



**LAND USE HEARING OFFICER VARIANCE REPORT**

<b>APPLICATION NUMBER:</b> VAR 23-0022	
<b>LUHO HEARING DATE:</b> February 27, 2023	<b>CASE REVIEWER:</b> Colleen Marshall, AICP, CFM

**REQUEST:** The applicant is requesting variances to accommodate a proposed covered patio for an existing building on property zoned CG.

**VARIANCE(S):**

- 1) Per LDC Section 6.01.01, a minimum front yard setback of 30 feet is required in the CG district. The subject parcel is a corner lot, therefore requires front yard setbacks along the south and west property lines. The applicant requests a 16-foot reduction to the required front yard setback to allow a 14-foot setback from the west property line adjacent to Club Drive for the proposed attached covered patio.
- 2) Per LDC Section 6.01.01, a maximum impervious surface percentage of 70 percent is permitted in the CG district. The applicant requests a variance of 24.5 percent to allow for a maximum impervious surface percentage of 94.5 percent.

**FINDINGS:**

- The subject site is under split jurisdiction. The northern half of the property is under Hillsborough County jurisdiction, and the southern half is under City of Tampa jurisdiction. At the time of development of the shopping center in 1980, the subject parcel was zoned C-1 within the area under Hillsborough County jurisdiction, the standards for which did not include a maximum impervious surface ratio. The existing site conditions within the portion of the site under Hillsborough County jurisdiction has an impervious surface area of 93.1 percent. The proposed attached covered patio will increase the impervious surface area by approximately 700 square feet.

**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.

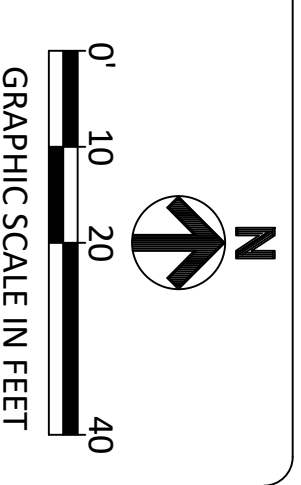
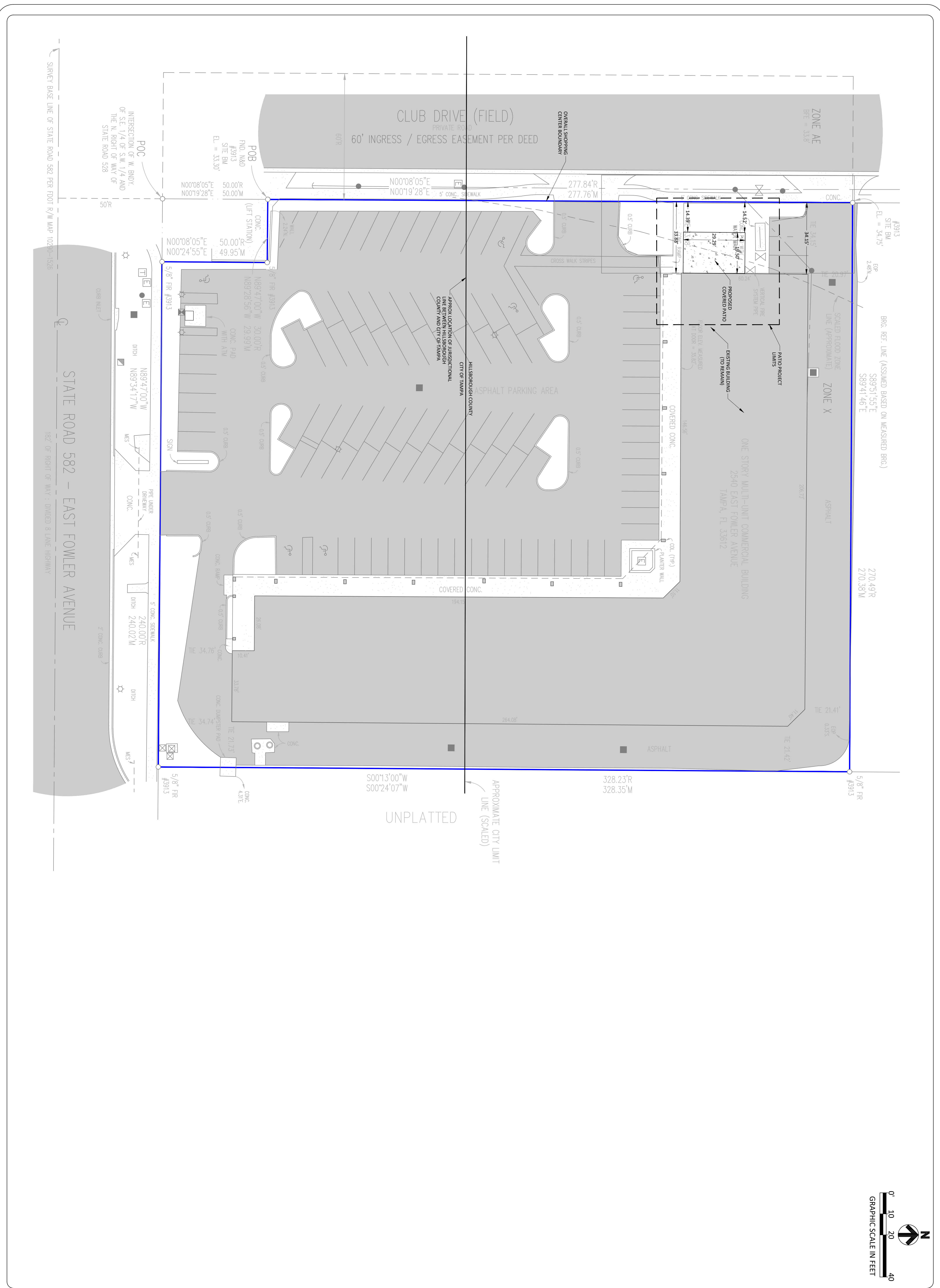
**ADMINISTRATOR'S SIGN-OFF**



