



Hillsborough County Florida

LAND USE HEARING OFFICER VARIANCE REPORT

APPLICATION NUMBER: VAR 22-1065	
LUHO HEARING DATE: November 21, 2022	CASE REVIEWER: Isis Brown

REQUEST: The applicant is requesting a variance to accommodate the placement of a drive-through order box for a proposed restaurant on property zoned Planned Development district PD 88-0111.

VARIANCE(S):

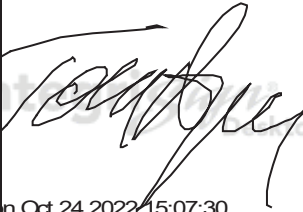
Per LDC Section 6.11.35. B.1, no order box used in the ordering of food or beverages from a drive-through window shall be located within 200 feet of any property zoned residential. The applicant requests a 98-foot reduction to the required distance separation to allow a 102-foot separation from residentially zoned property to the south of the proposed restaurant.

FINDINGS:

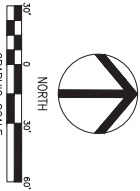
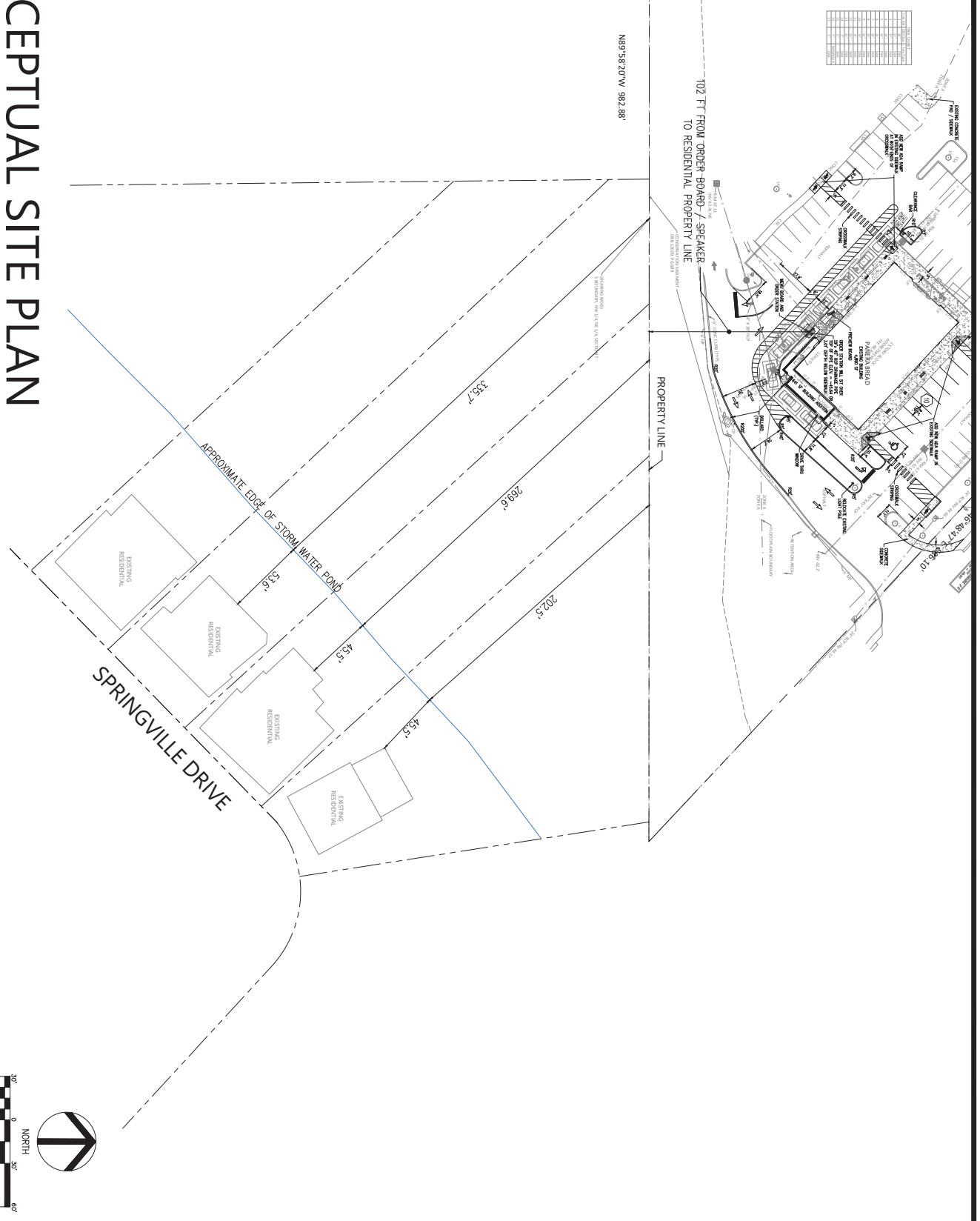
- The subject variance application originally sought a reduction to the number of parking spaces required for the proposed restaurant. However, the applicant revised their request to seek the order box variance described in this report and no variance is sought to parking requirements.

