



**LAND USE HEARING OFFICER VARIANCE REPORT**

<b>APPLICATION NUMBER:</b> VAR 23-0128	
<b>LUHO HEARING DATE:</b> March 27, 2023	<b>CASE REVIEWER:</b> Chris Grandlienard, AICP

**REQUEST:** The applicant is requesting a variance to accommodate the placement of a drive-through order box for a proposed restaurant on property zoned CG.

**VARIANCE(S):**

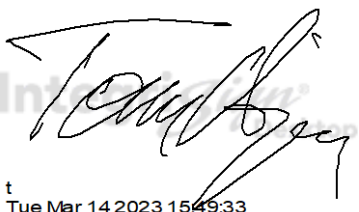
Per LDC Section 6.11.35. B.1, no order box used in the ordering of food or beverages from a drive-through window shall be located within 200 feet of any property zoned residential. The applicant requests a 144-foot reduction to the required distance separation to allow a 56-foot separation from residentially zoned property to the north that is zoned RSC-6 and occupied by a single-family home.

**FINDINGS:**

- The drive-through order box is proposed with a westward orientation facing a church property in the city of Temple Terrace zoned CG (Commercial General). To the northwest of the proposed order box is a vacant parcel in Temple Terrace zoned R-7 (Single Family Residential), while due north is the RSC-6 parcel in the unincorporated area.
- The applicant has advised staff they will commit to a westward orientation of the speaker box.

**DISCLAIMER:**

The variance listed above is 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.

<b>ADMINISTRATOR'S SIGN-OFF</b>
 <small>t Tue Mar 14 2023 15:49:33</small>
<b>Attachments:</b> Application Site Plan Petitioner's Written Statement Current Deed

PROPOSED MINIMUM DISTANCE  
CALL BOX TO RESI PROPERTY LINE  
56 Linear FT  
Intent: Westerly orientation of  
call box with other design criteria  
to maximize noise elimination

ROUGH CONCEPT DRAWING  
Call Box Positioning  
Drive Through, 7010 E Fowler Ave  
Estimated Bldg Size: 40' x 40' = 1,600 SF



PICK UP WINDOW

**Scott Garrett**  
BOSS Commercial Real Estate  
Licensed Commercial Real Estate Broker  
Cell: 407-733-8159  
Fax: 321-549-6269  
Scott@BossCRE.com  
www.BossCRE.com

Hillsborough County Parcel

7010 E Fowler Ave, Tampa  
Neighboring Parcel  
Municipality & Zoning

Temple Terrace Parcel



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**SUBJECT  
PROPERTY**



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**Hillsborough  
County Florida**  
Development Services

601 E. Kennedy Blvd., 19th Floor | (813) 272 5600

# Additional / Revised Information Sheet

Date Stamp Here

Application Number: VAR 23-0128 Applicant's Name: SCOTT GARRETT

Reviewing Planner's Name: CHRIS GRANDJEAN Date: MARCH 16, 2023

Application Type:

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

Current Hearing Date (if applicable): MARCH 27, 2023

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.

N/A  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](mailto:ZoningIntake-DSD@hcflgov.net)

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

MARCH 16, 2023  
Date

FOR OFFICE USE ONLY

- Notification E-Mail Sent
- Transmittal Completed

Scanned into OPTIX

In-Take Completed by: \_\_\_\_\_



**Hillsborough  
County Florida**  
Development Services

Application No: \_\_\_\_\_

## Project Description (Variance Request)

- In the space below describe the variance including any history and/or related facts that may be helpful in understanding the request. This explanation shall also specifically identify what is being requested (e.g. Variance of 10 feet from the required rear yard setback of 25 feet resulting in a rear yard of 15 feet). If additional space is needed, please attach extra pages to this application.

The owner of the property desires to develop the site for a quick serve restaurant (QSR). The land development code requires a call box to be a minimum 200 linear FT from the nearest residential property line. The furthest point on the property away from the nearest residential property is about 136 linear FT - even selecting a point on the subject property's SEC property line (not at a location a civil engineer could position a call box to function with a QSR concept on our site).

