

Development Review Report (DRR)

To: City Commission
From: Daniel T. Keester-O'Mills, AICP, *Planning & Zoning Director*
RE: Variance Application No. 24-VAR-001 (5517 W Oakland Park Blvd)
Date: August 6, 2024

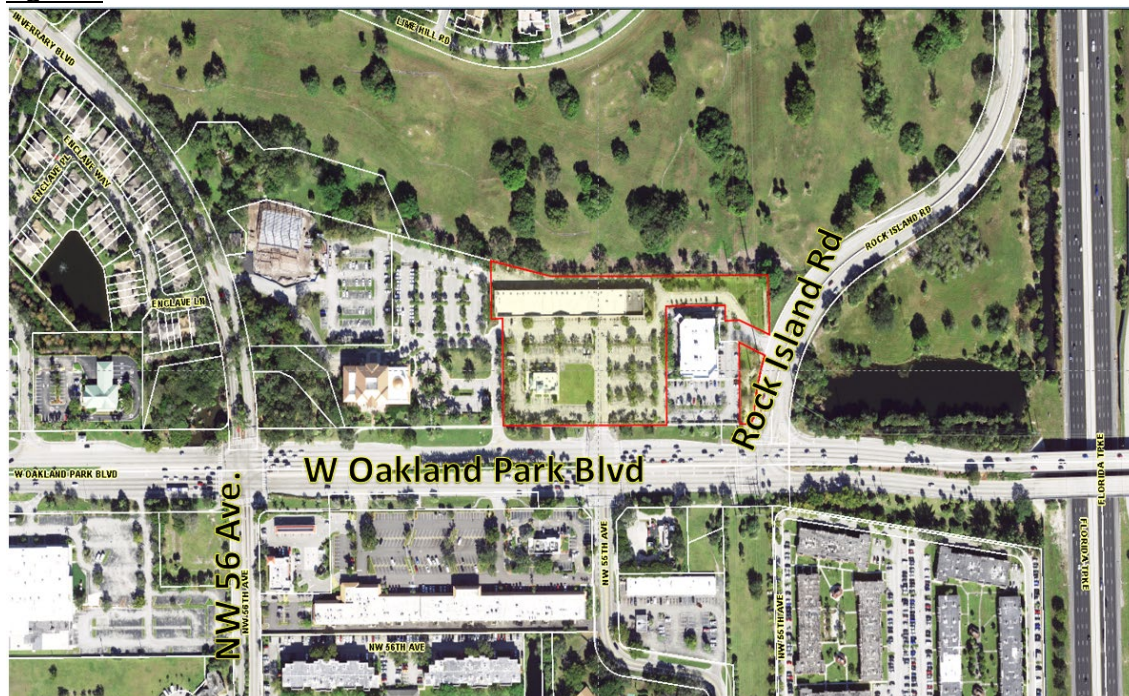
The applicant (Hope Calhoun) is representing the Petitioner, Yoram Izhaki (Manager of Airport Commerce, LLC), and has filed a variance application. Figure 1, below, provides an aerial of the subject site located on the NW corner of Rock Island Road and W Oakland Park Blvd (the property is the east of City Hall). The following information has been prepared for your consideration:

I. BACKGROUND INFORMATION

Requested Action

The Land Development Regulations (LDR) Article III Section 5.32.2 E., requires that all fast food with drive-through's be located a minimum of one thousand (1,000) feet from another freestanding fast food drive-through restaurant. The Petitioner, Airport Commerce, LLC is requesting approval of a variance to allow a new fast food drive-through restaurant within the Commercial General (CG) zoning district, which would not comply with the minimum separation, on an approximately 4.8± acre site located at 5517 – 5577 W Oakland Park Blvd, Lauderhill, Florida.

Figure 1



Applicable Land Development Regulations

LDR Article IV., Section 1.3.1. *Pre-application conference*, addresses the pre-application conference

LDR Article IV., Section 1.3.2. *Completeness of application*, provides for the Department to review any land development order application.

LDR Article III, Sections 2.3 Allowable land uses and Schedule B. respectively address allowable uses within each zoning district.

LDR Article IV., Section 3.1. *Variances*, provides an overview of the requirements and conditions for variance applications.

Article IV., Section 3.1.3., entitled “Requirements for variances,” provides 5 conditions the City Commission must consider when approving any application for a variance.

LDR Article III., Section 5.32. provides the additional use standards for “Restaurants.” Specifically, 5.32.2. E. states: “All fast food and high turnover with drive-through restaurants shall be located a minimum of one thousand (1,000) feet from another freestanding fast food drive-through restaurant and a minimum of one thousand five hundred (1,500) feet from any public or private school measured by the airline measurement distance from property line to property line, or when located within a retail center shall be measured from the closest point of one (1) restaurant building to the other restaurant building, whichever is the closest.”