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
 <small>on Oct 24 2022 15:07:30</small>
Attachments: Application Site Plan Petitioner's Written Statement Current Deed

CONCEPTUAL SITE PLAN



REVISION	DATE	REVISION	DATE

Z DEVELOPMENT services
CA 29354
708 E. COLONIAL DR., STE 100 PH: (407) 271-8910
ORLANDO, FL 32803 FAX: (407) 442-0604

**PANERA BREAD
DRIVE-THRU ADDITION
LITHIA PINECREST RD
VALRICO, FLORIDA**

DATE: 07/29/22
DRAWN: LH
CHECKED: RZ
CP9A
PROJECT NO.: 2022.129

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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 22-1065 Applicant's Name: Covelli Family Limited Partnership II

Reviewing Planner's Name: Isis Brown Date: 08/05/2022

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): 09/26/2022

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.

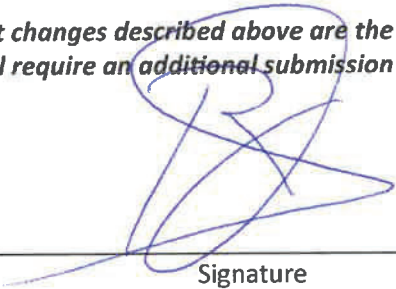
Submittal Via:

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

8/5/22
Date

FOR OFFICE USE ONLY

- Notification E-Mail Sent Scanned into OPTIX
- Transmittal Completed In-Take Completed by: _____



August 5, 2022

Isis Brown
Hillsborough County
601 E. Kennedy Boulevard
Tampa, FL 33602

RE: Panera Lithia – 3324 Lithia Pinecrest Rd, Valrico, FL – 087386-0000 - VAR 22-1065

Dear Isis,

We are revising our Variance Application from a parking variance to a variance for a menu board speaker (order box) within 200' of a residential area. The variance will be from Section 6.11.35(B)(1) requiring a drive through order box to be located a minimum of 200 ft from any residentially zoned property. The proposed distance would be 102 ft. Based on information we obtained at our recent pre-application meeting with Hillsborough County the parking will be handled through an administrative procedure.

Lithia Crossing is a center containing multiple businesses. Panera Restaurant currently occupies the Southernmost Building on the site and is proposing to add a drive through lane / pickup window for online / mobile orders. The proposed menu board speaker (order box) will be located at the rear of the building. It is important to note that there is a pond on the adjacent residential property that is between the speaker box and the homes.

The revised plans show the proposed location of the menu board speaker (order box) and the distances to the residential property line, as well as the distance from the property line to the residential homes.

Please feel free to reach out with questions or if additional information is required.