My client believes he can position, in coordination with a civil engineer, a QSR concept on the property that could place its call box no closer than 56 linear FT from the nearest Resi zoned property. He also plans to orient the call box in a westerly direction, toward the neighboring commercial zoned parcel to the west.

That said, the owner is very willing to deliver design criteria to the call box location and newest affordable technologies to aid in the mitigation of any possible call box noise disturbance.

- A Variance is requested from the following Section(s) of the Hillsborough County Land Development Code:

SEC 6.11.35 B1

### Additional Information

- Have you been cited by Hillsborough County Code Enforcement?  No  Yes  
If yes, you must submit a copy of the Citation with this Application.
- Do you have any other applications filed with Hillsborough County that are related to the subject property?  
 No  Yes If yes, please indicate the nature of the application and the case numbers assigned to the application (s): \_\_\_\_\_
- Is this a request for a wetland setback variance?  No  Yes  
If yes, you must complete the Wetland Setback Memorandum and all required information must be included with this Application Packet.
- Please indicate the existing or proposed utilities for the subject property:  
 Public Water  Public Wastewater  Private Well  Septic Tank
- Is the variance to allow a third lot on well or non-residential development with an intensity of three ERC's?  
 No  Yes If yes, you must submit a final determination of the "Water, Wastewater, and/or Reclaimed Water – Service Application Conditional Approval – Reservation of Capacity" prior to your public hearing



## Variance Criteria Response

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?

Given the unique geometry of our site, positioning of the neighboring Resi zoned properties, and the accounting for delivery of a call box constructed with design criteria and newest call box technologies to maximize noise reduction, the rationale for the requirement and the hardship imposed on the site by the 200 FT distance to the nearest Resi property line will be mitigated.

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.

CG is a more intensive retail zoning district than CN. Both CG and CN zoning districts have the same Restaurant Eating Establishment criteria for call box placement distance from the nearest neighboring residential zoned property. The following 3 Un-Incorp Hillsborough County CG & CN zoned parcels have a call box closer than 200 linear FT to the nearest neighboring residential zoned parcel: 069457-0000 & 054226-0100 & 068315-4000 (an attachment shows these)

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.

The subject property owner will implement additional design criteria and install technologies to mitigate call box sound from generating noise disturbance for neighboring residential properties.

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).

With further design controls and use of technologies to mitigate call box noise levels the intent of the LDC and Comprehensive Plan will be maintained.

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.

The zoning requirements are imposed by the LDC. The applicant has inherited the LDC requirement as part of the zoning for the property. The requested variance was not derived through action of the property owner.

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.

Given that other same and less intensive zoning districts have call boxes located less than 200 linear FT from a residentially zoned property it would be unfair for the municipality to restrict the subject property from doing the same.

INSTRUMENT#: 2016057115, BK: 23872 PG: 465 PGS: 465 - 465 02/09/2016 at 12:05:59 PM, DOC TAX PD(F.S.201.02) \$1533.00 DEPUTY CLERK:SSANDERS Pat Frank, Clerk of the Circuit Court Hillsborough County

Prepared by and Return to:  
Rory B. Weiner, P.A.  
Tiffney L. Daniels  
635 West Lumsden Road  
Brandon, Florida 33511  
Our File Number: 15-0162

SP 2-19-2016

For official use by Clerk's office only

STATE OF Florida ) SPECIAL WARRANTY DEED  
COUNTY OF Hillsborough ) (Corporate Seller)

THIS INDENTURE, made this February 5, 2016, between Pentecostal Tabernacle International Inc., a Florida Corporation, a Florida corporation, whose mailing address is: 18415 NW 7th Ave., Miami, Florida 33169, party of the first part, and Tire Capital, Inc., whose mailing address is: 7125 HWY 98N, Lakeland, Florida 33809, party/parties of the second part,

WITNESSETH:

First party, for and in consideration of the sum of TEN AND NO/100 DOLLARS (\$10.00) and other valuable considerations, receipt whereof is hereby acknowledged, does hereby grant, bargain, sell, aliens, remises, releases, conveys and confirms unto second party/parties, his/her/their heirs and assigns, the following described property, towit:

Lots 29, 30 and 31, Block I-5, TEMPLE TERRACE ESTATES, a subdivision according to the plat thereof recorded at Plat Book 17, Pages 33 to 35, in the Public Records of Hillsborough County, Florida.

