



LAND USE HEARING OFFICER VARIANCE REPORT

APPLICATION NUMBER: VAR 22-1434	
LUHO HEARING DATE: November 21, 2022	CASE REVIEWER: Israel Monsanto

REQUEST: The applicant is requesting variances from the requirements found in Land Development Code Part 3.14.00, SR60 (Brandon Blvd) Overlay District Development Regulations. The parcel is located at 1449 W Brandon Blvd in Brandon and is 1.2 acres in size approximately. The site is zoned Commercial General (CG) and is currently vacant. The applicant intends to develop the site with a Drive thru restaurant. The parcel is in the Urban Sector of the SR60 Overlay, which requires specific building and parking placement standards, in addition to building design. Per the submitted site plan (Option A), the project is not meeting maximum setbacks, off-street parking location, some of the building façade requirements and pedestrian access. In order to accommodate the proposed site design, variances from the SR60 overlay regulations are needed. All other requirements of the SR60 will be met. The variances requested are as follows:

VARIANCE(S):

SUMMARY OF VARIANCES	REQUIREMENTS	VARIANCE	RESULT	APPLICABLE LDC SECTION
Variance to the maximum front yard setback along SR 60 and S. Hilltop Rd.	Irrespective of the parcel's underlying zoning district, the required front yard setback shall be a minimum of ten feet and maximum of 20 feet and the entire length of each building façade facing a street shall be placed within the prescribed front yard setback area.	To exceed the maximum front yard setback by 18.5 feet along SR60 to the north, and by 32.5 feet from S Hilltop Rd to the west.	A front yard setback of 38.5 feet along W Brandon Boulevard/SR 60; and a front yard setback of 52.5 feet along S Hilltop Road.	3.14.05.3.a Urban Sector
Variance to the driveways, drive-through service lanes location.	No vehicle driveways, drive-through service lanes or parking areas shall be placed between the building and State Rd 60.	To allow drive-through service lanes between the building and State Road 60.	A drive-through service lane would be placed between the building and State Road 60.	3.14.05.3.a Urban Sector
Variance to Parking areas location.	Parking and loading areas shall be located at the rear of structures and on corner lots shall be no closer to the side street right-of-way than the structures they serve.	To allow parking closer to the side street right-of-way (S Hilltop Rd.) than the structure.	Parking spaces would be located closer to the side street right-of-way (S Hilltop Rd.) than the structure.	Section 3.14.05.3.d Urban Sector Parking
Variance to the transparent windows requirement facing SR 60.	Façades facing State Road 60 shall have a minimum of 20 percent transparent window area.	To not require façades facing State Road 60 to have a minimum of 20 percent transparent window area.	Façades facing State Road 60 will not have a minimum of 20 percent transparent window area.	Section 3.14.05.3.b.1
Variance to the doorway requirement facing SR 60.	Façades facing State Road 60 shall have at least one doorway to accommodate pedestrian access from the public sidewalk.	To eliminate the requirement that the façade facing State Road 60 have at least one doorway to accommodate pedestrian access from the public sidewalk.	Façades facing State Road 60 will not have a doorway to accommodate pedestrian access from the public sidewalk.	Section 3.14.05.3.b.1

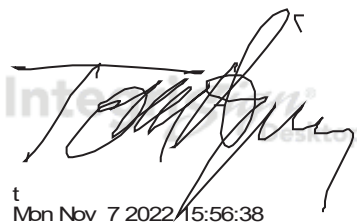
FINDINGS:

The site received a Variance approval under petition number 11-0065 in 2011. Some of the variances approved were similar to the ones being requested as part of this application (maximum front yards, drive-through service lanes and parking areas along the side street). However, the proposed project at that time was for a drive-through bank. Per the project narrative and site plan, the proposed use will not provide indoor seating for customers; however, it will have an outdoor patio area with walk-up order windows. The outdoor patio area will be connected to the public sidewalk along Hilltop Rd. to the west.

DISCLAIMER:

The variances listed above are based on the information provided in the application by the applicant. Additional variances may be needed after the site has applied for development permits. The granting of these variances does not obviate the applicant or property owner from attaining all additional required approvals including but not limited to: subdivision or site development approvals and building permit approvals.

ADMINISTRATOR'S SIGN-OFF



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Mon Nov 7 2022 15:56:38

- Attachments: Application**
- Site Plan**
- Petitioner's Written Statement**
- Current Deed**



Chick-fil-A
5200 Buffington Road
Atlanta, Georgia
30349-2988

SITE
ADAPT
LOGO
AND
ADDRESS

PROTOTYPICAL SET

NOT FOR
REGULATORY
APPROVAL
BIDDING, OR
CONSTRUCTION

CHICK-FIL-A
W BRANDON BLVD
BRANDON, FL 33611

FSR#05254
ISSUANCE DATE: 11/07/2022
PROJECT NO: 2219
SD: REVISION SCHEDULE
NO. DATE DESCRIPTION

DESIGN OVERVIEW
PROJECT NUMBER: 220223.1
PROJECT NAME: CHICK-FIL-A
SITE: BRANDON, FL
OWNER: CHICK-FIL-A
DESIGNER: [Redacted]
DATE: 11/07/2022
SCALE: 1/8" = 1'-0"

X-900

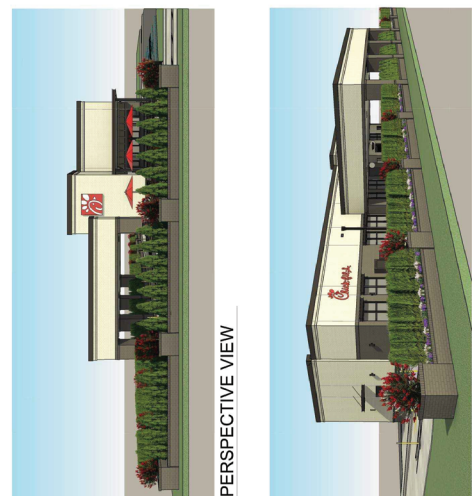
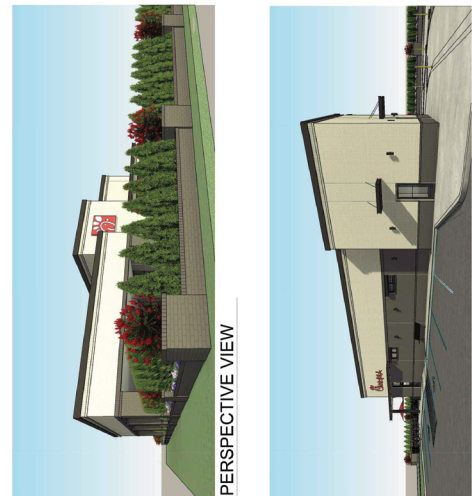
PROJECT DATA

Prototype Edition:	DT0	NO PLAY
Structure Panel Type:	Standard	STANDARD
LED Rating:	LED Rating	NOT CERTIFIED
Down This Signage Count:	0	YES
Down This Number of Pullment Lines:	0	YES
Down This Number of Pullment Lines:	0	YES
Down This Number of Other Panel Pylons:	0	YES
Down This Door:	0	YES
Number of Accessible Seating Spaces:	0	200
Number of Accessible Seating Spaces:	0	200
Menu Board - Inboard:	NA	0
Menu Board - Inboard Count:	NA	0
Menu Board - Inboard Type:	NA	0
Menu Board - Walk-up Count:	NA	0
Menu Board - Walk-up Type:	NA	0
Menu Board - Color Board Count:	NA	0
Menu Board - Color Board Type:	NA	0
Menu Board - Color Board Count:	NA	0
Menu Board - Color Board Type:	NA	0
Planned Classification:	BASE	

DESIGN APPROVAL

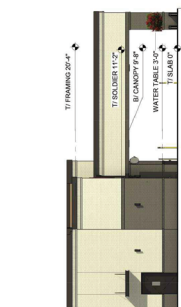
NO PLAY	YES
STANDARD	YES
NOT CERTIFIED	YES
LED Rating	YES
Down This Signage Count	YES
Down This Number of Pullment Lines	YES
Down This Number of Pullment Lines	YES
Down This Number of Other Panel Pylons	YES
Down This Door	YES
Number of Accessible Seating Spaces	YES
Number of Accessible Seating Spaces	YES
Menu Board - Inboard	YES
Menu Board - Inboard Count	YES
Menu Board - Inboard Type	YES
Menu Board - Walk-up Count	YES
Menu Board - Walk-up Type	YES
Menu Board - Color Board Count	YES
Menu Board - Color Board Type	YES
Menu Board - Color Board Count	YES
Menu Board - Color Board Type	YES
Planned Classification	YES