Sincerely,

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Bob Ziegenfuss, PE, LEED AP

708 E. Colonial Drive, Suite 100
Orlando, Florida 32803

Phone: (407) 271-8910
Fax: (407) 442-0604

Application Number: _____

VARIANCE REQUEST

1. Project Narrative: 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.
We are requesting a variance from Section 6.11.35(B)(1) requiring a drive through order box to be located a minimum of 200 ft. from any residentially zoned property. The proposed distance will be 102 ft.
- _____

2. A Variance is requested from the following Section(s) of the Hillsborough County Land Development Code:
6.11.35(B)(1)
- _____

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): Pre-application Meeting was held on 6/29/22.
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 (Attachment A).
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 and/or septic 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 (form may be obtained from 19th floor County Center).



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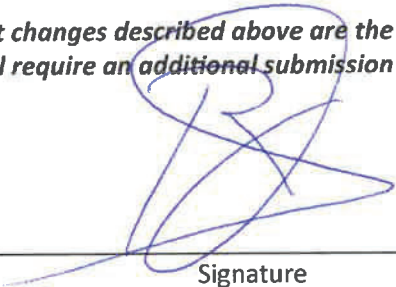
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Bob Ziegenfuss, PE, LEED AP

708 E. Colonial Drive, Suite 100
Orlando, Florida 32803

Phone: (407) 271-8910
Fax: (407) 442-0604

Application Number: _____

VARIANCE CRITERIA RESPONSE

You must provide a response to each of the following questions. If additional space is needed, please attach extra pages to this application.

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?

The subject property and neighboring residential property are unique due to the configuration of the residential lots on the neighboring site. The actual residential uses are far from the property line. However, the residential lots were created to include the stormwater pond area, rather than that area considered as a separate parcel of land.

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.

Other parcels in the same district would typically have the stormwater pond as a separate parcel and would therefore avoid the issue of a residential lot that directly abuts a commercial property.

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.

Since the actual homes are greater than 200 ft from the proposed order board / speaker box, the code intent has been met through proper separation of the noise source from the residential home.

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).

As mentioned above, the intent of the code and comp plan have been met with the proposed plan.

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 requested variance is certainly not the result of an illegal act. Also, the neighboring stormwater pond is a development requirement so it would not be a hardship that was self imposed.

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.

Justice will be served in the granting of this variance since the public benefit sought by the code requirement is to protect the residential property from the noise generated by the order station.

INSTRUMENT#: 2011194363, BK: 20558 PG: 1309 PGS: 1309 - 1312 06/14/2011 at 01:38:28 PM, DOC TAX PD(F.S.201.02) \$92750.00 DEPUTY CLERK:ADANIEL Pat Frank, Clerk of the Circuit Court Hillsborough County

4pp \$35.50

Deed Tax \$92,750.00

Prepared by and return to:
Ellen M. Macfarlane
Macfarlane Ferguson & McMullen
P.O. Box 1531
Tampa, Florida 33601-1531

Consideration \$13,250,000 -

Folio Number: 87383-0100, 87395-0000
and 87386-0000

Return to: Rachel Perez
Chicago Title Insurance Company
5690 W. Cypress Street, Suite A
Tampa, Florida 33607
File # 3363157

SPECIAL WARRANTY DEED

THIS INDENTURE, made this 10 day of June, 2011, between Lithia Crossings, LLC, a Florida limited liability company ("**Grantor**"), whose mailing address is 12570 Telecom Drive, Temple Terrace, FL 33637-0905 and KRG LITHIA, LLC, an Indiana limited liability company ("**Grantee**"), whose mailing address is 30 S. Meridian Street, Suite 1100, Indianapolis, Indiana 46204.

WITNESSETH:

Grantor, for and in consideration of the sum of Ten and No/100 Dollars (\$10.00), to it in hand paid, the receipt whereof is hereby acknowledged, has granted, bargained, sold and transferred and by these presents does grant, bargain, sell and transfer unto Grantee and its successors and assigns forever, all that certain real property in the County of Hillsborough and State of Florida, including all appurtenances thereto (the "**Property**"), more particularly described as follows:

SEE LEGAL DESCRIPTION ATTACHED HERETO AS EXHIBIT A AND INCORPORATED HEREIN.

