

REPORT OF THE PLANNING AND DEVELOPMENT DEPARTMENT

APPLICATION FOR SIGN WAIVER 2024-0242 (SW-23-02)

MAY 7, 2024

<i>Location:</i>	7725 Lem Turner Road, 0 Wainwright Court
<i>Real Estate Number:</i>	024225-0000 & 023685-0000
<i>Waiver Sought:</i>	Reduce Minimum Setback from 10 feet to 2 feet
<i>Current Zoning District:</i>	Commercial Community General-2 (CCG-2)
<i>Current Land Use Category:</i>	Community General Commercial (CGC)
<i>Planning District:</i>	District 5 – Northwest
<i>Council District:</i>	District 10
<i>Applicant /Agent:</i>	John Stoeckel MJ Stokes Consulting, LLC PO Box 22821 Tampa, Florida 33622
<i>Owner:</i>	Burger King Company, LLC 5707 Blue Lagoon Drive Miami, Florida 33126
<i>Staff Recommendation:</i>	APPROVE

GENERAL INFORMATION

Application for Sign Waiver **Ordinance 2024-0242 (SW-24-02)** seeks to reduce the minimum setback for a sign from 10 feet required to 2 feet. The applicant is not moving the location of the existing Burger King sign, rather making improvements to the sign's face.

The CCG Zoning Districts allow for one street frontage sign per lot not exceeding one square foot for each linear foot of street frontage, per street, to a maximum size of 300 square feet in area for every 300 linear feet of street frontage or portion thereof is permitted, provided they are located no closer than 200 feet apart. Burger King wants to keep the existing sign in its current location. Since they are making improvements to the property and to the sign face, they are required to follow the general criteria for signage stating, "nor shall any sign be located closer than ten feet from any street right-of-way".

There is also a companion Administrative Deviation application **AD-24-10 (2024-0243)** requesting to reduce the dumpster setback along the east property line from 5 feet to 0 feet, reduce the perimeter landscape buffer area between vehicle use area and abutting property from 5 feet minimum width required to 0 feet along the north the south property lines, and to reduce the uncomplimentary land use buffer width from 10 feet wide required to 0 feet along the north property line. The existing sign has been present on the property since construction in 1971.

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 zoning and general character of the area, if approved. The proposed setback reflects the same setback of the existing sign that has been in place without issues. If the sign were to meet the required setback of 10 feet from the right of way, it would place the sign within the drive aisle.

- (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 result of the sign waiver will not detract from the specific intent of the zoning ordinance, in that the existing sign is unable to conform to required setbacks due to the drive aisle and configuration of the site. The situation is unique to the subject property and would not promote the existence of any other non-conforming signs in the area.

- (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 proposed sign will still be separated by a sidewalk in the City ROW. Additionally, there are several signs along Lem Turner Road that are also close to the ROW.

- (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 will not have a detrimental effect on vehicular traffic or parking conditions. The reduced setback of the existing sign will allow the sign to be seen by motorists and will fit the character of the residential area. If the sign would need to follow the 10-foot requirement, this would have a detrimental effect on the vehicular traffic and parking conditions as it will decrease ease of maneuverability on the site.

- (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 for the setback reduction is unlikely to be detrimental to the public health, safety, or welfare in that the existing sign is located at the same spot and the request is to replace the sign face only at the same location without disrupting existing sidewalks on site.

- (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 possible setback of the sign location from the property line. As the existing sign has been on the property for decades, moving the sign would not be viable for traffic flow on the site. Beyond that, there is not a lot of room between the right of way and subject property, making the setback impractical for this property.

- (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 but is based upon a desire to continue to provide signage for the property with the location of the existing sign remaining the same.

- (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 violation.

- (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?*

The Planning Department has not identified any result of the request that is in the public interest at this time.

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

Yes. Strict compliance with the regulation could create a financial burden on the applicant for setbacks. Removing and relocating the existing sign to allow for the required setback would create an unnecessary financial cost for the establishment and would limit the ease of traffic flow on the site.

SUPPLEMENTARY INFORMATION

Upon visual inspection of the subject property on April 16, 2024, the Planning and Development Department staff noticed that the required 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 **2024-0242 (SW-24-02)** be **APPROVED**.