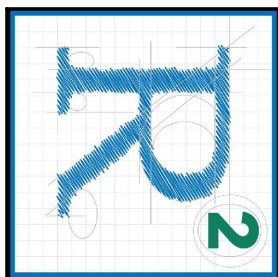
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**Attachments:** Application  
Site Plan  
Petitioner's Written Statement  
Current Deed



DEVELOPER:  
  
**AJI FOWLER, LLC**  
 500 E. KENNEDY BLVD. STE. 300  
 TAMPA, FL 33602  
 CONTACT: ADAM IBERMANN

CONSULTANT:  
  
  
**R-SQUARED ENGINEERING, LLC**  
 20322 BURNINGWELL AVE. #3528  
 HUNTERWOOD, FL 33528  
 (727) 741-3528

SEAL:  
  
 PROJECT:

**2540 E. FOWLER PATIO**  
 2540 E. FOWLER AVE.  
 TAMPA, FL 33612  
 SECTION 8, TOWNSHIP 28 S, RANGE 19 E  
 FOLIO #: 036282-5000

ISSUE / REVISIONS	DATE

PROJECT MANAGER: **PAR**  
 DRAWING BY: **PAR**  
 JURISDICTION: **HILLSBOROUGH COUNTY, FL**  
 DATE: **2022-12-28**  
 TITLE: **SITE PLAN**

SHEET NUMBER: **EX-1.0**  
 COMMENTS: **FOR VARIANCE**  
 JOB/FILE NUMBER: **005.001**



# Additional / Revised Information Sheet

Office Use Only		
Application Number: VAR 23-0022	Received Date:	Received By:

The following form is required when submitted changes for any application that was previously submitted. A cover letter must be submitted providing a summary of the changes and/or additional information provided. If there is a change in project size the cover letter must list any new folio number(s) added. Additionally, **the second page of this form must be included indicating the additional/revised documents being submitted with this form.**

Application Number: VAR 23-0022 Applicant's Name: AJI Fowler, LLC

Reviewing Planner's Name: Colleen Marshall, AICP Date: 01/25/2023

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): 02/27/2023

### Important Project Size Change Information

Changes to project size may result in a new hearing date as all reviews will be subject to the established cut-off dates.

Will this revision add land to the project?  Yes  No

If "Yes" is checked on the above please ensure you include all items marked with \* on the last page.