TOGETHER WITH all the tenements, hereditaments and appurtenances, with every privilege, right, title, interest and estate, dower and right of dower, reversion, remainder and easement thereto belonging or in anywise appertaining: TO HAVE AND TO HOLD the same in fee simple forever.

And Grantor covenants with Grantee that the Property is free from all encumbrances except the following: (i) the lien of all taxes and assessments for the year 2011 and subsequent years, and (ii) all covenants, conditions, restrictions, reservations and limitations of record, and that Grantor does hereby warrant the title to the Property, and will defend the same, against the lawful claims of all persons claiming by, through or under Grantor, but against none other.

WITNESS the execution hereof as of the date first written above.

Signed in the presence of:

Lithia Crossings, LLC,
a Florida limited liability company
By: Lithia Crossings Holdings, Inc., a
Florida corporation, its sole manager

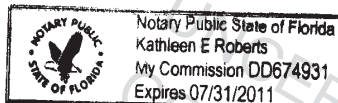
Ellen Macfarlane
Ellen M. Macfarlane
(printed name of witness)

By: Gordon Comer, Pres.
Gordon Comer, President

Kathleen E. Roberts
KATHLEEN E. ROBERTS
(printed name of witness)

STATE OF FLORIDA
COUNTY OF HILLSBOROUGH

The foregoing instrument was acknowledged before me this 3 day of May, 2011, by Gordon Comer, as President of Lithia Crossings Holdings, Inc., sole manager of Lithia Crossings, LLC, a Florida limited liability company, on behalf of the corporation and the company, who is personally known to me or who has produced _____ as identification.



Kathleen E. Roberts
Notary Public
Printed Name: **KATHLEEN E. ROBERTS**
My Commission Expires: 7/31/11
Commission No. DD674931

Exhibit A
Legal Description

New Parcel 1:

Beginning 300 feet East and 490 feet South of the Northwest corner of the Northwest 1/4 of the Northeast 1/4 of SECTION 7, TOWNSHIP 30 SOUTH, RANGE 21 EAST, Hillsborough County, Florida and run East 199.20 feet to the center of Marvinia Road, now known as Lithia-Pinecrest Road, thence Southeasterly along the centerline of said road to the Southeast corner of the Northwest 1/4 of the Northeast 1/4 of said Section 7; thence West to a point 300 feet East of the Southwest corner of the Northwest 1/4 of the Northeast 1/4 of said Section 7; thence North to the Point of Beginning;

LESS AND EXCEPT road right-of-way set forth in deed recorded in Official Records Book 1562, Page 76, Public Records of Hillsborough County, Florida, and LESS additional right-of-way set forth in deed recorded in Official Records Book 9298, Page 1458, Public Records of Hillsborough County, Florida;

FURTHER LESS AND EXCEPT that portion thereof set forth in Corrective Special Warranty Deed recorded in Official Records Book 12976, Page 1, Public Records of Hillsborough County, Florida, more particularly described as:

A portion of the Northwest 1/4 of the Northeast 1/4 of SECTION 7, TOWNSHIP 30 SOUTH, RANGE 21 EAST, Hillsborough County, Florida, described as follows:

As a point of reference, commence at the Northwest corner of the Northeast 1/4 of SECTION 7, TOWNSHIP 30 SOUTH, RANGE 21 EAST, Hillsborough County, Florida and proceed South 00°19'14" West along the West boundary of the Northeast 1/4 of said Section 7, a distance of 490.00 feet; thence North 89°53'27" East, a distance of 348.31 feet; thence South 00°06'33" East, a distance of 34.04 feet for a Point of Beginning; thence North 90°00'00" East, a distance of 67.25 feet; thence South 00°00'00" West, a distance of 67.00 feet; thence North 90°00'00" West, a distance of 67.25 feet; thence North 00°00'00" East, a distance of 5.50 feet; thence North 90°00'00" West, a distance of 44.60 feet; thence North 00°00'00" East, a distance of 35.12 feet; thence North 90°00'00" East, a distance of 44.60 feet; thence North 00°00'00" East, distance of 26.38 feet to the Point of Beginning.