Subject, however, to all covenants, conditions, restrictions, reservations, limitations, easements and to all applicable zoning ordinances and restrictions and prohibitions imposed by governmental authorities, if any.

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

TO HAVE AND TO HOLD the same in fee simple forever.

AND the party of the first part hereby covenants with said party of the second part, that it is lawfully seized of said land in fee simple: that it has good right and lawful authority to sell and convey said land; that it hereby fully warrants the title to said land and will defend the same against the lawful claims of all persons claiming by, through or under the party of the first part.

IN WITNESS WHEREOF, first party has signed and sealed these present the date set forth on February 5, 2016.

Signed, sealed and delivered in the presence of:

Pentecostal Tabernacle International Inc., a Florida Corporation

CAROLINE DANREAKE  
Witness signature

CAROLINE DANREAKE  
Print witness name

AVRIL RICHARDS  
Witness signature  
AVRIL RICHARDS  
Print witness name

By: [Signature]  
Print Name: S. Robert Stewart  
Title: President

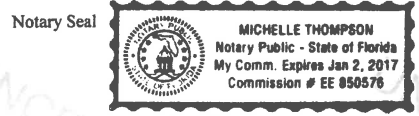


State of Florida  
County of Miami-Dade

THE FOREGOING INSTRUMENT was acknowledged before me this 3 day of February, 2016 by S. Robert Stewart, President of Pentecostal Tabernacle International Inc., a Florida Corporation who is personally known to me or who has produced \_\_\_\_\_ as identification.

Michelle Thompson  
Notary Public  
Michelle Thompson  
Print Notary Name

My Commission Expires: 1-2-2017



DEED - Special Warranty Deed - Corporate





**Hillsborough  
County Florida**  
Development Services

# Property/Applicant/Owner Information Form

Received  
01/31/2023  
Development Services

### Official Use Only

Application No: VAR 23-0128  
Hearing(s) and type: Date: 03/27/2023  
Date: \_\_\_\_\_

Type: LUHO  
Type: \_\_\_\_\_

Intake Date: 01/31/2023  
Receipt Number: \_\_\_\_\_  
Intake Staff Signature: Ana Lizardo

### Property Information

Address: 7010 E FOWLER AVENUE City/State/Zip: TAMPA, FL 33617  
TWN-RN-SEC: 14-28-19 Folio(s): 037228-0000 Zoning: CG Future Land Use: R-6 Property Size: .54ac

### Property Owner Information

Name: TIRE CAPITAL INC Daytime Phone: 863-815-8473  
Address: 7125 US HWY 98 N City/State/Zip: LAKELAND, FL 33809  
Email: tedss@aol.com Fax Number: N/A

### Applicant Information

Name: TED SARUN Daytime Phone: SAME AS ABOVE  
Address: SAME AS ABOVE City/State/Zip: \_\_\_\_\_  
Email: SAME AS ABOVE Fax Number: \_\_\_\_\_

### Applicant's Representative (if different than above)

Name: SCOTT GARRETT Daytime Phone: 407-733-8159  
Address: 2211 SAXON DR City/State/Zip: NEW SMYRNA BEACH, FL 32169  
Email: Scott@BossCRE.com Fax Number: 1-321-549-6269

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.

Ted Sarun  
8373DE6B24724D3...

Signature of the Applicant  
Ted Sarun

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.

DocuSigned by:  
Ted Sarun  
9373DE6B24724D3...