PROJECT NOTES



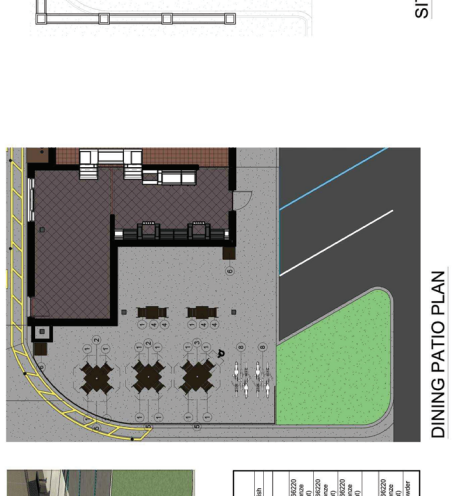
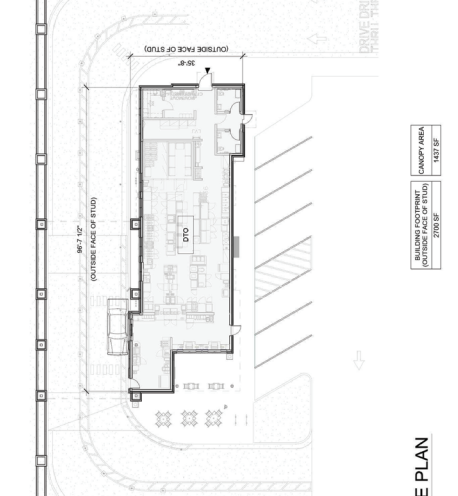
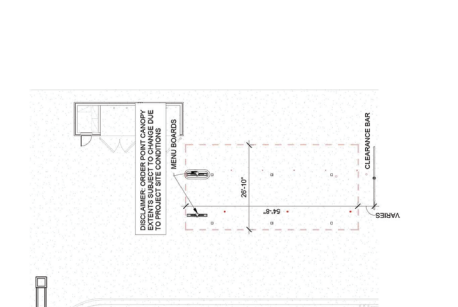
EXTERIOR ELEVATION

EXTERIOR ELEVATION



EXTERIOR ELEVATION

EXTERIOR ELEVATION



SITE PLAN

SITE PLAN

EXTERIOR FINISHES

(E1) BRICK VINYLERS COLOR: DANK BRONZE FINISH: SEMI-GLOSS	(E2) BRICK VINYLERS COLOR: DANK BRONZE FINISH: SEMI-GLOSS
(E3) BRICK VINYLERS COLOR: DANK BRONZE FINISH: SEMI-GLOSS	(E4) BRICK VINYLERS COLOR: DANK BRONZE FINISH: SEMI-GLOSS
(E5) BRICK VINYLERS COLOR: DANK BRONZE FINISH: SEMI-GLOSS	(E6) BRICK VINYLERS COLOR: DANK BRONZE FINISH: SEMI-GLOSS

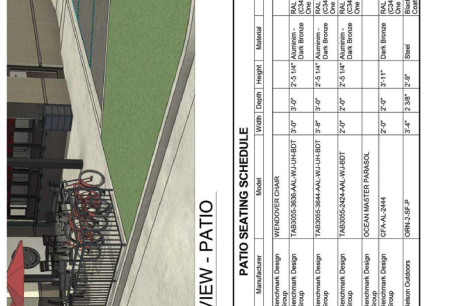
ATTACHED CANOPY SCHEDULE

Item	Description	Color	Material	Height	Depth	Length	Material	Finish
1	Dark Brown	Dark Brown	Aluminum	10'-0"	10'-0"	10'-0"	Aluminum	Dark Brown
2	Dark Brown	Dark Brown	Aluminum	10'-0"	10'-0"	10'-0"	Aluminum	Dark Brown
3	Dark Brown	Dark Brown	Aluminum	10'-0"	10'-0"	10'-0"	Aluminum	Dark Brown

PERSPECTIVE VIEW



PERSPECTIVE VIEW



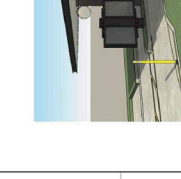
REF. ENCLOSURE FINISHES

(E7) BRICK VINYLERS COLOR: DANK BROWN FINISH: SEMI-GLOSS	(E8) BRICK VINYLERS COLOR: DANK BROWN FINISH: SEMI-GLOSS
(E9) BRICK VINYLERS COLOR: DANK BROWN FINISH: SEMI-GLOSS	(E10) BRICK VINYLERS COLOR: DANK BROWN FINISH: SEMI-GLOSS

OP. CANOPY FINISHES

(E11) BRICK VINYLERS COLOR: DANK BROWN FINISH: SEMI-GLOSS	(E12) BRICK VINYLERS COLOR: DANK BROWN FINISH: SEMI-GLOSS
(E13) BRICK VINYLERS COLOR: DANK BROWN FINISH: SEMI-GLOSS	(E14) BRICK VINYLERS COLOR: DANK BROWN FINISH: SEMI-GLOSS

PERSPECTIVE VIEW

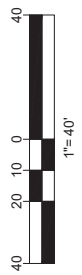
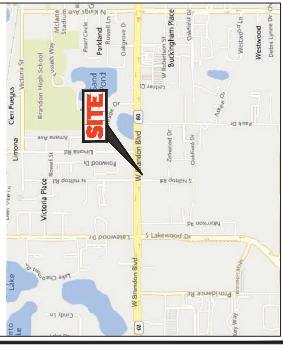


PERSPECTIVE VIEW

PATIO SEATING SCHEDULE

Item	Type	Count	Manufacturer	Model	Width	Depth	Length	Material	Finish
1	Table Chair	18	Seachair Design	W/1600R/1600R	30"	30"	30"	Aluminum	Dark Bronze
2	Table Chair	18	Seachair Design	W/1600R/1600R	30"	30"	30"	Aluminum	Dark Bronze
3	Table Chair	18	Seachair Design	W/1600R/1600R	30"	30"	30"	Aluminum	Dark Bronze
4	Table Chair	18	Seachair Design	W/1600R/1600R	30"	30"	30"	Aluminum	Dark Bronze
5	Table Chair	18	Seachair Design	W/1600R/1600R	30"	30"	30"	Aluminum	Dark Bronze
6	Table Chair	18	Seachair Design	W/1600R/1600R	30"	30"	30"	Aluminum	Dark Bronze
7	Table Chair	18	Seachair Design	W/1600R/1600R	30"	30"	30"	Aluminum	Dark Bronze
8	Table Chair	18	Seachair Design	W/1600R/1600R	30"	30"	30"	Aluminum	Dark Bronze

VICINITY MAP



SITE DATA TABLE

JURISDICTION	HILLSBOROUGH COUNTY
SITE AREA	1.21 AC
BUILDING AREA	2,666 SF
CURRENT ZONING	VACANT/CS
FRONT SETBACK (ROW)	MIN 10' MAX 20', PROVIDED 20'S
SIDE SETBACK	6'
REAR SETBACK	6'
FRONT SIDE/REAR YARD BUFFER	8'
REQUIRED PARKING	27 SPACES (10 PER 1,000 SF GFA)
PARKING PROVIDED (TOTAL)	42 SPACES

NOTES:

1. THE CONCEPT REPRESENTED HEREIN IDENTIFIES A DESIGN CONCEPT RESULTING FROM LAYOUT PREFERENCES IDENTIFIED BY OWNER, COUPLED WITH A PRELIMINARY REVIEW OF LOCAL, STATE, AND FEDERAL REGULATORY REQUIREMENTS AND ISSUES. THE FEASIBILITY WITH RESPECT TO OBTAINING LOCAL, COUNTY, STATE, AND FEDERAL APPROVALS FOR THIS CONCEPT AND CONSTRUCTION CAN ONLY BE ASSESSED AFTER FURTHER EXAMINATION AND VERIFICATION OF SAME REQUIREMENTS AND PROCUREMENT OF JURISDICTIONAL APPROVALS.
2. THE CONCEPT PLAN IS PREPARED FOR CONCEPTUAL PRESENTATION PURPOSES ONLY AND IS NOT INTENDED FOR UTILIZATION AS A ZONING AND/OR CONSTRUCTION PERMIT APPLICATION. THE INFORMATION CONTAINED HEREON ARE BASED UPON INFORMATION THAT WAS SUPPLIED TO BOHLER ENGINEERING AT THE TIME OF PLAN PREPARATION AND MAY BE SUBJECT TO CHANGE UPON AVAILABILITY OF ADDITIONAL INFORMATION.



BRANDON BOULEVARD

SOUTH HILLTOP ROAD

SITE PLAN OPTION 'A'

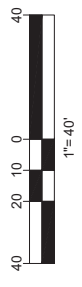
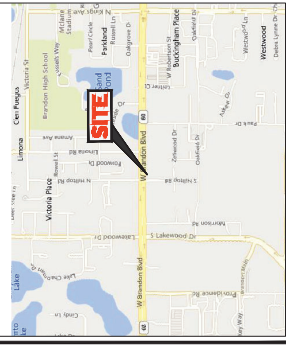
SR 60 & S HILLTOP RD
BRANDON, FL 33511
HILLSBOROUGH COUNTY