AND

Parcel 4:

Begin at a point 490.00 feet South of the Northwest corner of the Northeast 1/4 and run East 225.00 feet for the Point of Beginning; run thence East 75.00 feet; thence South 115.00 feet; thence West 75.00 feet, thence North 115.00 feet to the Point of Beginning; LESS the South 15.00 feet thereof, all lying and being in SECTION 7, TOWNSHIP 30 SOUTH, RANGE 21 EAST, Hillsborough County, Florida.

AND

Parcel 5:

Beginning at a point 559.71 feet South of the Northwest corner of the Northwest 1/4 of the Northeast 1/4 of SECTION 7, TOWNSHIP 30 SOUTH, RANGE 21 EAST, Hillsborough County,

Florida; thence run East 105.00 feet; thence North 69.71 feet, thence East 120.00 feet, thence South 100.00 feet; thence East 75.00 feet; thence South 30.00 feet, thence West 300.00 feet, thence North along road to the Point of Beginning; LESS the West 25.00 feet for road right-of-way.

The foregoing New Parcel 1, Parcel 4 and Parcel 5 being also described as follows:

As a Point of Reference commence at the Northwest corner of the Northwest 1/4 of the Northeast 1/4 of Section 7, Township 30 South, Range 21 East, Hillsborough County, Florida and proceed S. 00° 19' 14" W., along the West boundary of the Northwest 1/4 of the Northeast 1/4 of said Section 7, a distance of 559.60 feet (558.71 feet deed); thence N. 89° 52' 30" E., a distance of 25.00 feet to a point on the Easterly right-of-way line of Miller Road as described in Official Record Book 754, Page 249 of the Public Records of Hillsborough County, Florida for a POINT OF BEGINNING; thence continue N. 89° 52' 30" E., a distance of 79.86 feet; thence N. 00° 22' 09" E., a distance of 69.68 feet; thence N. 89° 53' 27" E., a distance of 359.74 feet to a point on the Westerly right-of-way line of Lithia Pinecrest Road as described in Official Record Book 9298, Page 1458 and Official Record Book 1562, Page 76; thence S. 37° 37' 42" E., along said Westerly right-of-way line, a distance of 174.63 feet; thence S. 43° 26' 32" E., along said Westerly right-of-way line, a distance of 92.92 feet to a point on a non-tangential curve concave Northeasterly, having a radius of 2904.79 feet and a chord which bears S. 43° 46' 02" E., a distance of 311.68 feet; thence along the arc of said curve to the left and along said Westerly right-of-way line, a distance of 311.83 feet to the end of said curve; thence S. 46° 48' 47" E., along said Westerly right-of-way line, a distance of 586.10 feet to a point on the South boundary of the Northwest 1/4 of the Northeast 1/4 of said Section 7; thence N. 89° 58' 20" W., along said South boundary, a distance of 982.88 feet to a point on a line lying 300.00 feet East of and parallel with the West boundary of the Northwest 1/4 of the Northeast 1/4 of said Section 7; thence N. 00° 19' 45" E., a distance of 701.00 feet; thence S. 89° 52' 30" W., a distance of 274.98 feet to the aforementioned Easterly right-of-way line of Miller Road as described in Official Record Book 754, Page 249 of the Public Records of Hillsborough County, Florida; thence N. 00° 19' 14" E., along said Easterly right-of-way line, a distance of 60.43 feet to the POINT OF BEGINNING. LESS the following described parcel: As a Point of Reference commence at the Northwest corner of the Northeast 1/4 of Section 7, Township 30 South, Range 21 East, Hillsborough County, Florida and proceed S. 00° 19' 14" W., along the West boundary of the Northeast 1/4 of said Section 7, a distance of 490.00 feet; thence N. 89° 53' 27" E., a distance of 348.31 feet; thence S. 00° 06' 33" E., a distance of 34.04 feet for a POINT OF BEGINNING; thence N. 90° 00' 00" E., a distance of 67.25 feet; thence S. 00° 00' 00" W., a distance of 67.00 feet; thence N. 90° 00' 00" W., a distance of 67.25 feet; thence N. 00° 00' 00" E., a distance of 5.50 feet; thence N. 90° 00' 00" W., a distance of 44.60 feet; thence N. 00° 00' 00" E., a distance of 35.12 feet; thence N. 90° 00' 00" E., a distance of 44.60 feet; thence N. 00° 00' 00" E., a distance of 26.38 feet to the Point of Beginning.