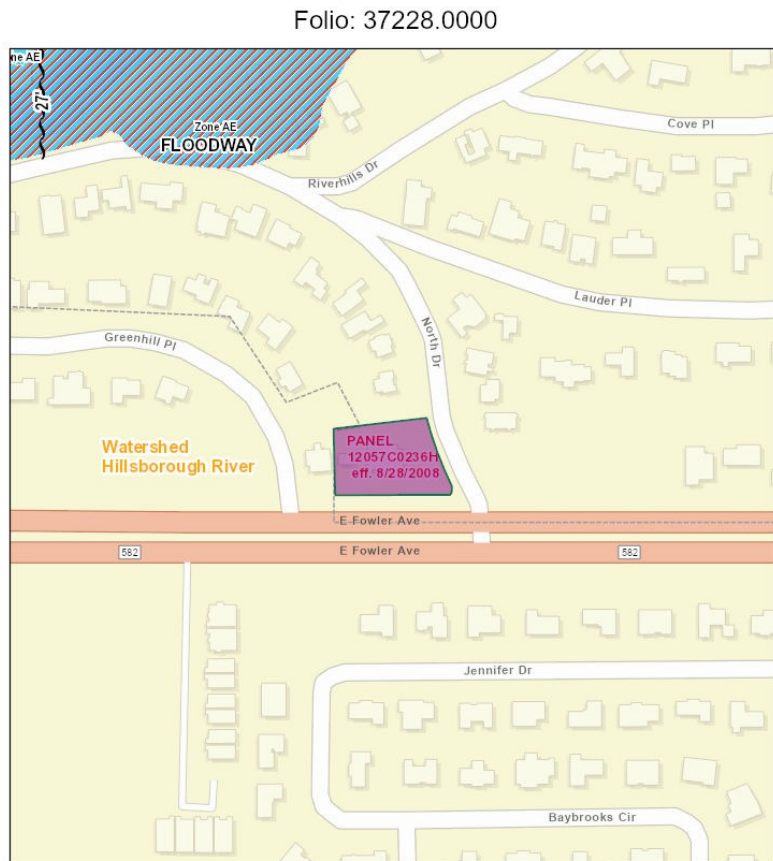
Signature of the Owner(s) - (All parties on the deed must sign)  
Ted Sarun

Type or print name

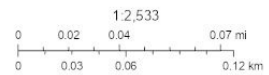


# PARCEL INFORMATION HILLSBOROUGH COUNTY FLORIDA

Jurisdiction	Unincorporated County
Zoning Category	Commercial/Office/Industr
Zoning	CG
Description	Commercial - General
Flood Zone:X	AREA OF MINIMAL FLOOD HAZARD
FIRM Panel	0236H
FIRM Panel	12057C0236H
Suffix	H
Effective Date	Thu Aug 28 2008
Pre 2008 Flood Zone	X
Pre 2008 Firm Panel	1201120236C
County Wide Planning Area	University Area Community
Census Data	Tract: 010811 Block: 4010
Census Data	Tract: 010811 Block: 4011
Future Landuse	R-6
Urban Service Area	TSA
Waste Water Interlocal	City of Tampa Waste Water
Water Interlocal	City of Tampa Water
Mobility Assessment District	Urban
Mobility Benefit District	2
Fire Impact Fee	Northeast
Parks/Schools Impact Fee	NORTHEAST
ROW/Transportation Impact Fee	ZONE 2
Wind Borne Debris Area	Outside 140 MPH Area
Aviation Authority Height Restrictions	170' AMSL
Competitive Sites	NO
Redevelopment Area	NO



January 31, 2023



Sources: Esri, HERE, Garmin, FAO, NOAA, USGS, © OpenStreetMap contributors, and the GIS User Community

Hillsborough County Florida

**Folio: 37228.0000**  
**PIN: U-11-28-19-111-000015-00029.0**  
**TIRE CAPITAL INC**  
**Mailing Address:**  
 7125 US HIGHWAY 98 N  
 LAKELAND, FL 33809-2136  
**Site Address:**  
 7010 E FOWLER AVE  
 TAMPA, FL 33617  
**SEC-TWN-RNG: 11-28-19**  
**Acreage: 0.58058**  
**Market Value: \$291,812.00**  
**Landuse Code: 1000 VACANT COMM.**

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2. Any decision made or action taken or not taken by any person in reliance upon any information or data furnished hereunder.

23-0128