600 N WESTSHORE BLVD., SUITE 950
TAMPA, FLORIDA 33609
Phone: (813) 812-4100
Fax: (813) 812-4101

FLORIDA BUSINESS CERT. OF AUTH. NO. 30780

VICINITY MAP

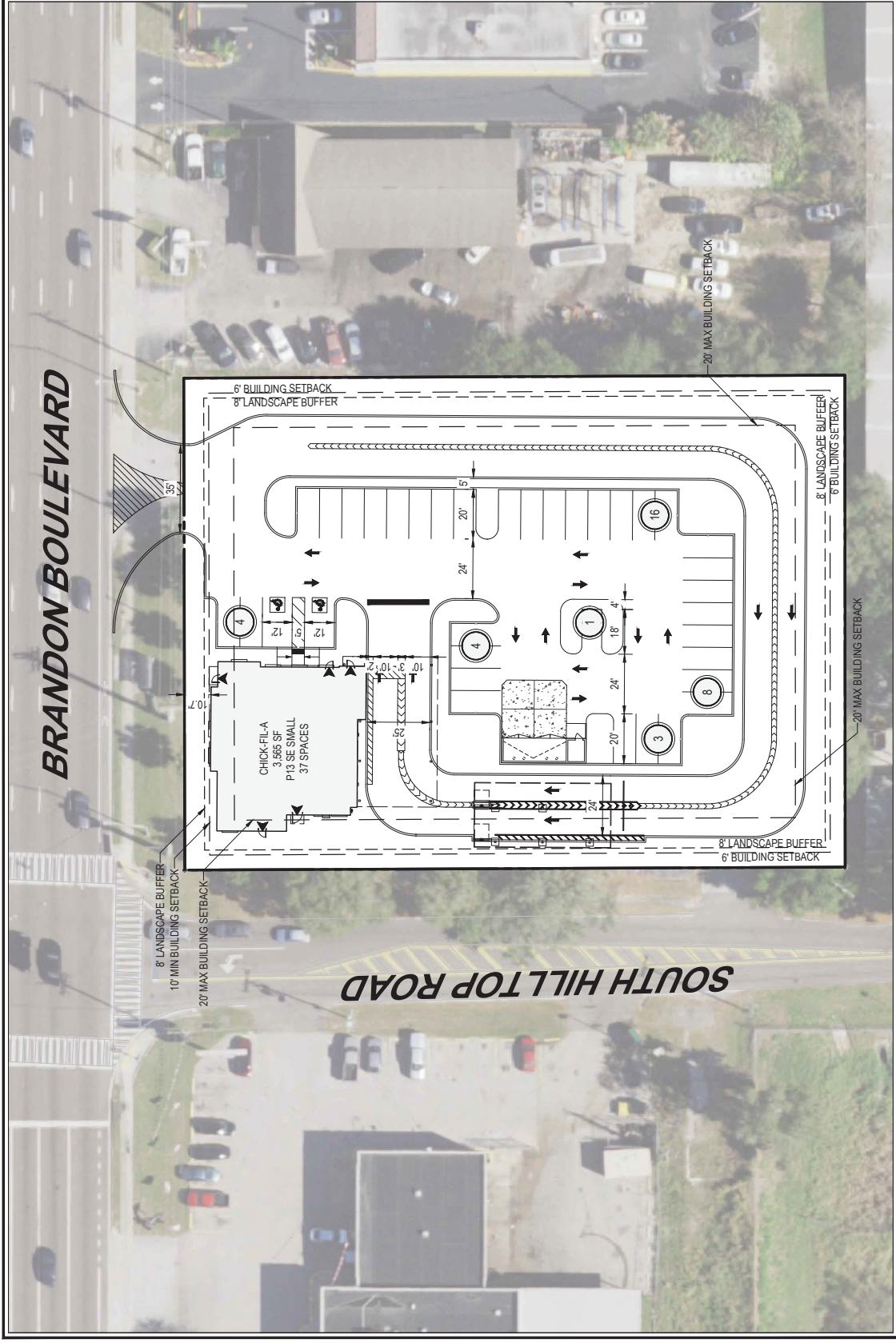


SITE DATA TABLE

JURISDICTION	HILLSBOROUGH COUNTY
SITE AREA	1.21 AC
BUILDING AREA	2,665 SF
CURRENT ZONING	VACANTICS
FRONT SETBACK (ROW)	MIN. MAX. 20', PROVIDED 10' F
SIDE SETBACK	6'
REAR SETBACK	6'
FRONT SIDE/REAR YARD BUFFER	8'
REQUIRED PARKING	38 SPACES (10 PER 1,000 SF GFA)
PARKING PROVIDED (TOTAL)	38 SPACES

NOTES:

1. THE CONCEPT REPRESENTED HEREIN IDENTIFIES A DESIGN CONCEPT RESULTING FROM LAYOUT PREFERENCES IDENTIFIED BY OWNER, COUPLED WITH A PRELIMINARY REVIEW OF LOCAL ZONING REGULATIONS AND PRELIMINARY REQUIREMENTS AND ISSUES. THE FEASIBILITY WITH RESPECT TO OBTAINING LOCAL, COUNTY, STATE, AND FEDERAL APPROVALS FOR THIS CONCEPT AND CAN ONLY BE ASSESSED AFTER FURTHER EXAMINATION AND VERIFICATION OF SAME REQUIREMENTS AND PROCUREMENT OF JURISDICTIONAL APPROVALS.
2. THE CONCEPTUAL PLAN IS PREPARED FOR CONCEPTUAL PRESENTATION PURPOSES ONLY AND IS NOT INTENDED FOR UTILIZATION AS A ZONING AND/OR CONSTRUCTION PERMIT APPLICATION. THE INFORMATION SHOWN HEREON ARE BASED UPON INFORMATION THAT WAS SUPPLIED TO BOHLER ENGINEERING AT THE TIME OF PLAN PREPARATION AND MAY BE SUBJECT TO CHANGE UPON AVAILABILITY OF ADDITIONAL INFORMATION.



SITE PLAN OPTION 'B'

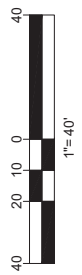
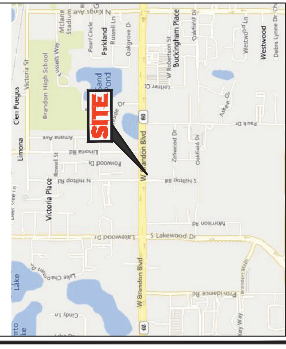
SR 60 & S HILLTOP RD
BRANDON, FL 33511
HILLSBOROUGH COUNTY



600 N WESTSHORE BLVD., SUITE 950
TAMPA, FLORIDA 33609
Phone: (813) 812-4100
Fax: (813) 812-4101

FLORIDA BUSINESS CERT. OF AUTH. NO. 30780

VICINITY MAP

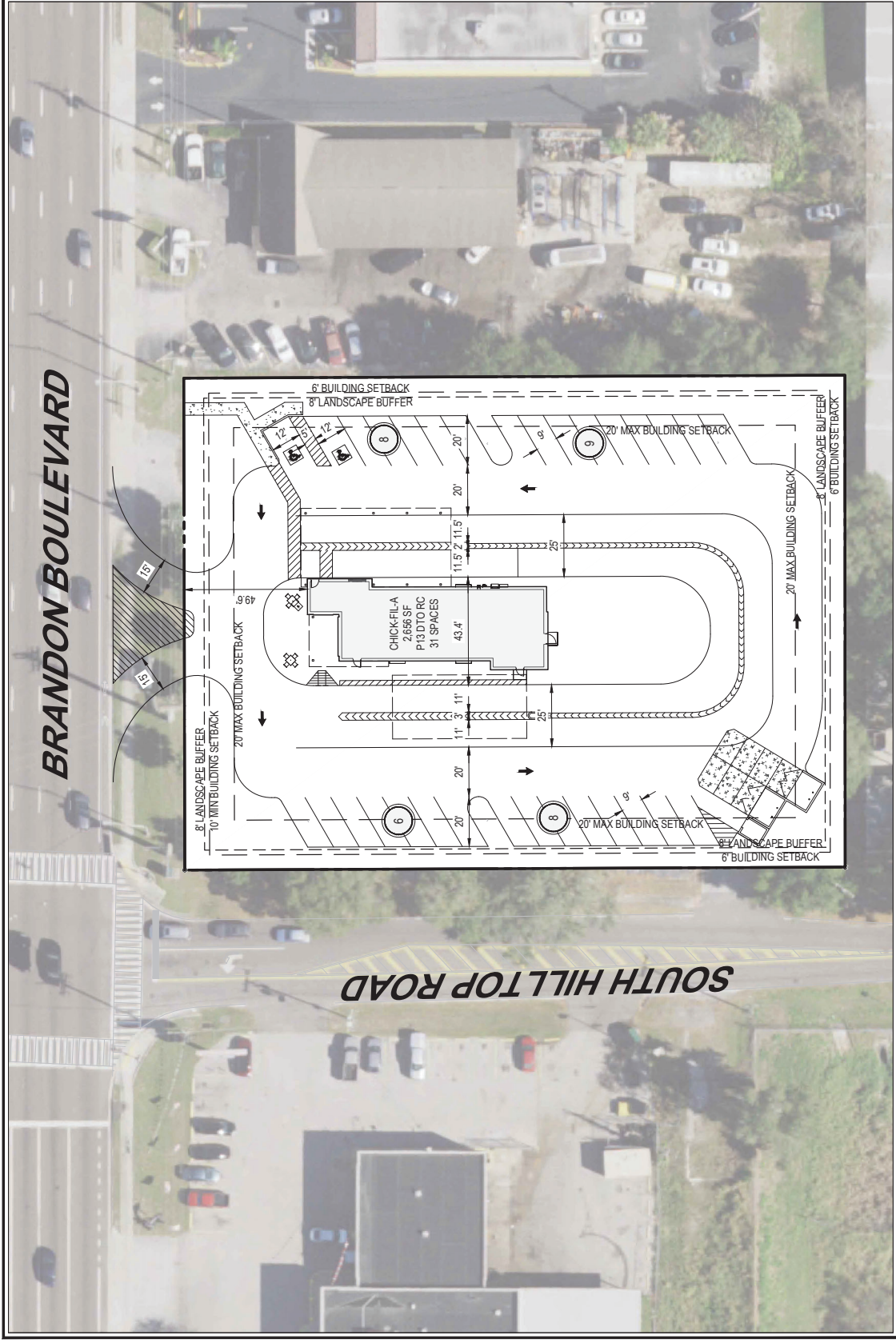


SITE DATA TABLE

JURISDICTION	HILLSBOROUGH COUNTY
SITE AREA	1.21 AC
BUILDING AREA	2,668 SF
CURRENT ZONING	VACANT/GCS
FRONT SETBACK (ROW)	MIN: MAX 20'; PROVIDED 0' 0'
SIDE SETBACK	6'
REAR SETBACK	6'
FRONT SIDE/REAR YARD BUFFER	8'
REQUIRED PARKING	27 SPACES (10 PER 1,000 SF GFA)
PARKING PROVIDED (TOTAL)	31 SPACES