II. **SITE INFORMATION**

Legal Description

Parcel 1:

Parcel A:

Track (A) of Inverrary Shopping Center, as shown by Plat there on file in Plat Book 77, page 22, of the public records of Broward County, Florida.

LESS AND EXCEPT THERE FROM the “City of Lauderhill Parcel”, being those certain land conveyed to the City of Lauderhill and that special warranty deed filed August 28, 2007 in official records book 44541, page 1971 by and between shops of Inverrary, LLC, a Florida limited liability company, and City of Lauderhill, described as follows:

A PORTION OF TRACK “A”, INVERRARY SHOPPING CENTER, AS RECORDED IN PLAT BOOK 77, PAGE 22, OF THE PUBLIC RECORD OF BROWARD COUNTY FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWEST CORNER OF SECTION 23, TOWNSHIP 49 S, RANGE 41 E; FENCE RUNNING ALONG THE SOUTH LINE OF SAID SECTION NORTH 89 DEGREES 29 MINUTES 25 SECONDS EAST, A DISTANCE OF 3003.69 FEET; THENCE TURNING AND RUNNING NORTH 00 DEGREES 30 MINUTES 35 SECONDS WEST, DISTANCE OF 100.00 FEET TO THE SOUTHWEST CORNER OF TRACK “A” OF INVERRARY SHOPPING CENTER SAID POINT BEGINNING THE POINT OF BEGINNING OF THIS DESCRIPTION. FENCE RUNNING ALONG THE WEST LINE OF TRACT “A”:

NORTH 20 DEGREES 29 MINUTES 50 SECONDS WEST, A DISTANCE OF 145.82 FEET, AND NORTH 56 DEGREES 32 MINUTES 25 SECONDS WEST, A DISTANCE OF 112.50 FEET TWO POINT ON THE NORTH LINE OF SAID TRACT "A"; THENCE RUNNING BY SAID NORTH LINE OF TRACT "A"

NORTH 89 DEGREES 29 MINUTES 25 SECONDS EAST, A DISTANCE OF 278.26 FEET TO A POINT ON THE WEST LINE OF TRACT "A"; THENCE RUNNING ALONG SAID WEST LINE

NORTH 00 DEGREES 30 MINUTES 35 SECONDS WEST, DISTANCE OF 269.40 FEET TO A POINT ON THE NORTH LINE OF TRACT "A"; THENCE RUNNING ALONG SAID NORTH LINE OF TRACT "A" SOUTH 76 DEGREES 53 MINUTES 44 SECONDS EAST, A DISTANCE OF 287.08 FEET; THENCE TURNING AND RUNNING THROUGH SAID TRACT "A"

SOUTH 00 DEGREES 28 MINUTES 01 SECONDS EAST, DISTANCE OF 141.38 FEET,

NORTH 89 DEGREES 31 MINUTES 59 SECONDS EAST DISTANCE OF 31.56 FEET, AND

SOUTH 00 DEGREES 28 MINUTES 01 SECONDS EAST, DISTANCE OF 260.31 FEET TO A POINT ON THE SOUTH LINE OF TRACT "A"; THENCE RUNNING ALONG SAID SOUTH LINE UP TRACT "A"

SOUTH 90 DEGREES 29 MINUTES 25 SECONDS WEST, A DISTANCE OF 445.39 FEET TO THE POINT OF BEGINNING.

SAID LANDS LYING, BEING AND SITUATE IN BROWARD COUNTY, FLORIDA.

Parcel B:

A non-exclusive easement for ingress and egress as described in and provided for in an instrument entitled "easement for ingress and Egress" recorded in Official Record Book 5626, page 714, of the Public Records of Broward County, Florida, over, upon and the following described land:

A 50 foot wide strip of land lying in the South 1/2 of Section 23, Township 49 South, Range 41 East, being a portion of FORT LAUDERDALE TRUCK FARMS, according to the plat thereof, as recorded in Plat Book 4, page 31, of the Public Records of Broward County, Florida, the being more particular described as follows:

Commence at the Southeast corner of 23 Section, the Standard Plane Rectangular Grid Coordinates for the East Zone of Florida, for said point being $X = 756,015.68$, $Y = 666,185.77$; thence run south 89 degrees 29 minutes 25 seconds west, on a grid bearing along the south line of said Section 23, 1080.17 feet to a point, said point being 4205.86 feet from the Southwest corner of said Section 23 as measured along said South line; fence north 0 degrees 31 minutes 02 seconds West, on a line coincident with the Westerly right-of-way line of the Sunshine State Parkway, 77.62 feet to a point of curvature of a circular curve concave to the Southeast; thence Northeasterly along the arc of said right-of-way curve, having for its elements and central angle of 19 degrees 42 minutes 13 seconds and a radius of 502.47 feet, for 172. 80 feet to a point, said point being the point of beginning of the herein described strip of land; thence north 67 degrees 57 minutes 42 seconds West, 139.88 feet; thence south 88 degrees 34 minutes 39 seconds West, 44.81 feet; thence North 1 degree 25 minutes 21 seconds West, 50.00 feet; thence North 88 degrees 34 minutes 39 seconds east, 55. 19 feet; thence south 67 degrees 57 minutes 42 seconds East, 150.