TOGETHER WITH non-exclusive easements for the benefit of the above described parcel as created by and set forth in that certain Declaration of Easements, Covenants and Restrictions for Lithia Crossings, dated July 28, 2003 and recorded in Official Records Book 12912, Page 433, of the Public Records of Hillsborough County, Florida.



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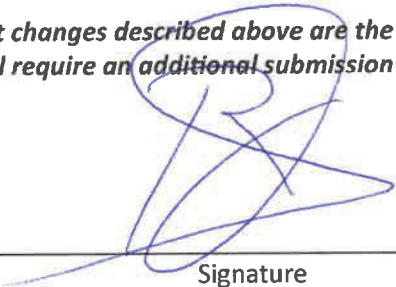
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VARIANCE APPLICATION

IMPORTANT INSTRUCTIONS TO ALL APPLICANTS:

You must schedule an appointment to submit this application by calling 813-272-5600.
All requirements listed on the submittal checklist must be met. **Incomplete applications will not be accepted.**

Property Information

Address: 3422 Lithia Pinecrest Road City/State/Zip: Valrico, FL 33956 TWN-RN-SEC: 7 / 30S / 21E
Folio(s): 087386-0000 Zoning: PD Future Land Use: Res-4 Property Size: 11.2 acres

Property Owner Information

Name: KRG Lithia LLC Kite Realty Group Trust Daytime Phone: 317-577-5600
Address: 30 S. Meridian Street, Suite 1100 City/State/Zip: Indianapolis, IN 46204
Email: rbaker@kiterealty.com FAX Number: _____

Applicant Information

Name: Covelli Family Limited Partnership II Daytime Phone: 330-856-3176
Address: 4300 W. Cypress Street City/State/Zip: Tampa, FL 33511
Email: bob.fiorino@covelli.om FAX Number: _____

Applicant's Representative (if different than above)

Name: Robert Ziegenfuss Daytime Phone: 407-271-8910 x501
Address: 708 E. Colonial Dr, Ste. 100 City / State/Zip: Orlando, FL 32803
Email: bob@zdevelopmentservices.com FAX Number: _____

I HEREBY SWEAR OR AFFIRM THAT ALL THE INFORMATION PROVIDED IN THIS APPLICATION PACKET IS TRUE AND ACCURATE, TO THE BEST OF MY KNOWLEDGE, AND AUTHORIZE THE REPRESENTATIVE LISTED ABOVE TO ACT ON MY BEHALF FOR THIS APPLICATION.

Signature of Applicant

Robert Ziegenfuss - Agent

Type or Print Name

I HEREBY AUTHORIZE THE PROCESSING OF THIS APPLICATION AND RECOGNIZE THAT THE FINAL ACTION ON THIS PETITION SHALL BE BINDING TO THE PROPERTY AS WELL AS TO CURRENT AND ANY FUTURE OWNERS.

Signature of Property Owner

Randy Burke, SVP Construction

Type or Print Name

Office Use Only

Intake Staff Signature: _____ Intake Date: _____
Case Number: _____ Public Hearing Date: _____
Receipt Number: _____

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