NOTES:

1. THE CONCEPT REPRESENTED HEREIN IDENTIFIES A DESIGN CONCEPT RESULTING FROM LAYOUT PREFERENCES IDENTIFIED BY OWNER, COULDED WITH A PRELIMINARY REVIEW OF LOCAL, STATE AND FEDERAL ZONING REQUIREMENTS AND ISSUES. THE FEASIBILITY WITH RESPECT TO OBTAINING LOCAL, COUNTY, STATE, AND FEDERAL APPROVALS FOR THIS CONCEPT AND CAN ONLY BE ASSESSED AFTER FURTHER EXAMINATION AND VERIFICATION OF SAME REQUIREMENTS AND PROCEDURE OF JURISDICTIONAL APPROVALS.
2. THE CONCEPTUAL PLAN IS PREPARED FOR CONCEPTUAL PRESENTATION PURPOSES ONLY AND IS NOT INTENDED FOR UTILIZATION AS A ZONING AND/OR CONSTRUCTION PERMIT APPLICATION. THE INFORMATION PROVIDED HEREON ARE BASED UPON INFORMATION THAT WAS SUPPLIED TO BOHLER ENGINEERING AT THE TIME OF PLAN PREPARATION AND MAY BE SUBJECT TO CHANGE UPON AVAILABILITY OF ADDITIONAL INFORMATION.



SITE PLAN OPTION 'C'

SR 60 & S HILLTOP RD
BRANDON, FL 33511
HILLSBOROUGH COUNTY

BOHLER

600 N WESTSHORE BLVD., SUITE 950
TAMPA, FLORIDA 33609
Phone: (813) 812-4100
Fax: (813) 812-4101

FLORIDA BUSINESS CERT. OF AUTH. NO. 30780



Additional / Revised Information Sheet

Date Stamp Here

Application Number: VAR-22-1434 Applicant's Name: WPG-Hilltop LLC

Reviewing Planner's Name: Israel Monsanto Date: 11/01/2022

Application Type:

- Planned Development (PD)
- Minor Modification/Personal Appearance (PRS)
- Standard Rezoning (RZ)
- Variance (VAR)
- Development of Regional Impact (DRI)
- Major Modification (MM)
- Special Use (SU)
- Conditional Use (CU)
- Other _____

Current Hearing Date (if applicable): 11/21/2022

Will this revision add land to the project? Yes No

IMPORTANT: If "Yes" is checked on the above, a Revised Application Sheet, Property Information Sheet, Affidavit to Authorize Agent, and additional Deeds must be filed immediately to ensure proper noticing and sign posting requirements are met.

Will this revision remove land from the project? Yes No

The following must be attached to this Sheet.

- Cover Letter with summary of the changes and/or additional information provided. If a revised Site Plan is being submitted, all changes on the site plan must be listed in detail in the Cover Letter.
- An updated Project Narrative consistent with the changes or additional information provided, if applicable.

Submittal Via:

Email - Note that no follow up paper file is necessary. Files must be in pdf format and minimum resolution of 300 dpi. Maximum attachment(s) size is 15 MB.

Email this sheet along with all the additional/revised submittal items in pdf to: ZoningIntake-DSD@hcflgov.net

For additional help and submittal questions, please call (813) 277-1633 or email ZoningIntake-DSD@hcflgov.net.

I certify that changes described above are the only changes that have been made to the submission. Any further changes will require an additional submission and certification.

Signature

11/01/2022

Date

FOR OFFICE USE ONLY

- Notification E-Mail Sent
- Scanned into OPTIX
- Transmittal Completed

In-Take Completed by: _____

To: Israel Monsanto
Hillsborough County Development Services

From: Tyler J. Hudson, Esq.
Addie K. Clark, P.E.

Date: November 1, 2022

Re: 1449 W Brandon Boulevard, Brandon, FL
Narrative and Variation Criteria Responses

NARRATIVE

On behalf of the property owner and the applicant, WPG-Hilltop LLC, Gardner Brewer Hudson (GBH) presents the below request for a select set of variances required to accommodate the development of the subject site located at 1449 W Brandon Boulevard. The property is zoned Commercial General (CG) and is located within the State Road 60 (SR 60) Overlay District.

The property was approved for a variance of a similar nature in January of 2011 (VAR 11-0065) to support future development of a drive-in bank. However, the drive-in bank was not constructed and the property has been vacant for over ten years. The current proposal includes developing the property with a 2,700 square foot fast-food restaurant with two drive-through lanes. Indoor seating is not proposed as this is a new concept that focuses primarily on drive-through/order pickup.

The requested variances are specific to Section 3.14.05.3 of the Hillsborough County Land Development Code and are outlined below:

- *Variance #1 Section 3.14.05.3.a: to exceed the maximum front yard of 20 feet to allow a front yard of 38.5 feet along W Brandon Boulevard/SR 60 (variance of 18.5 feet) and to exceed the maximum front yard of 20 feet to allow a front yard of approximately 52.5 feet along S Hilltop Road (variance of 32.5 feet).*
- *Variance #2 Section 3.14.05.3.a: to allow drive-through service lanes between the building and State Road 60.*
- *Variance #3 Section 3.14.05.3.d: to allow parking closer to the side street right-of-way than the structure.*
- *Variance #4: Section 3.14.05.3.b.1: to allow for the façade facing SR 60 to have less than 20 percent transparent window area.*
- *Variance #5: Section 3.14.05.3.b.1: to not have a doorway to accommodate pedestrian access to the public sidewalk.*

The previous variance approval in 2011 allowed for a maximum front yard of 55 feet (variance of 35 feet) along W Brandon Boulevard/SR 60 and a maximum front yard of 82 feet (variance of 62 feet) along S Hilltop Road. In addition, the previous variance approval allowed for a vehicular driveway between the building and SR 60 as well as a parking area located closer to S Hilltop Road than the structure.

As previously mentioned, the restaurant will not provide indoor seating for customers; therefore, it is appropriate to provide the proposed spandrel glass along SR 60 as well as the pedestrian connection from SR 60 to the outdoor

Narrative and Variation Criteria Responses (1449 W Brandon Boulevard)

November 1, 2022

Page - 2 -

seating area, rather than transparent glass and a pedestrian doorway into purely kitchen-related operations. As indicated in the Variance Exhibit Package provided under separate cover, landscaping in addition to the spandrel glass is intended to provide a visually attractive façade facing SR 60. In addition, employees of the restaurant will have pedestrian access from SR 60 to the building. The purpose of the employee-only pedestrian access along SR 60 is to prevent pedestrian customers from intersecting the two vehicular drive-through lanes.

The current variance request is similar in nature and in scale to the previous variance approval for the site. It is also important to note that research was conducted regarding neighboring sites that faced the same hardship and requested relief (see attached **Exhibit A**). Based on this due diligence, it appears that two restaurant developments northeast of the property were approved for variances to Section 3.14.05.3.a and Section 3.14.05.3.d in 2014.

The below responses have been provided to the variance criteria in order to both further explain as well as to legally justify the various components associated with this site that support and buttress the subject request.

Hillsborough County Variance Criteria	Response
<p><i>1. Explain how the alleged hardships or practical difficulties are unique and singular to the subject property and are not those suffered in common with other property similarly located?</i></p>	<p>The subject parcel is unique in nature from an operational standpoint and an available access standpoint. Due to the proximity to the signalized intersection of SR 60 & S Hilltop Road, access is not permitted along SR 60. Due to having access along S Hilltop Road and the need for full circular flow of traffic via drive-through lanes, it is necessary to orient the drive-through lanes along the perimeter of the site to allow for maximum queue length and to prevent queue spillover onto the external roadway network. In addition, the fast-food restaurant program does not propose indoor seating; therefore, the drive-through lanes are inherently important as they will provide substantial length for queuing.</p> <p>As a result of the required configuration of two drive-through lanes circulating the perimeter of the site, additional setback from SR 60 and S Hilltop Road is requested in addition to allowing parking to exist closer to S Hilltop Road than the structure.</p> <p>Due to the unique nature of the site and the necessary drive-through lanes along SR 60, public pedestrian access along SR 60 and transparent windows into kitchen operations are not feasible.</p>
<p><i>2. Describe how the literal requirements of the Land Development Code (LDC) would deprive you of rights commonly enjoyed by other properties in the same district and area under the terms of the LDC</i></p>	<p>As indicated in the attached exhibit titled “Site Plan Option B,” the literal requirements of the LDC can only be obtained if access to SR 60 is permitted. Other properties that are permitted access to SR 60 are afforded extensive site development and circulation options. If the owner were to comply with the literal interpretation of the provisions of the LDC and not be permitted access to SR 60, it would reduce the drive-through area and thus severely impact business operations.</p> <p>Various existing fast-food with drive-through developments within the area have similar site plan layouts due to the drive-through lane circulation required for operations.</p>