26 feet to a point on a circular curve concave to the southeast, said point being coincident with a point on the Westerly, right-of-way line of the Sunshine State Parkway; thence West southwesterly along the arc of said right of way curve, having for its elements, a central angle of 5 degrees 42 minutes 14 seconds, and a radius of 502.47 feet, for 50.02 feet to the point of beginning.

EXCEPTING THEREFROM that portion of said land, as convey to Broward County, a political subdivision of the State of Florida, by quit claim deed recorded on Official Records book 6744, page 293, and by Corrective Quit Claim Deed recorded in Official Records Book 7167, page 663, of the Public Records of Broward County, Florida.

Parcel 2:

Begin at the Southeast corner of tract A, of the plot of INVERRARY SHOPPING CENTER as recorded in Plat Book 77, Page 22, of the Public Records of Broward County, Florida; thence north 1 degree 25 minutes 21 seconds West, along the East boundary of said tract A, the same being the Westerly boundary of the combined 140.00 feet wide, said Florida Power and Light Company Easement for 200.00 feet; thence across said 140.00 feet wide easement for the following described to (2) courses:

(1) thence North 88 degrees 34 minutes 39 seconds East, 44.81 feet;

(2) thence South 67 degrees 57 minutes 42 seconds East, 103.77 feet to a point of the Easterly boundary of said 140.00 foot wide Easement;

Thence South 1 degree 25 minutes 21 seconds East, along Easterly boundary for 160.92 feet; thence south is 89 degrees 29 minutes 25 seconds West, for 140.02 feet to the Point of Beginning.

Less portion right-of-way as described in Official Record Book 6744, page 293, and Official Records Book 7167, Page 663, of the Public Records of Broward County, Florida.

Parcel 3:

Begin at the Northeast corner of Tract A of the Plat, INVERRARY SHOPPING CENTER, as recorded in Plat Book 77 at page 22 of the public records of Broward County, Florida; thence South 1 degree 25 minutes 21 seconds East, along the East boundary of said tract A, the same being in the Westerly boundary of the combined 140.00 foot wide, said Florida Power and Light Company Easement, for 110.00 feet; thence across said 140.00 foot wide easement for the following described two (2) courses:

(1) thence North 88 degrees 34 minutes 39 seconds east, for 55.19 feet;

(2) thence south 67 degrees 57 minutes 42 seconds East, for 92.45 feet to a point of the Easterly boundary of said 140.00 foot wide Easement;

Thence North 1 degrees 25 minutes 21 seconds West along said Easterly boundary for 144.15 feet; thence 89 degrees 39 minutes 53 seconds West, for 140.03 feet to the Point of Beginning.

Parcel 4:

A non-exclusive easement for the benefit of Parcel 1A, 2 and 3 above, as created by Reciprocal Easement Agreement with Conveyance, Conditions, and Restrictions by Shoppes of Inverrary, LLC,

a Florida limited liability Company, and the City Of Lauderhill, a mutual corporation filed August 28, 2007, in Official Record Book 44541, at page 1974 over the "City of Lauderhill Parcel ", for the purpose described herein. Subject to the terms, provisions, and conditions set forth in set instrument.

Address

5517 – 5577 W Oakland Park Blvd, Lauderhill, Florida

Land Use/Zoning:

Existing Use(s):	Commercial – Shopping Center: Restaurants, Personal Services & Childcare
Future Land Use Designation:	Commercial
Zoning Designation:	General Commercial (CG)

Adjacent Designations:

	Existing Use	Future Designation	Zoning
North	Former Golf Course	Commercial Recreation	CR (Commercial Recreation)
South	Commercial	Commercial	CG (Commercial, General)
East	Retail Store	Commercial	CG (Commercial, General)
West	City Hall	Commercial	CF (Community Facilities)

III. ZONING HISTORY

Existing Special Exceptions

Resolution No. 20R-09-209 – Medical Office with Controlled Substance Practitioner to operate a PPEC (PRESCRIBED PEDIATRIC EXTENDED CARE) Facility.

Violations

None

Existing Variances

None

Development History

- The shopping center (~25,000 sq. ft. building) was constructed approximately 1984.
- A site plan application was submitted in 2012 for the construction of 2 outparcel buildings (Building A & Building B). One of the outparcel buildings "Building A" (~3,000 sq. ft.) was constructed in 2013, the second building "Building B" was proposed to the east of the building. Building B did not obtain a building permit and was never constructed.

