building for the purpose of displaying information, advertisement or attraction of the attention of persons, including posters, pictures, pictorial or reading matter and a letter, word, model, device or representation used in the nature of an advertisement, announcement, attraction or direction”.

### STANDARDS, CRITERIA AND FINDINGS

Pursuant to Section 656.1310(a)(i) through (x), Ordinance Code, provides that, with respect to action upon Applications for Sign Waivers, the Planning Commission shall grant a waiver only if substantial competent evidence exists to support a positive finding based on each of the following criteria as applicable:

- (i) ***Will the effect of the sign waiver be compatible with the existing contiguous signage or zoning and consistent with the general character of the area considering population, density, scale, and orientation of the structures in the area?***

Yes. The effect of the sign waiver will be compatible with the existing contiguous signage. This location is adjacent to commercial properties on all sides. The existing pylon sign at the subject property has existed on the property in its current location for several years (image below: *dated November 2007* – earliest available on Google Maps).



Existing sign Dated Feb 2022



Existing sign Dated November 2007

- (ii) ***Would the result detract from the specific intent of the zoning ordinance by promoting the continued existence of nonconforming signs that exist in the vicinity?***

No. The intent of the zoning ordinance is to have signage that does not interfere with visibility but promotes signage that is consistent with that found in the surrounding area. The applicant will only be making changes to the current sign face existing on the property but due to making changes to the sign face the property is required to bring the sign into compliance or file for a sign waiver. Given the location of the sign in relationship to the established developed pattern of the area, Staff has determined that the requested reduction in setback distance does not detract from the specific intent of the zoning ordinance as it relates to compatibility. It would not be possible for the sign to come into compliance with the current Zoning Code without encroaching on the established drive-thru lanes.

- (iii) ***Could the effect of the proposed waiver diminish property values in, or negatively alter the aesthetic character of the area surrounding the site, and could such waiver substantially interfere with or injure the rights of others whose property would be affected by the same?***

No. The effect of the proposed sign waiver is unlikely to diminish property values in, or negatively alter the aesthetic character of the area surrounding the site, in that the sign already existing.

- (iv) ***Would the waiver have a detrimental effect on vehicular traffic or parking conditions, or result in the creation of objectionable or excessive light, glare, shadows or other effects, taking into account existing uses and zoning in the vicinity?***

No. The waiver is unlikely to have a detrimental effect on vehicular traffic or parking conditions as it has existed for several years with no issues. Due to the applicant not making any changes to the existing sign location it is therefore also unlikely to create objectionable light, glare, or other effects to what already exists in the area.

- (v) ***Is the proposed waiver detrimental to the public health, safety or welfare, or could such waiver result in additional public expense, creation of nuisances, or cause conflict with any other applicable law?***

No. The proposed waiver is unlikely to be detrimental to the public health, safety, or welfare in that the signage has remained in its current location for several years without any issues or conflicts.

- (vi) ***Does the subject property exhibit specific physical limitations or characteristics, which could be unique to the site and which would make imposition of the strict letter of the regulation unduly burdensome?***

Yes. The subject property does exhibit specific physical limitations that limit the setback of the sign location from the road. The sign located along Atlantic Boulevard cannot be moved back due to the landscaping and where the concrete begins. It sits on the edge of

the concrete and moving the sign back would encroach on the drive-thru lanes.

- (vii) *Is the request based exclusively upon a desire to reduce the costs associated with compliance and is the request the minimum necessary to obtain a reasonable communication of one's message?*

No. The request is not based on a desire to reduce the costs associated with compliance. The applicant is seeking to only change the sign face as the company is rebranding their sign face.

- (viii) *Is the request the result of violation that has existed for a considerable length of time without receiving a citation and if so, is the violation that exists a result of construction that occurred prior to the applicants acquiring the property, not being a direct result of the actions of the current owner?*

No. The request is not the result of any cited violations. The sign has existed on the property for several years with no violations.

- (ix) *Does the request accomplish a compelling public interest, such as, for example, furthering the preservation of natural resources by saving a tree or trees?*

Yes. The request will further the public interest as it recognizes the original sign location as well as assures that the safety and interests of the public and the property owner are protected. Granting the waiver allows the owner to continue using the sign in their original location.