Narrative and Variation Criteria Responses (1449 W Brandon Boulevard)

November 1, 2022

Page - 3 -

	<p>Surrounding properties are afforded pedestrian connections that enhance the walkability of the site as well as accommodate the specific sit design. By providing the pedestrian connection to the seating area opposed to the building's internal kitchen, this right to efficient and safe pedestrian infrastructure will be upheld.</p>
<p>3. Explain how the variance, if allowed, will not substantially interfere with or injure the rights of others whose property would be affected by allowance of the variance.</p>	<p>Given that the subject property is rather isolated in terms of neighboring land, the variance, if allowed, will not interfere with the rights of others whose property would be affected, as the request affects no other neighboring properties.</p>
<p>4. Explain how the variance is in harmony with and serves the general intent and purpose of the LDC and the Comprehensive Plan (refer to Section 1.02.02 and 1.02.03 of the LDC for description of intent/purpose).</p>	<p>The general intent and purpose of the LDC is to foster and preserve public health, safety, comfort and welfare, and to aid in the harmonious, orderly, and progressive development of land within the County. The requested increase in building setback due to the need for drive-through lanes to circulate the perimeter of the site does not prevent the fostering and preservation of these elements. The requested use of other attractive façade décor such as spandrel glass and landscaping is more appropriate due to this restaurant serving patrons via drive-through and outdoor seating only. The interior of the building will be for kitchen and internal operations only; therefore, the proposed design is intended to create an attractive façade along SR 60 while preventing transparency and pedestrian access to a building interior that does not seat patrons. Both the façade décor and landscaping as well as the pedestrian access to the patio serve the general intent of the LDC, albeit in an alternative application in lieu of a literal interpretation.</p> <p>Similarly, the goal of the Comprehensive Plan is to ensure that the character and location of land uses optimizes the combined potentials for economic benefit and the enjoyment and the protection of natural resources while minimizing the threat to health, safety and welfare posed by hazards, nuisances, incompatible land uses, and environmental degradation. The requested setback, façade design, and employee-only pedestrian access to SR 60 optimize the above while also protecting natural resources with the implementation of robust and attractive planting areas.</p>
<p>5. Explain how the situation sought to be relieved by the variance does not result from an illegal act or result from the actions of the applicant, resulting in a self-imposed hardship.</p>	<p>The situation sought to be relieved by the variance does not result from an illegal or self-imposed act. The variance request results from FDOT access restrictions and the site circulation requirements of the proposed fast-food with drive-through development. The site plan as presented is typical for the fast-food with drive-through industry. The FDOT access restrictions imposed a certain site circulation design (namely the location of the drive-through lanes), which in turn resulted in the accompanying request to exclude a pedestrian connection through these drive-through lanes.</p>



6. Explain how allowing the variance will result in substantial justice being done, considering both the public benefits intended to be secured by the LDC and the individual hardships that will be suffered by a failure to grant a variance.

The allowance of the variance will result in more efficient traffic access and circulation throughout the site. Allowing the variance will result in substantial justice being done by upholding a precedent that has been set for the vicinity in which the property is located. Allowing the variance will also result in an attractive façade along SR 60 that is appropriately designed for the intended use of a drive-through and outdoor-seating only restaurant. As mentioned previously, failure to grant a variance could result in the inability to use the site for efficient drive-through services, which could create an overflow of queuing/spillage onto Hilltop Road

Exhibit A

**COUNTY OF HILLSBOROUGH
DECISION OF THE LAND USE HEARING OFFICER**

APPLICATION NUMBER: VAR 14-0825 BR

DATE OF HEARING: August 18, 2014

APPLICANT: East Coast Waffles, Inc.

PETITION REQUEST: The applicant is requesting variances to the State Road 60 (Urban Sector) Overlay District requirements.

LOCATION: 1412 W. Brandon Blvd.

SIZE OF PROPERTY: 0.39 Acres±

EXISTING ZONING: CN

FUTURE LAND USE: RES-9

SERVICE AREA: Urban

DETAILS OF REQUEST

SUMMARY OF VARIANCES	REQUIREMENTS	VARIANCE	RESULTS	APPLICABLE LDC SECTION
<p>The request is for the existing building to remain at its current location resulting in a variance to the front yard setback for the structure fronting State Road 60.</p>	<p>The required front yard setback shall be a minimum of ten feet and maximum of 20 feet and the entire length of each building facade facing a street shall be placed within the prescribed front yard setback area.</p>	<p>1. Allow the existing building to deviate 15 ft. from the required front yard setback from State Road 60.</p>	<p>The building line for the existing building will remain at 35 ft. from S.R. 60</p>	<p><u>3.14.05.3.a</u> State Road 60 (Brandon Boulevard Overlay District) Urban Sector</p>
<p>The requested variance is for the existing parking spaces to remain at the side of the existing building. The applicant has stated in the variance application narrative that the existing spaces that are currently located in front of the existing building will be removed.</p>	<p>Parking and loading areas shall be located at the rear of structures. Parking shall not be located at the front or side of structures. Existing parking spaces which do not meet these requirements shall be removed and, if necessary to meet the minimum number of spaces mandated by the Code, replaced with new spaces which meet location requirement.</p>	<p>2. To deviate from the requirement that parking areas shall be located at the rear of the building.</p>	<p>To allow the existing parking spaces to remain in their current location, at the side of the existing building.</p>	<p><u>3.14.05.3.(d)</u> State Road 60 (Brandon Boulevard Overlay District) Urban Sector</p>
<p>The request is to allow the project to increase the site's impervious surface ratio from 60% to 80%.</p>	<p>The maximum impervious surface ratio permitted for the CN (Commercial, Neighborhood) zoning district is 60%</p>	<p>3. To increase the impervious surface ratio from 60% to 80%</p>	<p>The site would have an impervious surface ratio of 80%.</p>	<p><u>6.01.01</u> Design Standards and Improvement Requirements</p>

<p>The request is to decrease the landscaped buffer width requirement for buffers between off-street vehicular use areas and property boundaries that do not front a road right-of-way.</p>	<p>A landscaped buffer a minimum of six feet in width shall be required between the off-street vehicular use area and any property boundary not fronted by a road right-of-way, unless the buffer or screening requirements of 6.06.06 and 6.06.06.C are more stringent, in which case the more stringent requirements shall apply. The landscaped buffer shall not be required if such a buffer and required screening are provided on the adjacent property along said boundary.</p>	<p>4. To deviate 4 1/2 feet from the required six foot wide landscaped buffer between the off-street vehicular use area and any property boundary not fronted by a road right-of-way.</p>	<p>The site will have 1 1/2 foot wide landscape buffer between the off-street vehicular use areas and property boundaries that are not fronted by a road right-of-way.</p>	<p><u>6.06.04.e.(1)</u> Design Standards and Improvement Requirements</p>
<p>The requested variance is to decrease the amount of required parking spaces for a "sit down" eating establishment.</p>	<p>The required number of parking spaces for a "sit down" eating establishment is 15 spaces per 1,000 square feet of Gross Floor Area</p>	<p>5. To decrease the required number of parking spaces from 27 to 21 parking spaces</p>	<p>The site would have 21 parking spaces for the "sit down" eating establishment.</p>	<p><u>6.05.02.E</u> Off-Street Loading Space, Required</p>

BACKGROUND

The applicant is requesting multiple variances from the Hillsborough County Land Development Code in order to install a cooler and remodel an existing structure located within the State Road 60 (Brandon Boulevard) Overlay District. The applicant made application for a building permit to be approved for a structure located at 1412 West Brandon Boulevard. During review of the building permit application it was determined that the subject property was located within the State Road 60 Overlay District and the application submitted did not meet the requirements of Section 3.14.05 and parts of Article VI of the

Land Development Code. Upon discovery of the overlay district requirements being applicable to the building permit application, the applicant requested the variances listed in the table below.

The variances as listed above are the result of information provided in the application by the applicant. Additional variances may be needed after the site has applied for development permits. The granting of these variances does not obviate the applicant or property owner from attaining all additional required approvals including but not limited to: subdivision or site development approvals and building permits.

SUMMARY OF HEARING

THIS CAUSE came on for hearing before the Hillsborough County Land Use Hearing Officer on August 18, 2014. Mr. Dennis Kline of the Hillsborough County Development Services Department introduced the Petition.

Marshall Robinson of Development Services testified that the applicant is requesting multiple variances from the Hillsborough County Land Development Code in order to install a cooler and remodel the existing structure located within the State Road 60 Brandon Boulevard Overlay District. During the applicant's building permit process for the structure at 1412 West Brandon Boulevard it was determined that the subject property was located in the overlay district and the application for the building permit did not meet the requirements of the overlay district. Subsequently, the applicant had made application for variances to bring the project into compliance with the overlay district requirements. The staff report details the multiple variances requested.