IV. PLANNING ANALYSIS

The Petitioner is requesting consideration of a new fast-food restaurant with drive-through service on the subject property. The property is located within the CG (Commercial, General) zoning district and a fast food/drive-through restaurant is listed as a use permitted by special exception within this zoning district. Article III of the LDR's include additional criteria for restaurant uses, and require a minimum 1,000 feet separation requirement from drive-through restaurants to another similar use, as well as 1,500 feet from public or private schools. In addition to the drive-through restaurant (Subway) located on the same property, there are 3 other drive-through's within the 1,000 feet of the subject property (McDonald's: 5510 W Oakland Park Blvd, Checker's: 5400 W Oakland Park Blvd & AL China Hut: 2998 NW 55 Avenue).

As stipulated in the Land Development Regulations, Article IV, Section 3.1.3, "*Requirements for variances*" no variance shall be authorized by the City Commission (acting as the "board of adjustment") unless the board finds that all of the following facts and conditions exist. The Planning and Development Department has reviewed the proposed request pursuant to the following variance considerations:

- A. That there are unique and special circumstances or conditions applying to the property in question, or to the intended use of the property, that do not apply generally to other properties in the same district. The matter of economic hardship shall not constitute a basis for the granting of a variance.
- B. That any alleged hardship is not self-created by any person having an interest in the property nor is the result of mere disregard for or ignorance of the provisions of these regulations or any pertinent Code section.
- C. That strict application of the provisions of these regulations or any pertinent Code section would deprive the property owner of reasonable use of the property for which the variance is sought.
- D. That the variance proposed is the minimum variance that makes possible the reasonable use of the property.
- E. That granting the variance will be in harmony with the general purpose and intent of existing regulations, will not be injurious to the neighborhood or area, or otherwise detrimental to the public welfare.

Staff has reviewed the Applicant's variance request, which sought to address the five criteria, and finds the following:

- A. **That there are unique and special circumstances or conditions applying to the property in question, or to the intended use of the property, that do not apply generally to other properties in the same district. The matter of economic hardship shall not constitute a basis for the granting of a variance.**

The City Commission adopted a moratorium in 2018 (Ordinance 18O-03-106) to analyze the impact of drive-through restaurants in the community. Subsequently, the City Commission expressed a desire to attract a diversity of dining options that provide healthier options to

residents. During the moratorium, the City identified vulnerable corridors where fast food is the dominant restaurant type and adopted amendment to the LDR's to avoid the concentration of similar uses. The ordinance (18O-07-125) was adopted by the City Commission on August 27, 2018, which applies equally to all property within the city limits.

Staff finds that there are no unique or special circumstances or conditions applying to the property that do not generally apply to other properties in the same district.

B. That any alleged hardship is not self-created by any person having an interest in the property nor is the result of mere disregard for or ignorance of the provisions of these regulations or any pertinent Code section.

A site plan was submitted in 2012, which proposed two outparcels on the property and labeled them Building 'A' and Building 'B' (refer to Attachment #3 of this report). Building A (currently containing two restaurants: "Subway" with drive-through & "Dragon Village") was constructed in 2013. The proposal for Building B was a ~3,000 sq. ft. building with a drive-through. Building B was never permitted or constructed, and the approval to construct the building expired in 2015 (well before the moratorium or amendments to the LDR's). The Petitioner cites changes to consumer demand preferring drive-through restaurants in the wake of the COVID-19 pandemic. The Petitioner operates an existing drive-through restaurant approximately 1,500 linear feet (.25 miles) from the subject property (5900 W Oakland Park Blvd). The LDR's exempt existing buildings improved for drive-through restaurants from the distance separation requirements.

Staff finds that the hardship is self-created.

C. That strict application of the provisions of these regulations or any pertinent Code section would deprive the property owner of reasonable use of the property for which the variance is sought.

The Petitioner cites changes to consumer demand, preferring drive-through restaurants in the wake of the COVID-19 pandemic. The LDR's allow the applicant to seek a special exception approval for a fast food restaurant in this zoning district, and a walk-up window could be sought as part of the special exception. Therefore, a restaurateur could still offer order ahead and accommodate quick pick-up for delivery services. Additionally, outdoor seating may be permitted through the site plan review.

Staff finds that strict application of the regulations would not deprive the property owner of reasonable use of the land.

D. That the variance proposed is the minimum variance that makes possible the reasonable use of the property.

The Petitioner has indicated that they intend to abandon the lawfully existing drive-through Wendy's, located at 5990 W Oakland Park Blvd, approximately a ¼ mile west on Oakland Park Blvd. The Petitioner requests a variance from the distance separation requirement reducing 1,000 feet to allow the development of a new drive-through on the same property

as an existing drive-through (less than 100 feet away). Additionally, there are 3 other drive-through establishments within 1,000 feet.