Will this revision remove land from the project?  Yes  No

If "Yes" is checked on the above please ensure you include all items marked with + on the last page.

**Email this form along with all submittal items indicated on the next page in pdf form to:**

[ZoningIntake-DSD@hcflgov.net](mailto:ZoningIntake-DSD@hcflgov.net)

Files must be in pdf format and minimum resolution of 300 dpi. Each item should be submitted as a separate file titled according to its contents. All items should be submitted in one email with application number (including prefix) included on the subject line. Maximum attachment(s) size is 15 MB.

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

01/25/2023  
Date





**Hillsborough  
County Florida**  
Development Services

# Identification of Sensitive/Protected Information and Acknowledgement of Public Records

Pursuant to [Chapter 119 Florida Statutes](#), all information submitted to Development Services is considered public record and open to inspection by the public. Certain information may be considered sensitive or protected information which may be excluded from this provision. Sensitive/protected information may include, but is not limited to, documents such as medical records, income tax returns, death certificates, bank statements, and documents containing social security numbers.

While all efforts will be taken to ensure the security of protected information, certain specified information, such as addresses of exempt parcels, may need to be disclosed as part of the public hearing process for select applications. If your application requires a public hearing and contains sensitive/protected information, please contact [Hillsborough County Development Services](#) to determine what information will need to be disclosed as part of the public hearing process.

Additionally, parcels exempt under [Florida Statutes §119.071\(4\)](#) will need to contact [Hillsborough County Development Services](#) to obtain a release of exempt parcel information.

**Are you seeking an exemption from public disclosure of selected information submitted with your application pursuant to Chapter 119 FS?**  Yes  No

**VAR 23-0022**

I hereby confirm that the material submitted with application \_\_\_\_\_

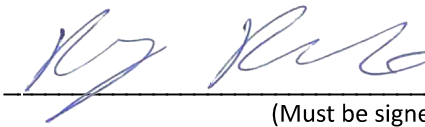
Includes sensitive and/or protected information.

Type of information included and location \_\_\_\_\_

Does not include sensitive and/or protected information.

**Please note:** Sensitive/protected information will not be accepted/requested unless it is required for the processing of the application.

If an exemption is being sought, the request will be reviewed to determine if the applicant can be processed with the data being held from public view. Also, by signing this form I acknowledge that any and all information in the submittal will become public information if not required by law to be protected.

Signature:  01/25/2023  
(Must be signed by applicant or authorized representative)

Intake Staff Signature: \_\_\_\_\_ Date: \_\_\_\_\_



# Additional / Revised Information Sheet

Please indicate below which revised/additional items are being submitted with this form.

Included	Submittal Item
----------	----------------

- 1  **Cover Letter\*\***+ If adding or removing land from the project site, the final list of folios must be included
- 2  **Revised Application Form\*\***+
- 3  **Copy of Current Deed\*** Must be provided for any new folio(s) being added
- 4  **Affidavit to Authorize Agent\*** (If Applicable) Must be provided for any new folio(s) being added
- 5  **Sunbiz Form\*** (If Applicable) Must be provided for any new folio(s) being added
- 6  **Property Information Sheet\*\***
- 7  **Legal Description of the Subject Site\*\***
- 8  **Close Proximity Property Owners List\*\***
- 9  **Site Plan\*\*** All changes on the site plan must be listed in detail in the Cover Letter.
- 10  **Survey**
- 11  **Wet Zone Survey**
- 12  **General Development Plan**
- 13  **Project Description/Written Statement**
- 14  **Design Exception and Administrative Variance requests/approvals**
- 15  **Variance Criteria Response**
- 16  **Copy of Code Enforcement or Building Violation**
- 17  **Transportation Analysis**
- 18  **Sign-off form**
- 19  **Other Documents** (please describe):

\*Revised documents required when adding land to the project site. Other revised documents may be requested by the planner reviewing the application.

+Required documents required when removing land from the project site. Other revised documents may be requested by the planner reviewing the application.



**Hillsborough  
County Florida**  
Development Services

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

# Project Description (Variance Request)

1. 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.