Bryan Russell with the East Coast Waffles Inc., located at 5986 Financial Drive in Norcross, Georgia, testified that the corporation is in the process of remodeling and renovating the existing Waffle House restaurant at 1412 Brandon Boulevard. They would like to bring the property up to current standards as it has been at that location for 40 years and has been operated continuously for 24 hours a day, seven days a week during that time. When it was built, it was in compliance with then current standards and requirements. To bring it up to today's standards they have identified the need for five variances. One is the front setback of the building as the Overlay District requires it to be between 10 and 20 feet; however, the building is currently sitting at 35 feet, which was the building setback some years ago. In remodeling the building they would not be moving the building forward, but instead removing the parking spaces to the front of the building. They would be installing landscaping and adhere to some of the other landscaping standards towards the front of the building.

The second variance involves the location of the parking spaces. The code describes parking to be placed to the side or rear of the building. In this case, the parking, as it was previously laid out, was to the side of the building. They had discussions with staff to determine the breakpoint between side and rear and they believe there are 8 to 10 spaces along the front/side of the building for which they are requesting a variance to retain those parking spaces.

The next variance would be for the impervious surface ratio. The overlay district required the impervious surface to be 60 percent. The site is currently at 86 percent. They have been able to reduce that down to 80 percent. Currently, the property is almost entirely paved. By installing as much landscaped area as possible they have been able to reduce the paved area.

The fourth variance is related to the landscaping. They would be providing the 6-foot side landscape buffer. At the frontage the landscaping would be on average 20 feet and at the front of building, it is actually 30 feet. The rear landscaping will be provided as well but the area along eastern property line requires a variance. Currently, the property width is 70 feet, which is only conducive to a Waffle House-

type building. It is very narrow, and with the 6-foot buffer on the western property, the dimensions of parking drive aisle and then parking, they up with the asphalt as is currently along the eastern property line, which is about 2 feet off the property line. They would like to request that to remain due to the dimensions of a drive aisle and parking around the building.

The fifth variance request is for the quantity of parking spaces. The current layout provides 23 parking spaces and, according to code, the minimum requirement would be 27. After the redevelopment and, hopefully meeting the standard of the code, there would be 21 parking spaces.

Mr. Russell summarized that the unique nature of the property is that it is so narrow. Because of the proximity of the existing building along with the dimensional requirements for parking, this is what they would end up with. They feel they can have a successful redevelopment of the project if the variances are granted.

The LUHO asked for any witnesses in support of the request. There were none.

The LUHO asked for any witnesses in opposition of the request. There were none.

The hearing was then concluded.

EVIDENCE SUBMITTED

The following evidence was submitted at the hearing:

None

PREFACE

All matters that precede the Summary of Hearing section of this Decision are hereby incorporated into and shall constitute a part of the ensuing Findings of Fact and Conclusions of Law.

FINDINGS OF FACT (General)

1. The applicant is seeking to vary five (5) requirements of the State Road 60 (Urban Sector) Overlay District requirements. Pursuant to LDC 3.14.01, the Urban Sector regulations provide for the placement of new buildings near the highway.
2. LDC 3.14.02 provides that the provisions shall apply to all new development on parcels in any zoning district and upon the expansion and/or improvement of existing structures on such parcels in any zoning district. Part 3.14.05 provides further specification within the Urban Sector which are applicable to the applicant's plans for redevelopment.
3. The applicant has brought forth a petition for a variances to the Urban Sector design criteria of 3.14.05.3. Such requests are to be reviewed by the Land Use Hearing Officer pursuant to the six criteria of Part 11.04.02.B. Part 11.04.02.A.2 mandates that, *"All findings of fact shall be made in the indicated order by the Land Use Hearing Officer, which is not empowered to grant a variance without an affirmative finding of fact on all six categories in 11.04.02 B below. Each finding of fact shall be supported by substantial evidence in the record."*

FINDINGS OF FACT (LDC Section 11.04.02.B)

- 1) Is the alleged hardship or practical difficulty unique and singular as regards the property of the person requesting the variance and not those suffered in common with other property similarly located?

The applicant has demonstrated that the allowance for the existing building to remain in the same location is dictated by several constraints all stemming from the issue that the property was approved and developed under previous county codes that have since changed and caused the property not to conform. This is especially true of the building location which cannot be relocated on the property in any other manor that would allow for the reasonable use of the property.

- 2) Would the literal interpretation of the provisions of the Land Development Code (LDC) deprive the applicant of rights commonly enjoyed by other properties in the same district and areas under the terms of the LDC?

The literal interpretation of the provisions of the LDC would deprive the property owner of rights commonly enjoyed by other owners/properties in the area. Since the property is only 0.40 acres and 70' in width, it is unlikely that this property could be redeveloped for use as a business by anyone without variances and special exceptions being granted. It is likely that, no other restaurants along SR 60 have properties laid out in such a manner which limit the location of the building and parking lot as severely as the proposed property and also have similar property dimensions. In addition, if the property owner were to comply with the literal interpretation of the provisions of the LDC it would further reduce the already limited parking and driveway access, which already is under-sized per the LDC minimum parking requirements.

- 3) Would the variance, if allowed, not substantially interfere with or injure the rights of others whose property would be affected by allowances of the variance?

The variance, if allowed, would not substantially interfere with or injure the rights of others whose property would be affected by allowance of the variance. The adjacent properties have been operating successfully for many years in conjunction with the operation of this facility. These variances will allow the property to be re-developed to operate in the same manner as it has been in the past without interference. The proposed development will improve aesthetics by increasing green space, by replacing asphalt with newer pavement, and will improve stormwater management by providing less stormwater run-off to SR 60 than the existing site.

- 4) Is the variance in harmony and does it serve the general intent and purpose of the LDC and Comprehensive Plan?

The variance sought is in harmony with the intent and purpose of the LDC and the Comprehensive Plan because the project incorporates good planning and design principles represented within the LDC, is compatible with its surroundings, will protect natural resources by providing improved landscaping and stormwater management and protects the property owner's rights by allowing him to avoid the significant hardship that would result from a strict application of the requirements from which the variances are sought. The applicant intends to comply with all other requirements of the LDC and improves existing deficiencies.

- 5) Does the situation sought to be relieved by the variance result from an illegal act or result from the actions of the applicant, resulting in a self-imposed hardship?

The situation sought to be relieved is not the result of a self-imposed hardship or illegal act. The situation sought to be relieved is a result of an effort to improve an existing restaurant use to better comply with the LDC standards implemented after original development.

- 6) Will allowing the variance result in substantial justice being done, considering both the public benefits intended to be secured by the LDC and the individual hardships that will be suffered by a failure to grant a variance?

If the variances are granted, the existing site will be aesthetically and functionally improved. The hardships suffered by a failure to grant variances will be the applicant's inability to use the site for the intended purpose, and could result in the continued deterioration of the existing restaurant, which will inevitably reach the end of its life cycle with the elimination of the ability for anyone to use this site in the future.

CONCLUSION OF LAW

The findings do satisfy all six requirements of Section 11.04.02(B) of the LDC as outlined in the "Findings of Fact" section above.

DECISION

Based on the foregoing the variances are hereby **APPROVED**.



 James A. Scarola 9/9/14
 Land Use Hearing Officer Date

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Hillsborough County, Florida
Decision of the Land Use Hearing Officer
Hearing Date: March 17, 2014

Petition Number: VAR 14-0327 BR/C
Applicant: Chicken Lunch, LLC
Location: 1414 W. Brandon Boulevard
Folio Number: 68315.2000
Existing Zoning: CN
Request: Variance to SR 60 Overlay District setback standards and maximum impervious surface regulations

Summary of Evidence Presented

Development Services Department Staff:

Development Services Department staff stated that the applicant is requesting a variance to specific State Road 60 Urban Sector Overlay District (LDC Section 3.14.05) and maximum impervious surface coverage requirements (LDC Section 6.01.01).

An existing unoccupied sit down restaurant building totaling approximately 5,776 sq. ft. in size is located on the north side of SR 60 between Hilltop Road to the west and Limona Road to the east.

The subject site is approximately 1.04 acres in size and is zoned CN.

The applicant intends to demolish the existing vacant building and construct a new approximate 4,375 sq. ft. restaurant on the subject site.

The applicant is requesting the following variances:

1. Vary the SR 60 Overlay building setback/build to line requirement of 10 feet minimum and 20 feet maximum for the restaurant. The applicant stated that the proposed building would be setback approximately 66.2 feet from SR 60.
2. Vary the SR 60 Overlay parking space setback/location requirement: no parking areas and drive aisles shall be located between buildings and SR 60 or in the side yards. A drive aisle and a row of parking would be located between the proposed building and SR 60. A drive aisle and parking would be located to each side of the proposed building.
3. Vary the maximum impervious surface standard of 60%. The applicant proposes a maximum impervious surface coverage of 74%.

March 17, 2014
VAR 14-0327 BR/C

Applicant Testimony:

Truett Gardner, representing the applicant, provided testimony regarding the variances requested.

A new restaurant is proposed for the subject approximate 1.04 acre parcel. The property is zoned CN and is located on the north side of SR 60 in Brandon. A restaurant had operated on the subject site for many years.

The existing approximate 5,800 sq. ft. restaurant is to be demolished and a new approximate 4,800 sq. ft. restaurant is to be developed on the subject site.

It was stated that the proposed new restaurant would comply with the majority of the SR 60 Overlay District requirements. The new building architecture will be designed and constructed in compliance with the SR 60 building design standards.