Staff does not find any effort by the Petitioner to minimize the request.

- E. **That granting the variance will be in harmony with the general purpose and intent of existing regulations, will not be injurious to the neighborhood or area, or otherwise detrimental to the public welfare.**

The City Commission found in 2018 that the concentration of fast food uses created increased traffic along high volume commercial corridors and sought to provide diverse healthy food options for low-income communities. The other drive-through restaurants were developed prior to the change to the LDR's.

Staff finds that the granting of this variance would not be in harmony with the purpose and intent of the existing regulations.

V. RECOMMENDATION/ACTION

Based upon our review, staff finds the proposed use **would not** be generally consistent with the above considerations. As such, staff recommends **denial** of the variance request.

The Petitioner may seek to file a text amendment, with supporting data and analysis, for the City Commission to consider amending the Land Development Regulations to eliminate separation requirements for drive-through uses.

VI. ATTACHMENTS

1. Ordinance 18O-03-106 – Moratorium on Drive-through restaurants
2. Ordinance 18O-07-125 – Amended Use Standards for Restaurants
3. 2012 Site Plan for Shoppes of Inverrary Outbuildings 'A' & 'B'
4. Map of subject property with drive-through & schools

ORDINANCE NO. 180-03-106

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF LAUDERHILL IMPOSING A 120 DAY MORATORIUM ON THE RECEIPT, PROCESSING, CONSIDERATION OR ISSUANCE OF PERMITS, CERTIFICATES OF USE, LOCAL BUSINESS TAX, OR DEVELOPMENT ORDERS FOR DRIVE-THROUGH RESTAURANTS WITHIN THE CITY OF LAUDERHILL, FLORIDA; PROVIDING FOR AN EFFECTIVE DATE (REQUESTED BY CITY MANAGER, CHARLES FARANDA)

WHEREAS, based upon the recommendations from City Administration, the City Commission deems it necessary and to be in the best interests of the health, safety, and welfare of the citizens and Residents of the City of Lauderhill, to impose a moratorium on the receipt, processing, consideration, and approval of any new applications or the issuance of any building permits, engineering permits, certificate of use, local business taxes, or development orders for drive-through restaurants within the City of Lauderhill, Florida for 120 days from the date of passage and adoption of this Ordinance; and

WHEREAS, the Commission deems it timely and in the best interest of the City and its residents to undertake review and revision of the zoning regulations as they relate to restaurants within the City of Lauderhill; and

WHEREAS, the Commission has authority to initiate the review process by ordinance and the issuance of a Notice of Intent; and

WHEREAS, the Notice of Intent attached to this Ordinance as Exhibit "A" represents a formal announcement of said planning activities, and the period during which time all applications related to the siting and placement of drive-through restaurants within the City of Lauderhill will not be accepted or processed; and

WHEREAS, this Notice of Intent will be in effect from the date of adoption and thereafter for 120 days, unless otherwise terminated or extended by the City Commission by subsequent Resolution following public hearing; and

WHEREAS, the Commission intends that this Ordinance constitute zoning in progress and the commencement of a temporary moratorium as a means of temporarily suspending the processing, consideration, and the approval of any new applications or the issuance of any building permits, engineering permits, certificates of use, local business taxes, or development orders for drive-through restaurants within the City of Lauderhill, Florida for 120 days from the date of passage and adoption of this Ordinance; and

WHEREAS, pursuant to Article VII, Section 2 of the Florida Constitution and Chapter 166 of the Florida Statutes, the City of Lauderhill is authorized and required to protect the public health, safety and welfare of its citizens and has the power and authority to enact regulations for valid governmental purposes that are not inconsistent with general or special law; and

WHEREAS, the public health, safety and welfare is a legitimate public purpose recognized by the courts of the State of Florida;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF LAUDERHILL, THAT:

Section 1. The foregoing "Whereas" clauses are hereby ratified and confirmed as being true and correct and are hereby made a specific part of this Ordinance upon adoption hereof.

Section 2. The City Commission of the City of Lauderhill, Florida does hereby issue the Notice of Intent attached hereto as Exhibit "A".

Section 3. The Notice of Intent shall be posted and copies provided as requested.

Section 4. No application for development activity, building permits, engineering permits, Certificate of Use, Local Business Tax Receipts, or development orders, regarding drive-through restaurants that are defined within the scope of the study shall be accepted, processed or considered by the City, following the date of adoption of this Ordinance during the 120-day moratorium period.