Aerial view of subject property.



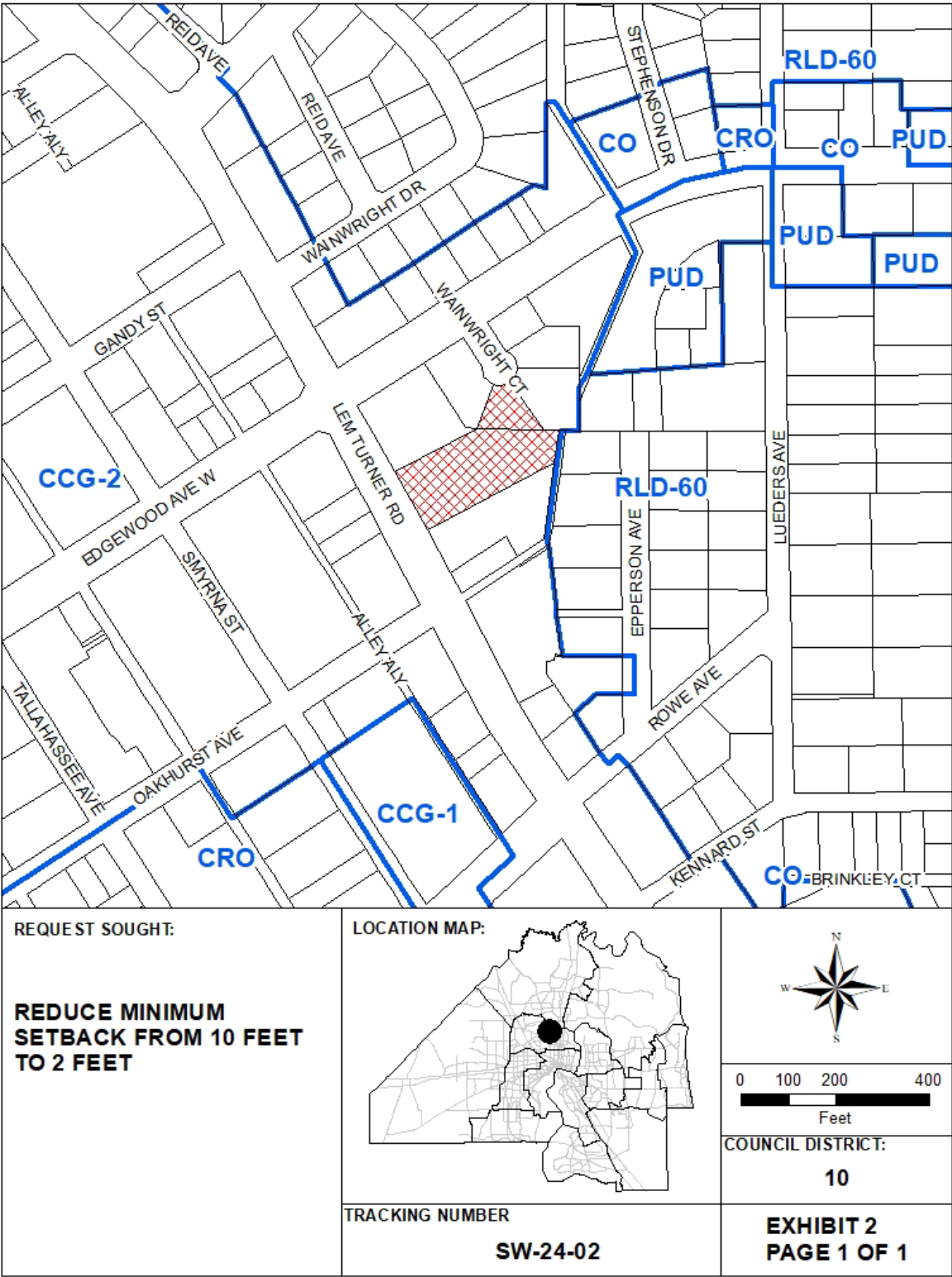
View of sign location



View of subject property with sign.



View of subject property.



Legal Map