Applicant would like to construct a new covered patio on the side of an existing shopping center building to provide outdoor seating space complimenting the proposed fast casual restaurant in the adjacent building end cap space. The existing shopping center development appears to have been constructed in the year 1980 which precedes the Land Development Code implementation. It is important to note that overall shopping center site is bisected in half by the jurisdictional boundary between Hillsborough County and the City of Tampa. All requested variances herein are specifically related to the portion of the overall shopping center that is within the Hillsborough County jurisdiction. The site is currently zoned CG and Based on the current land development code, we would be required to obtain two variances to construct the proposed covered patio, as follows:

- 1) Variance to increase the maximum allowable impervious area. Under the CG zoning designation, the maximum allowable impervious area is 70%. We are hereby requesting a variance to allow a maximum impervious area of 94.5%. Therefore, we are requesting a variance of 24.5% from the maximum allowable impervious area. Note, however, that the existing site conditions, within the portion of the site under Hillsborough County jurisdiction, have an impervious area of 93.1% so we're asking to increase the impervious area by 1.4% from the existing conditons, or about 700 SF increase.
- 2) Variance to allow reduced setback to the canopy structure. The project site happens to fall on a corner lot, therefore, the canopy structure is proposed to be constructed within a front yard (which functions as a side yard). As such, the required building setback to the structure in the front yard is 30-feet. We are hereby requesting a variance to allow the canopy structure to be constructed with a setback of 14-feet which results in a variance of 16-ft. To put this in context, the existing building setback is 34-ft, therefore, a canopy structure would not be feasible without this variance.

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

- 1) 6.01.01 - Maximum Percent of Impervious Surface
- 2) 6.01.01 - Front Yard Setback

## Additional Information

1. Have you been cited by Hillsborough County Code Enforcement?  No  Yes  
If yes, you must submit a copy of the Citation with this Application.
2. 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): HC-BLD-22-0041376
3. 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.
4. Please indicate the existing or proposed utilities for the subject property:  
 Public Water  Public Wastewater  Private Well  Septic Tank
5. 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 Re-claimed Water – Service Application Conditional Approval – Reservation of Capacity" prior to your public hearing

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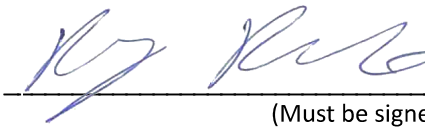
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## Variance Criteria Response

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?

This shopping center development has been existing for over 40 years. The hardships described herein are a result of the existing building location and the development being constructed prior to the implementation of the Land Development Code. We are simply looking to add an outdoor patio area and that would not be possible without the variances requested herein.

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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.

Based on an aerial review of the surrounding developments to the north, east, and west, they all appear to be developed with a similar intensity to the subject site. The literal interpretations of the LDC would deprive this project as we cannot meet the maximum impervious area or accessory structure setbacks. Being that the existing site is already over the impervious limits, no improvements would be able to be made to the project site without the requested impervious area variance. Similarly, since the existing building has a setback of 34-ft, only 4-ft of additional structure could be constructed without a variance to the setback.

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 requested variances would not interfere with or injure the rights of others as they are simply to allow for a patio to be constructed within our property limits. The existing parking lot and driveways are built adjacent to the existing Club Drive roadway and this proposed patio would be located between two existing driveways. Being that this site has been in existence for over 40 years with the parking lot and driveway locations close to the roadway, adding this patio would have no affect on any of the surrounding properties as it would not be any closer to the roadway than the existing parking lot location.

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*).

These variance requests are in harmony with the general intent and purpose of the LDC and comp plan as we are proposing to add a patio to an existing development which allows us to develop efficiently in both time and expense. The variances would recognize the fact that this development has been existing for over 40 years and these variances allow for a small patio to be constructed which otherwise would not be permitted.

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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 existing development was constructed over 40 years ago, prior to the applicant wishing to add an outdoor patio. This existing configuration of the development is not a result of the applicant nor is it the result of an illegal act by the applicant.

---

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.

Allowing these variances to be approved would result in substantial justice being done because it would allow a business to continue expanding into the Tampa Bay area whose business practice is to provide both indoor and outdoor seating space. Failure to grant these variances would result in a hardship to the business owner as they would have to go back to the real estate drawing board and attempt to find another location that would suit their business needs.