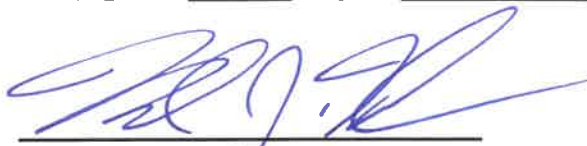
Section 5. The City Commission requests that the city administration address in its study the issues as identified in the Notice of Intent attached hereto as Exhibit "A".

Section 6. This Ordinance shall take effect immediately city-wide upon its passage.

DATED this 9 day of April, 2018.

PASSED on first reading this 26 day of March, 2018.

PASSED AND ADOPTED on second reading this 9 day of April, 2018.



PRESIDING OFFICER

ATTEST:



CITY CLERK

	FIRST READING	SECOND READING
MOTION	Bates	Bates
SECOND	Thurston	Thurston
M. BATES	Yes	Yes
H. BENSON	Excused	Yes
H. BERGER	Yes	Yes
K. THURSTON	Yes	Yes
R. KAPLAN	Yes	Yes

ORDINANCE NO. 180-07-125

AN ORDINANCE OF THE CITY OF LAUDERHILL, FLORIDA AMENDING THE LAND DEVELOPMENT REGULATIONS (LDR) PERTAINING TO DRIVE-THROUGH RESTAURANTS; AMENDING LAND DEVELOPMENT REGULATIONS SCHEDULE A, LAND USE CLASSIFICATIONS; AND AMENDING SCHEDULE B, ALLOWABLE USES; AND AMENDING ARTICLE III., ZONING DISTRICTS, PART 5.0., SPECIAL REGULATIONS FOR SPECIFIC LAND USE CLASSIFICATIONS, SECTION 5.32, RESTAURANTS, SUBSECTION 5.32.2 DRIVE-THROUGH RESTAURANTS; ALL TO DISTINGUISH BETWEEN VARIOUS TYPES OF HIGH TURNOVER, LOW TURNOVER, FAST FOOD, AND DRIVE-THROUGH RESTAURANTS AND TO PROVIDE REGULATIONS REGARDING SAME; PROVIDING FOR FINDINGS AND CONCLUSIONS; PROVIDING FOR CONFLICTS; PROVIDING FOR CODIFICATION; PROVIDING FOR AN EFFECTIVE DATE (REQUESTED BY CITY MANAGER, CHARLES FARANDA)

WHEREAS, at their duly noticed meeting and public hearing of June 26, 2018 the City's Planning and Zoning Board, sitting as the Local Planning Agency (LPA) entered the Development Review Report on the proposed Ordinance and all other relevant and substantial competent evidence into the record, and forwarded the record to the City Commission with the recommendation that the proposed Ordinance be adopted; and

WHEREAS, at their duly noticed meeting and public hearing of July 9, 2018, the City Commission considered the record, adopted findings and conclusions, and approved the proposed Ordinance on first reading; and

WHEREAS, at their subsequently duly noticed meeting and public hearing of August 27, 2018 the City Commission on second reading adopted the Ordinance incorporating revisions to the Land Development Regulations.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF LAUDERHILL, FLORIDA:

SECTION 1. That the Land Development Regulations, Schedule A, Land Use Classifications, is hereby amended to read as follows:

Schedule A, Land Use Classifications

SCHEDULE A. - LAND USE CLASSIFICATIONS

RESTAURANT: Any building, place, or structure, or any room or division in a building, place, or structure where food or beverages is prepared, served, or sold for immediate consumption on or in the vicinity of the premises; called for or taken out by customers; or prepared prior to being delivered to another location for consumption. A restaurant does not include:

- Any place maintained and operated by a public or private school, college, or university for the use of students and faculty or temporarily to serve such events as fairs, carnivals, and athletic contests;
- Any eating place maintained and operated by a church or a religious, nonprofit fraternal, or nonprofit civic organization for the use of members and associates or temporarily to serve such events as fairs, carnivals, or athletic contests;
- Any vehicle where food is prepared, served, or sold for immediate consumption on or in the vicinity of the premises or roadways;
- Any eating place located on a common carrier, such as an airplane, train, bus, or watercraft;
- Any eating place maintained by a hospital, nursing home, sanitarium, special residential facility, adult day care center, or other similar place that is regulated under s. 381.007;
- Any minor food outlet;
- Any place of business where the food available for consumption is limited to ice, beverages with or without garnishment, popcorn, or prepackaged items sold without additions or preparation;
- Any theater or performing arts center, if the primary use is as a theater or performing arts center and if patron service is limited to food items customarily served to the admittees of theaters or performing arts center;
- Any vending machine that dispenses any food or beverages.