The new restaurant will include a drive thru window. It was noted that the vast majority of fast food type restaurants along SR 60 in Brandon have drive thru windows. It was stated that with a drive thru window on site circulation and the length of the queue for the drive thru window needed to be addressed to the satisfaction of FDOT and County transportation review staff.

The site currently has two driveway connections with SR 60. The FDOT has requested that one of the driveways be closed with the redevelopment of the site. If two driveways were permitted traffic flow may have been easier to accommodate the drive thru window and allow for the building to be moved forward on the lot. However, with only one driveway, which will be located in the southwest corner of the lot, circulation is needed across the front of the lot, between the proposed building and SR 60.

The applicant is requesting 3 variances. The first two variances are somewhat related to each other. A variance is requested to the SR 60 Overlay District requirement that the building be located between 10 and 20 feet of the SR 60 r-o-w. A variance is requested to the SR 60 Overlay District requirement that no on site circulation and parking be placed between the buildings and SR 60 or to the side of such buildings. The last variance is to allow an increase in the impervious surface coverage for the project from the LDC required maximum of 60% to a proposed 74%.

For the reasons stated above regarding the closing of one of the SR 60 driveways it becomes a unique hardship for the owners of the proposed new restaurant if the building is required to be placed up by the r-o-w.

March 17, 2014
VAR 14-0327 BR/C

It was stated that the existing site currently has an approximate 86 % impervious surface coverage. The proposed impervious surface coverage of 74% represents a reduction in the amount of impervious surface coverage on the site.

It was stated that denial of the proposed variances would not result in an efficient and equitable development project. Substantial justice would not be achieved.

John LaPointe, project engineer, stated that numerous site layouts were attempted to try and make the restaurant with drive thru window work properly with the building located closer to SR 60. It was noted that the on-site circulation would work much better with two driveways. It was stated that FDOT preferred the western most driveway be utilized so that the restaurant drive thru window queue happens entirely on the subject site. The proposed site layout, with a 66.2 foot setback, with a circulation aisle and one row of parking between the building and SR 60 is the best site design solution for the land use proposed.

Proponent Testimony:

No one spoke in support.

Opponent Testimony:

No one spoke in opposition.

Exhibits:

Applicant's presentation exhibits.

Findings of Fact

A variance may only be allowed by the Land Use Hearing Officer in cases involving practical difficulties or unnecessary hardship, when substantial evidence in the official record of the hearing supports specific findings. Each variance request is subject to the six criteria of the LDC Section 11.04.02.B. These criteria and the evidence/findings regarding each criteria are as follows:

1. Is the alleged hardship or practical difficulty unique and singular as regards the property of the person requesting the variance and not those suffered in common with other property similarly located?

March 17, 2014
VAR 14-0327 BR/C

The alleged hardship that is unique to this property is the inherent nature of the proposed land use for the subject site and the cross purposes that the applicant/property owner is confronted with in attempting to comply with the SR 60 Overlay District requirements.

The applicant is proposing to redevelop the subject site with an approximate 4,375 sq. ft. restaurant with a drive thru window. The site currently has two driveway connections to SR 60 and in the course of designing and permitting the project the FDOT is requiring the removal of one of the driveway connections to SR 60. The FDOT and County transportation staff believe the site works better from an external roadway/LOS/traffic management perspective with one driveway connection. A driveway located at the southwest corner of the lot will create more distance on site to handle site circulation and the drive thru window queue without conflicting with traffic on SR 60.

County transportation staff noted that the subject site will be providing vehicular cross access to the east and west, so that site/project traffic may access Hilltop Road to the west (which is a signalized intersection with SR 60) or Limona Road to the east without first entering SR 60.

If the proposed restaurant building were to be pulled forward and site circulation and parking eliminated from the front of the site, given the single SR 60 driveway connection as described above, it is found that access to a driver's side drive thru window could not be reasonably designed and provided for the proposed restaurant.

It is noted that the subject site is zoned CN and is located along a high traffic volume principal arterial roadway where fast food restaurants with drive through windows are permitted within the CN zoning district and the SR 60 Urban Sector Overlay district, and are from a market point of view highly likely to gravitate towards and be located along such a desirable commercial corridor. It is noted that drive through windows that operate efficiently are a critical component to the market success of fast food restaurants in such locations.

It is found that compliance with the SR 60 Overlay front yard setback/build-to line and drive aisle/parking requirements, as described above, creates a unique hardship for the proposed specific use.

Based upon the evidence presented at the hearing it is found that the existing site, which has been in existence for quite some time, has more impervious surface coverage (86%) than the redevelopment plans propose for the site (74%).

It is observed that the variance site plan for the subject site does not appear to show a stormwater pond for the site. It is possible that given the existing and proposed conditions that the provision of stormwater volume, as to be determined by the stormwater/environmental reviewing agencies, will not be required or substantially

March 17, 2014
VAR 14-0327 BR/C

reduced. Stormwater treatment, requiring less area, may likely be required given a complete redevelopment of the subject site. Thus, typical coincidental open space associated with ponds/pond perimeters and/or conveyances is not anticipated to be a significant site parameter to be incorporated in to the redevelopment plans for the site.

Finally, the applicant's representative stated that the subject site will be providing enhanced landscaping along SR 60.

It is found that the relatively small size of the property, existing impervious surface conditions, specific land use proposed, SR 60 driveway location and site circulation and drive thru window queue design needs, are all contributing factors creating a unique hardship for the applicant with respect to meeting the current LDC requirement for impervious surface coverage.

2. Would the literal interpretation of the provisions of this Code deprive the applicant of rights commonly enjoyed by other properties in the same district and area under the terms of this Code?

The literal interpretation of the provisions of the LDC would deprive the property owner of rights commonly enjoyed by other owners/properties in the area.

3. Would the variance, if allowed, not substantially interfere with or injure the rights of others whose property would be affected by allowance of the variance?

There was no evidence submitted to demonstrate that a waiver of the build to line setback, parking, circulation or impervious surface coverage, if allowed, would substantially interfere with or injure the rights of others.

4. Is the variance in harmony with and does it serve the general intent and purpose of this Code and the Comprehensive Plan?

Yes, it is found that the subject site is located along a mixed retail commercial corridor on the north side of SR 60 where restaurants with drive thru windows are anticipated to be located. It is found that the variances are in harmony and do serve the general intent and purpose of the LDC and Comprehensive Plan.

5. Does the situation sought to be relieved by the variance result from an illegal act or result from the actions of the applicant, resulting in a self-imposed hardship?

The situation sought to be relieved is not the result of a self-imposed hardship or illegal act.

March 17, 2014
VAR 14-0327 BR/C

- 6. Will allowing the variance result in substantial justice being done, considering both the public benefits intended to be secured by this Code and the individual hardships that will be suffered by a failure to grant a variance?

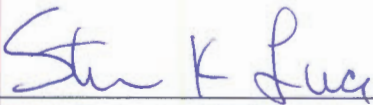
Yes, the benefits provided by the LDC are not seriously jeopardized when weighed against the hardship which would be accommodated by the granting of the variances. It is found that the hardship that would otherwise be imposed on the applicant would be significant when weighed against the public benefits intended with the implementation of the SR 60 design standards.

Conclusions of Law

Based upon a review of the Development Services Department case file and Report and the evidence presented at the hearing, it is found that substantial evidence exists to support a positive finding for each of the six variance criteria of Section 11.04.02.B of the LDC as outlined in the Findings of Fact above.

Decision

APPROVED



Steven K. Luce, AICP
Land Use Hearing Officer

Date: April 2, 2014

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 THE BOARD (01)

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Prepared by and return to:

Hill, Ward & Henderson, P.A.
101 E. Kennedy Blvd., Suite 3700
Tampa, Florida 33602
Attention: Jon Jennewein

Tax I.D. No. 071800-0000

SPECIAL WARRANTY DEED

THIS INDENTURE, made this 21st day of June, 2022 between **FIFTH THIRD BANK, NATIONAL ASSOCIATION**, a federally chartered institution, herein the "Grantor", and **WPG-HILLTOP, LLC**, a Florida limited liability company, whose address is 4211 W. Boy Scout Blvd., Ste. 620, Tampa, FL 33607, herein the "Grantee".

The Grantor, for and in consideration of the sum of \$10.00, to it in hand paid by the Grantee, the receipt whereof is hereby acknowledged, has granted, bargained and sold and by these presents does grant, bargain, sell and convey to the Grantee, its successors and assigns forever, the land, situate, lying and being in the County of Hillsborough, State of Florida, described as follows:

See Exhibit A attached hereto and incorporated herein by this reference.

Together with all the tenements, hereditaments, easements and appurtenances thereto belonging or in anywise appertaining.

The Grantor hereby covenants with Grantee, except as set forth herein, that it will warrant and defend the title to the land against the lawful claims of all persons claiming by, through or under the Grantor, but against none other. This conveyance is made subject to the following matters: (A) real property taxes and assessments for 2022 and subsequent years, (B) all easements, covenants, conditions, restrictions and other agreements of record, (C) all matters which would be disclosed by a recent and accurate survey of the property hereby conveyed (the "Property"), (D) public streets and legal highways and (E) any applicable municipal, zoning and subdivision laws and ordinances.