- (x) *Would strict compliance with the regulation create a substantial financial burden when considering the cost of compliance?*

Yes. While the goal of the Zoning Code is not to promote the continued existence of nonconforming signs, maintaining a sign in the specified location significantly outweighs the benefits of complying with the strict letter. A substantial burden would be imposed in order to relocate the signs within the required setbacks.

### **SUPPLEMENTARY INFORMATION**

The Notice of Public Hearing sign was posted.



**RECOMMENDATION**

Based on the foregoing, it is the recommendation of the Planning and Development Department that Application Sign Waiver SW-23-05 (Ordinance 2023-0266) be APPROVED.

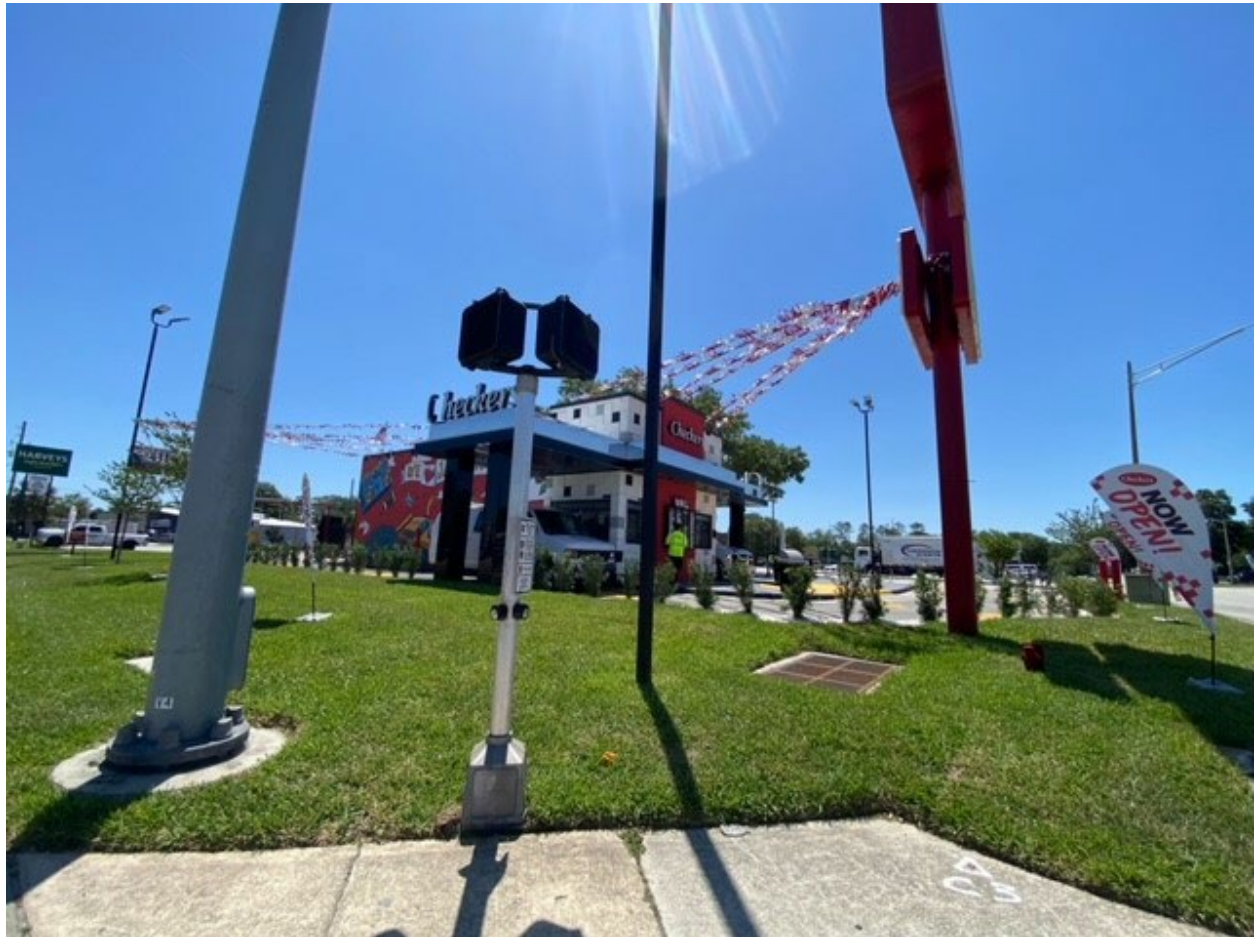


**Aerial View**

Source: JAXGIS



**New Sign Face**



**View of Property at the corner of Atlantic Boulevard and Arlington Road South**

*Source: Planning and Development Department, 05/02/2023*



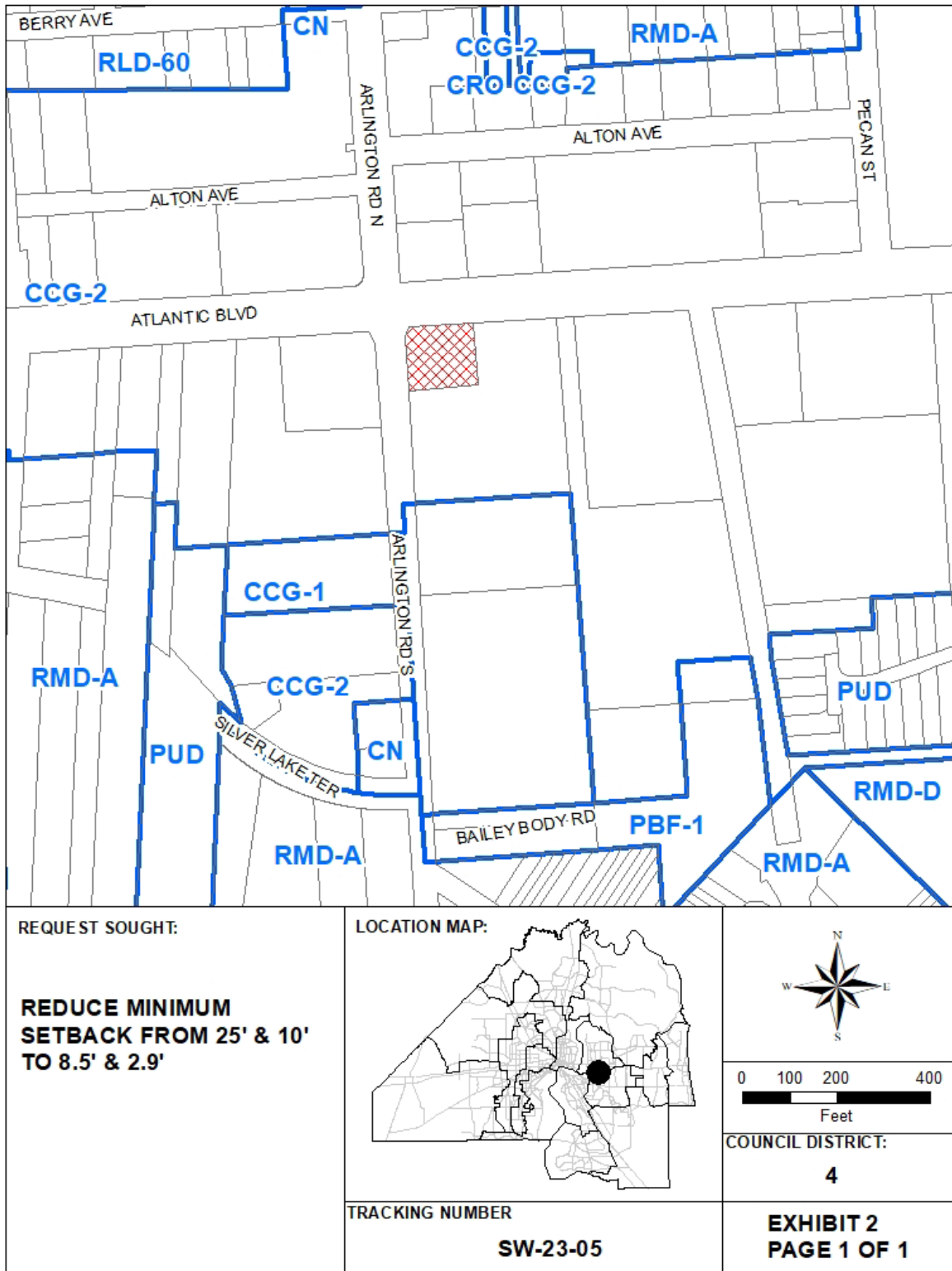
**View of Sign Along Atlantic Boulevard**

*Source: Planning and Development Department*



**View of Sign Along Arlington Road South**

*Source: Planning and Development Department*



**Legal Map**  
Source: JAXGIS