PREPARED BY:

Steven M. Auerbacher, Esq.  
Steven M. Auerbacher, PA  
200 Congress Park Drive, Suite 204  
Delray Beach, FL 33445

AFTER RECORDING RETURN TO:

Richard Withers  
Withers Harvey  
5538 NW 43rs St Ste B  
Gainesville, FL 32653

---

(Above space for Recorder's use only)

**SPECIAL WARRANTY DEED**

Tax Account Numbers;A1394305000;A0362825000

**THIS SPECIAL WARRANTY DEED** is made and entered into as of November 10, 2021, by and between MPI/Fowler Plaza, INC., a Florida corporation ("**Grantor**"), whose address is 200 Congress Park Drive, Suite 205, Delray Beach, FL 33445 and Fowler, LLC, a Florida limited liability company ("**Grantee**"), whose address is 5538 NW 43<sup>rd</sup> Street, B, Gainesville, FL 32653.

Grantor, for and in consideration of the sum of \$10.00 and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, has GRANTED, BARGAINED, SOLD, and CONVEYED and by these presents does GRANT, BARGAIN, SELL, and CONVEY unto Grantee the tract or parcel of land in Hillsborough County, Florida, described in Exhibit A, together with all rights, titles and interests appurtenant thereto (such land and interests are hereinafter referred to as the "**Property**").

This Special Warranty Deed and the conveyance hereinabove set forth is executed by Grantor and accepted by Grantee subject only to those certain permitted exceptions contained within Exhibit B annexed hereto and made a part hereof (hereinafter referred to collectively as the "**Permitted Exceptions**"), provided that this provision or reference shall not operate to reimpose same.

TO HAVE AND TO HOLD the Property, together with all and singular the rights and appurtenances thereunto in anywise belonging, unto Grantee, its successors and assigns forever, and Grantor does hereby bind itself, its successors and assigns, to WARRANT AND FOREVER DEFEND all and singular the title to the Property unto the said Grantee, its successors and assigns against every person whomsoever lawfully claiming or to claim the same or any part thereof by, through, or under Grantor but not otherwise, subject to the Permitted Exceptions.

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IN WITNESS WHEREOF, Grantor has caused this instrument to be signed and sealed on its behalf by its duly authorized officer the day and year first above written.

Witnesses:

**GRANTOR:**

*D Puglia*  
Witness Signature as to Grantor

MPI/Fowler Plaza, Inc. a Florida corporation

D Puglia  
Witness Printed Name

By: *[Signature]*  
Joseph Otto, Vice President

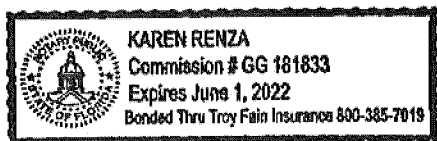
*Susan May*  
Witness Signature as to Grantor

Susan May  
Witness Printed Name

STATE OF Florida

COUNTY OF Palm Beach

The foregoing instrument was acknowledged before me by means of [  physical presence or [ ] online notarization this 8<sup>th</sup> day of November, 2021, by Joseph Otto, Vice President of MPI/Fowler Plaza, Inc. a Florida corporation, on behalf of said company. He is personally known to me or produced a driver's license as identification.



*[Signature]*  
Signature of Notary

Karen Renza  
Printed Name

Notary Public, State of Florida

My Commission Expires: June 1, 2022



**LEGAL DESCRIPTION**

**EXHIBIT "A"**

Being part of the Southeast 1/4 of the Southwest 1/4 of Section 8, Township 28 South, Range 19 East, Hillsborough County, Florida, and more particularly described as follows:

Beginning at the intersection of the West boundary of said Southeast 1/4 of the Southwest 1/4 and the North right-of-way line of State Road No. 582 (Fowler Avenue); thence North 00 degrees 08'05" East, along the West boundary line a distance of 50.00 feet to the Principal Point and Place of Beginning of the following description:

Thence continuing North 00°08'05" East along said West boundary line, a distance of 277.84 feet to a point; thence South 89 degrees 51'55" East, a distance of 270.49 feet to a point; thence South 00 degrees 13'00" West, a distance of 328.23 feet to a point on the North right-of-way line of State Road No. 582 (Fowler Avenue); thence North 89° 47'00" West, along said right-of-way line a distance of 240.00 feet to a point; thence North 00 degrees 08'05" East, a distance of 50.00 feet to a point; thence North 89 degrees 47'00" West, a distance of 30.00 feet to the Principal Point of Beginning.