For a period of two (2) years from the date that this Deed is recorded (although such use restriction shall be a perpetual use restriction for so long as Grantee owns or operates the Property), no portion of the Property shall be used for any Marijuana Uses (as defined herein). As used herein "**Marijuana Uses**" will mean any marijuana related activities, including but not limited to the possession, sale, cultivation, manufacturing, dispensing or distribution of marijuana for medical or recreational purposes, and/or the sale, manufacturing, dispensing or distribution of paraphernalia for use with marijuana or illicit drugs.

Additionally, for a period of ten (10) years from the date that this Deed is recorded, no portion of the Property shall be used by or for: (i) the operation, construction on, or placing signage relating to or otherwise advertising on or relating to (including but not limited to "Coming Soon" signs) any financial institutions, banks, savings and loans, trust companies, ATM's, automated teller machines or other free standing cash dispensing or financial transaction machines, stock brokerages, mortgage companies, brokerages, credit unions, (ii) any type of

financial services entity or any entity offering any Banking Services (as defined herein), (iii) the use, construction or placement of signage on or otherwise advertise on or related to (including but not limited to “Coming Soon” signs) the Property for or relating to any type of brokerage, mortgage and financial services or Banking Services. As used herein “**Banking Services**” will mean will mean the provision of checking, savings, check cashing, credit card, commercial loan, consumer loan, residential loan, international letters of credit, trust, automatic teller, securities brokerage and other financial services provided by commercial banking and savings and loan institutions to commercial and consumer customers.

In the event of a breach, or attempted or threatened breach of the use restrictions set forth above, Grantor or its successors or assigns, shall be entitled to full and adequate relief by injunction and all other available legal and equitable remedies from the consequences of such breach.

(When used herein the terms “Grantor” and “Grantee” shall be construed to include, masculine, feminine, singular or plural as the context permits or requires and shall include heirs, personal representatives, successors or assigns.)

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IN WITNESS WHEREOF, the Grantor has caused this instrument to be executed in its name as of the day and year first above written

Signed and Delivered in the Presence of:

[Signature]
[print name] William Stonecipher

[Signature]
[print name] Collin Spitemueller

FIFTH THIRD BANK, NATIONAL ASSOCIATION, a federally chartered institution

By: [Signature]
Name: Jennifer E. Hume
AVP, Fifth Third Bank
Its: EWS Real Estate Manager

STATE OF Ohio

COUNTY OF Hamilton

The foregoing instrument was acknowledged before me by () online notarization or physical presence this 15 of June, 2022, by Jennifer Hume as AVP of **FIFTH THIRD BANK, NATIONAL ASSOCIATION**, a federally chartered institution, who

- is personally known to me;
- has produced a _____ Driver's License as identification; or
- has produced a _____ as identification.



KAYLA WILLIAMSON
Notary Public, State of Ohio
My Commission Expires 12-17-2023

[Signature]
Notary Signature
Print Name: Kayla Williamson
Notary Public, State and County
Aforesaid
My commission expires: 12-17-23
Commission Number: _____

(Notarial Seal)

Signed and Delivered in the Presence of:

[Signature]
[print name] William Stoner

[Signature]
[print name] Collin Spitzmueller

FIFTH THIRD BANK, NATIONAL ASSOCIATION, a federally chartered institution

By: [Signature]
Name: Thomas A. Ross
VP-Director of Corporate Real Estate
Its: _____

STATE OF Ohio

COUNTY OF Hamilton

The foregoing instrument was acknowledged before me by () online notarization or (X) physical presence this 15 of June, 2022, by Thomas Ross, as VP of **FIFTH THIRD BANK, NATIONAL ASSOCIATION**, a federally chartered institution, who

- is personally known to me;
- has produced a _____ Driver's License as identification; or
- has produced a _____ as identification.



KAYLA WILLIAMSON
Notary Public, State of Ohio
My Commission Expires 12-17-2023

[Signature]
Notary Signature
Print Name: Kayla Williamson
Notary Public, State and County
Aforesaid
My commission expires: 12-17-23
Commission Number: _____

(Notarial Seal)

EXHIBIT A

A parcel of land situated in Section 28, Township 29 South, Range 20 East, Hillsborough County, Florida, described as follows:

The North 393.8 feet of the West 1/2 of the Northwest 1/4 of the Northeast 1/4 of the Northeast 1/4 of Section 28, Township 29 South, Range 20 East, LESS the East 100.00 feet and LESS the West 25.00 feet for the road right-of-way and LESS right-of-way for State Road 60, being a site with 200.00 feet plus or minus of frontage on Brandon Boulevard (S.R. 60) the Northern boundary, thence go Southerly for 266.00 feet (the Eastern boundary) to a point; thence go Westerly 200.00 feet (the Southern boundary) to a point; thence go 266.00 feet Northerly and along Hilltop Road back to the Point of Beginning, more particularly described as follows:

Begin at the intersection of the Easterly right-of-way line of Hilltop Road (50 foot right-of-way) and the Southerly right-of-way line of Brandon Boulevard (State Road 60, 182 feet right-of-way); said Southerly right-of-way line being a curve concave Southerly and having a radius of 343,774.81 feet; thence go Easterly along said curved Southerly right-of-way line having a radius of 343,774.81 feet, an arc distance of 208.00 feet (chord = 208 feet, chord bearing = South 89° 49' 12" East); thence South 00° 00' 00" West, a distance of 265.93 feet; thence go North 89° 49' 12" West, a distance of 208.00 feet to a point on the aforesaid Easterly right-of-way line of Hilltop Road; thence go North 00° 00' 00" East along said Easterly right-of-way line, a distance of 265.93 feet to the Point of Beginning.

LESS and EXCEPT that portion conveyed to Hillsborough County, a political subdivision of the State of Florida, recorded in Official Records Book 20653, Page 320, Public Records of Hillsborough County, Florida.

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**Property/Applicant/Owner
Information Form**

Received
09/14/22
Development Services

Official Use Only

Application No: VAR 22-1434 Intake Date: 09/14/22
 Hearing(s) and type: Date: 11/21/2022 Type: LUHO Receipt Number: _____
 Date: _____ Type: _____ Intake Staff Signature: Ana Lizarido

Property Information

Address: 1449 W Brandon Blvd City/State/Zip: Brandon/FL/33511
 TWN-RN-SEC: 29-20-28 Folio(s): 71800-0000 Zoning: CG Future Land Use: OC-20 Property Size: 1.21 AC

Property Owner Information

Name: WPG-Hilltop LLC Daytime Phone _____
 Address: 4211 W Boy Scout Blvd, Ste. 620 City/State/Zip: Tampa/FL/33607
 Email: sliakos@wagspg.com Fax Number _____

Applicant Information

Name: WPG-Hilltop LLC Daytime Phone _____
 Address: 4211 W Boy Scout Blvd, Ste. 620 City/State/Zip: Tampa/FL/33607
 Email: sliakos@wagspg.com Fax Number _____

Applicant's Representative (if different than above)

Name: Tyler Hudson and Gardner Brewer Hudson Daytime Phone 813-221-9600
 Address: 400 N Ashley Dr, Ste. 1100 City/State/Zip: Tampa/FL/33602
 Email: landuse@gardnerbrewer.com Fax Number _____

I hereby swear or affirm that all the information provided in the submitted application packet is true and accurate, to the best of my knowledge, and authorize the representative listed above to act on my behalf on this application.

Michael T. Wagner
 Signature of the Applicant

Michael T Wagner

Type or print name

I hereby authorize the processing of this application and recognize that the final action taken on this petition shall be binding to the property as well as to the current and any future owners.

Michael T. Wagner
 Signature of the Owner(s) -- (All parties on the deed must sign)

Michael T Wagner

Type or print name



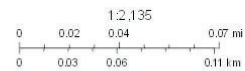
PARCEL INFORMATION HILLSBOROUGH COUNTY FLORIDA

Jurisdiction	Unincorporated County
Zoning Category	Commercial/Office/Industr
Zoning	CG
Description	Commercial - General
Overlay	SR60
Flood Zone:X	AREA OF MINIMAL FLOOD HAZARD
FIRM Panel	0391H
FIRM Panel	12057C0391H
Suffix	H
Effective Date	Thu Aug 28 2008
Pre 2008 Flood Zone	X
Pre 2008 Firm Panel	1201120395E
County Wide Planning Area	Brandon
Community Base Planning Area	Brandon
Census Data	Tract: 013307 Block: 1000
Future Landuse	OC-20
Urban Service Area	USA
Mobility Assessment District	Urban
Mobility Benefit District	2
Fire Impact Fee	Central
Parks/Schools Impact Fee	CENTRAL
ROW/Transportation Impact Fee	ZONE 7
Wind Borne Debris Area	Outside 140 MPH Area
Overlay District	SR 60 - Brandon Boulevard
Competitive Sites	NO
Redevelopment Area	NO

Folio: 71800.0000



September 15, 2022



Hillsborough County Florida

Folio: 71800.0000
PIN: U-28-29-20-ZZZ-000002-67540.0
WPG-HILLTOP LLC
Mailing Address:
 4211 W BOY SCOUT BLVD STE 620
 TAMPA, FL 33607-5928
Site Address:
 1449 W BRANDON BLVD
 BRANDON, FL 33511
SEC-TWN-RNG: 28-29-20
Acreage: 1.21390998
Market Value: \$943,241.00
Landuse Code: 1000 VACANT COMM.

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1. Any error, omissions, or inaccuracies in the information provided regardless of how caused.
2. Any decision made or action taken or not taken by any person in reliance upon any information or data furnished hereunder.

22-1434