RESTAURANT, SIT DOWN, LOW TURNOVER: A restaurant located in-line in a multi-tenant structure or a freestanding structure. Such restaurant shall not have a drive through facility or exterior walk-up window or counter. Take-out service is permitted. An eating establishment with average table turnover rates of one (1) hour, or longer. Generally, these uses do not serve breakfast, some serve lunch, and all serve dinner; in addition, wait service is provided, usually tables are cloth covered, and usually napkins are cloth as well. These uses do not have drive-through windows, generally do not have a significant amount of moderately priced or inexpensive entrees, do not usually have a significant amount of take-out business, and usually do not have extended early morning (i.e. 2:00 a.m.) operating hours.

RESTAURANT, SIT DOWN, HIGH TURNOVER: A restaurant located in-line in a multi-tenant structure or a freestanding structure. Such restaurant shall not have a drive through facility or exterior walk-up window or counter. Take-out service is permitted. An eating establishment where average table turnover rates are less than one (1) hour. Except for those specializing in breakfast meals, these restaurants usually have extended operating hours. These restaurants often have portions of meals or entrees pre-prepared without any reference to a particular menu order; however, at least some portion of the meals are prepared as a result of a menu order. Take-out service is usually significant. Entrees are usually moderately priced or inexpensive. The high turnover, sit-down restaurant industry has a significant amount of

franchised or "chain" operations. In addition, a significant amount of high turnover, sit-down restaurants are small in size and do not have a broad range of food types offered for consumption, are theme oriented, or offer food items from menus which are standardized throughout the state, southeast region, or the country. Rarely are tables covered with cloth, and additionally, cloth napkins are rare. If a particular restaurant could reasonably be classified as a high turnover, sit-down restaurant or a low turnover, sit-down restaurant; it shall be presumed to be a high turnover, sit-down restaurant for purposes of this zoning code.

RESTAURANT, SIT DOWN, HIGH TURNOVER WITH DRIVE-THROUGH: (See Article III, Section 5 for additional requirements)

RESTAURANT, FAST FOOD IN-LINE: A restaurant located within a multi-tenant structure. Such restaurant shall not have a drive-through facility or exterior walk-up window or counter. Take-out service is permitted. An eating establishment whose principal business is the sale of food and beverages in a ready-to-eat state (usually prepared without any reference to a specific menu order) for consumption on premises or for carry out and consumption off-premise, and whose principal method of operation is food which is packaged for delivery in paper, plastic, metallic foil, or disposable containers, and where service is provided over-the-counter with no waiting table service. Usually menus are posted in plain view at the area where the order is taken and this area is different than the area where food is consumed. If a particular restaurant could reasonably be classified as either a fast food restaurant or a high turnover, sit-down restaurant; it shall be deemed a fast food restaurant for purposes of this zoning code. (See Article III, Section 5 for additional requirements)

RESTAURANT, FAST FOOD WITH OR WITHOUT DRIVE-THROUGH: A restaurant located in a freestanding structure that includes a drive-through service. An eating establishment whose principal business is the sale of food and beverages in a ready-to-eat state (usually prepared without any reference to a specific menu order) for consumption on premises or for carry out and consumption off-premise, and whose principal method of operation is food which is packaged for delivery in paper, plastic, metallic foil, or disposable containers, and where service is provided over-the-counter with no waiting table service. Usually menus are posted in plain view at the area where the order is taken and this area is different than the area where food is consumed. Drive-through service is common. If a particular restaurant could reasonably be classified as either a fast food restaurant or a high turnover, sit-down restaurant, it shall be deemed a fast food restaurant for purposes of this zoning code. (See Article III, Section 5 for additional requirements)

~~RESTAURANT, FAST FOOD (ALSO DRIVE-IN): A restaurant with one (1) or more drive-through lanes where patrons in vehicles are sold, dispensed or served food, refreshments or beverages for consumption on or off premises.~~

RETAIL SALES: A commercial use or activity upon premises and at a scale greater than home industry established primarily for financial gain wherein goods or merchandise are marketed, displayed, and sold in small quantities directly to the ultimate consumer and where such goods are available for immediate purchase and removal from the premises by the consumer. Retail sales use includes the marketing, display, storage, sales, and rental of goods and merchandise. Retail sales use excludes consignment shops, convenience stores, firearms, heavy equipment sales and rental, mobile food sales, pawnshops, pharmacies, restaurants, service stations, vehicular sales and repairs, and those retail sales uses specifically identified elsewhere. Four (4) types of retail sales uses are established: ...

SECTION 2. That the Land Development Regulations, Schedule B, Allowable Uses, B-2, Uses Allowed in Non-Residential Districts, is hereby amended to read as follows:

B-2. Uses Allowed in Non-residential Districts.

Land Use Category	CO	CN	CG	CC	CW	CE	IL	PO	PL	PR	CR	S-1	CF	UT
Restaurants¹														
• Sit down	P		P	P	P	P					P			
• Fast food or drive-in			SE	SE	SE									

¹ = See Article III, Zoning Districts, Part 5.0, Special Regulations for Specific Land Use Classifications and Structures for additional requirements.