TOGETHER WITH an easement for ingress and egress described as follows:

Being part of the Southeast 1/4 of the Southwest 1/4 of Section 8, Township 28 South, Range 19 East, Hillsborough County, Florida, and more particularly described as follows:

Beginning at the Southeast corner of the Southwest 1/4 of Section 8; thence North 00°08'10" East, along the East boundary line of the Southeast 1/4 of the Southwest 1/4 of said Section, a distance of 60.00 feet to the North right-of-way line of State Road No. 582 (Fowler Avenue); thence North 89 degrees 47'00" West, along said North right-of-way line of State Road No. 582, a distance of 213.60 feet to a point; thence South 00 degrees 13'00" West, along said North right-of-way line of State Road No. 582, a distance of 10.00 feet to a point; thence North 89 degrees 47'00" West, along said North right-of-way line of State Road No. 582, a distance of 1118.01 feet to the Principal Point and Place of Beginning of the following description:

Thence continuing North 89 degrees 47'00" West, along said North right-of-way line of State Road No. 582, a distance of 60.00 feet to a point; thence North 00 degrees 08'05" East, a distance of 327.84 feet to a point; thence South 89 degrees 47'00" East, a distance of 60.00 feet to a point; thence South 00 degrees 08'05" West, a distance of 327.84 feet to a point on said North right-of-way line of State Road No. 582, said point also being the Principal Point and Place of Beginning.

Exhibit "B"  
Permitted Exceptions

1. Easement Deed recorded in OR Book 3020 Page 697, Public Records of Hillsborough County, Florida
2. Restrictions, covenants and conditions contained in Special Warranty Deed recorded in OR book 3655 Page 152, Public Records of Hillsborough County, Florida
3. Terms and conditions of Access Easement recorded in OR Book 3655 Page 159, Public Records of Hillsborough County, Florida
4. Easement to Tampa Electric company recorded in OR Book 3690 Page 1852, Public Records of Hillsborough County, Florida
5. Notice of Lien Prohibition recorded in OR book 22043 Page 43, Public Records of Hillsborough County, Florida



**Hillsborough  
County Florida**  
Development Services

## Property/Applicant/Owner Information Form

### Official Use Only

Application No: 23-0022 Intake Date: 12/29/2022  
Hearing(s) and type: Date: 02/27/2023 Type: LUHO Receipt Number: 228359  
Date: \_\_\_\_\_ Type: \_\_\_\_\_ Intake Staff Signature: Clare Odell

### Property Information

Address: 2540 E. Fowler Ave. City/State/Zip: Tampa, FL 33612  
TWN-RN-SEC: 28S-19E-8 Folio(s): 036282-5000 Zoning: CG Future Land Use: OC-20 Property Size: 1.14-ac

### Property Owner Information

Name: Fowler, LLC (Contact: Taraz N. Darabi) Daytime Phone (386) 406-3704  
Address: 5538 NW 43rd Street, B City/State/Zip: Gainesville, FL 32635  
Email: pam@lotegroup.com Fax Number N/A


### Applicant Information

Name: All Fowler, LLC (Contact: Adam Lieberman) Daytime Phone (727) 452-1569  
Address: 500 E. Kennedy Blvd, Ste 300 City/State/Zip: Tampa, FL 33602  
Email: Adam@ftbservices.com Fax Number N/A


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

Name: R-Squared Engineering, LLC (Contact: Ryan A. Renardo) Daytime Phone (727) 741-3536  
Address: 10312 Bloomingdale Ave, Ste. 108-367 City/State/Zip: Riverview, FL 33578  
Email: Ryan@RSquaredEng.com Fax Number N/A

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.

  
Signature of the Applicant  
All Fowler, LLC  
(Contact: Adam Lieberman)  
Type or print name

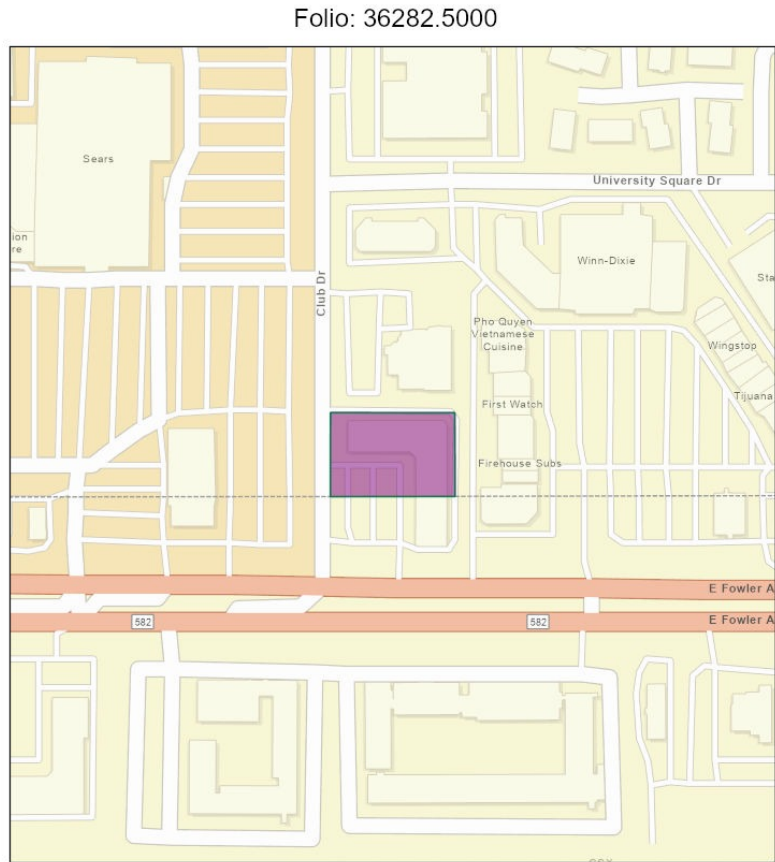
I hereby authorize the processing of this application and recognize that the final action taken on this petition shall be binding to the property as well as to the current and any future owners.

  
Signature of the Owner(s) - (All parties on the deed must sign)  
Fowler, LLC  
(Contact: Taraz N. Darabi)  
Type or print name

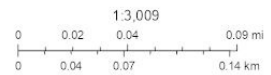


# PARCEL INFORMATION HILLSBOROUGH COUNTY FLORIDA

Jurisdiction	Unincorporated County
Zoning Category	Commercial/Office/Industr
Zoning	CG
Description	Commercial - General
Flood Zone:AE	BFE = 33.8 ft
Flood Zone:X	AREA OF MINIMAL FLOOD HAZARD
FIRM Panel	0216H
FIRM Panel	12057C0216H
Suffix	H
Effective Date	Thu Aug 28 2008
Pre 2008 Flood Zone	X
Pre 2008 Firm Panel	1201120216B
County Wide Planning Area	University Area Community
Community Base Planning Area	University Area Community
Census Data	Tract: 010816 Block: 1011
Future Landuse	OC-20
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	1
Fire Impact Fee	Northwest
Parks/Schools Impact Fee	NORTHEAST
ROW/Transportation Impact Fee	ZONE 1
Wind Borne Debris Area	140 MPH Area
Competitive Sites	NO
Redevelopment Area	University Redevelopment Area



December 29, 2022



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

Hillsborough County Florida

**Folio: 36282.5000**  
**PIN: U-08-28-19-ZZZ-000001-29950.0**

**FOWLER LLC**  
**Mailing Address:**  
 5538 NW 43RD ST STE B  
 GAINESVILLE, FL 32653-3411

**Site Address:**  
 2540 E FOWLER AVE  
 TAMPA, FL 33612  
**SEC-TWN-RNG: 08-28-19**

**Acreage: 1.12372994**  
**Market Value: \$3,841,400.00**  
**Landuse Code: 1630 STORE/SHP CENTE**

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