² = See the specific zoning district regulations in Article III, Part 3.0, for special regulations regarding this specific land use.

³ = These uses will sunset and expire on December 31, 2019 and will no longer be allowed in this district.

B-2. Uses Allowed in Non-residential Districts.

Land Use Category	C O	CN	CG	CC	CW	CE	IL	PO	PL	PR	CR	S- 1	CF	UT
Restaurants ¹														

1. <u>Sit Down/ High Turnover Restaurant</u>	<u>P</u>		<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>					<u>P</u>			
2. <u>Sit Down/ High Turnover- Drive- Through Restaurant</u>			<u>SE</u>	<u>S E</u>	<u>SE</u>									
3. <u>Sit Down/ Low Turnover Restaurant</u>	<u>P</u>		<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>					<u>P</u>			
4. <u>Fast Food/In-Line Restaurant</u>			<u>SE</u>	<u>S E</u>	<u>SE</u>									
5. <u>Fast Food/Drive -Through ⁴</u>			<u>SE</u>											

¹ = See Article III, Zoning Districts, Part 5.0, Special Regulations for Specific Land Use Classifications and Structures for additional requirements.

² = See the specific zoning district regulations in Article III, Part 3.0, for special regulations regarding this specific land use.

³ = These uses will sunset and expire on December 31, 2019 and will no longer be allowed in this district.

⁴ = Fast Food/ Drive-Through Restaurant is not permitted in the General Commercial (CG)/Transect Overlay Zone zoning district along Rt. 441/SR7

SECTION 3. Land Development Regulations (LDR), Article III, Zoning Districts, Part 5.0, Special Requirements For Specific Land Use Classifications, Section 5.32.2 Drive-through restaurants, amended as set forth below.

Sec. 5.32. - Restaurants.

5.32.1.1 - RESTAURANT, FAST FOOD IN-LINE: A restaurant located within a multi-tenant structure. Such restaurant shall not have a drive-through facility or exterior walk-up window or counter. Take-out service is permitted. The gross leasable floor area of the use when added to the remaining gross leasable square footage of all types of restaurants on the site results in less than ten percent (10%) of the gross leasable floor area of the site being devoted to all types of restaurant uses.

~~5.32.2. Drive-through restaurants. All restaurants with a drive-through lane shall be subject to the following:~~

5.32.2-Restaurant, Fast Food with or without drive-through and High Turnover with Drive Through: A restaurant located in a freestanding structure that includes a drive-through service.

The following conditions apply:

- A. An illuminated entrance sign located in proximity to beginning of the drive- through lane;
- B. Communication equipment associated with the drive-through shall be oriented away from areas zoned residential district;
- C. Lighting associated with the drive-through shall be shielded from areas zoned residential district; and
- D. A trash receptacle shall be located between the service window where food is dispensed and the end of the driveway and shall be installed no later than December 31, 2012.
- E. All Fast Food and High Turnover with drive-through restaurants shall be located a minimum of one thousand (1000) feet from another freestanding fast food drive-through restaurant and a minimum of one thousand five hundred (1500) feet from any public or private school measured by the airline measurement distance from property line to property line, or when located within a retail center shall be measured from the closest point of one restaurant building to the other restaurant building, whichever is the closest.
- F. Exterior walk-up windows or counters shall not be permitted.
- G. The restaurant drive-through lane, outdoor menu board or ordering, pick-up or pay station shall be located a minimum distance of two hundred (200) feet from any residentially zoned property.
- H. All Fast Food Drive-Through and High Turnover Drive-Through restaurants shall comply with Schedule P, Design Standards and Guidelines.
- I. The drive-through shall not be located along the principal road frontage.

- J. The entire length of the drive-through between the ordering and pick-up locations must be screened from view by architectural or landscape elements.
- K. The drive-through is limited to one (1) lane width.

SECTION 4. Findings and Conclusions. The Development Review Report prepared by the Planning and Zoning Division is attached hereto, is incorporated herein, and are hereby adopted as the findings of fact and conclusions of law to support the Ordinance amending Land Development Regulations.

SECTION 5. Conflict. All ordinances or parts of ordinances, all resolutions or parts of resolutions in conflict herewith be and the same are hereby repealed as to the extent of such conflict.

SECTION 6. Codification. The provisions of this Ordinance shall become and be made a part of the City of Lauderhill, Florida Land Development Regulations; sections of this Ordinance may be renumbered or re-lettered to accomplish such intention; and the word "ordinance" may be changed to "article," "part," "section," or other appropriate word.

SECTION 7. Effective Date. This Ordinance shall take effect immediately upon its adoption.

DATE this 27 day of August, 2018


PASSED on first reading this 9 day of July, 2018.

PASSED AND ADOPTED on second reading this 27 day of August, 2018.



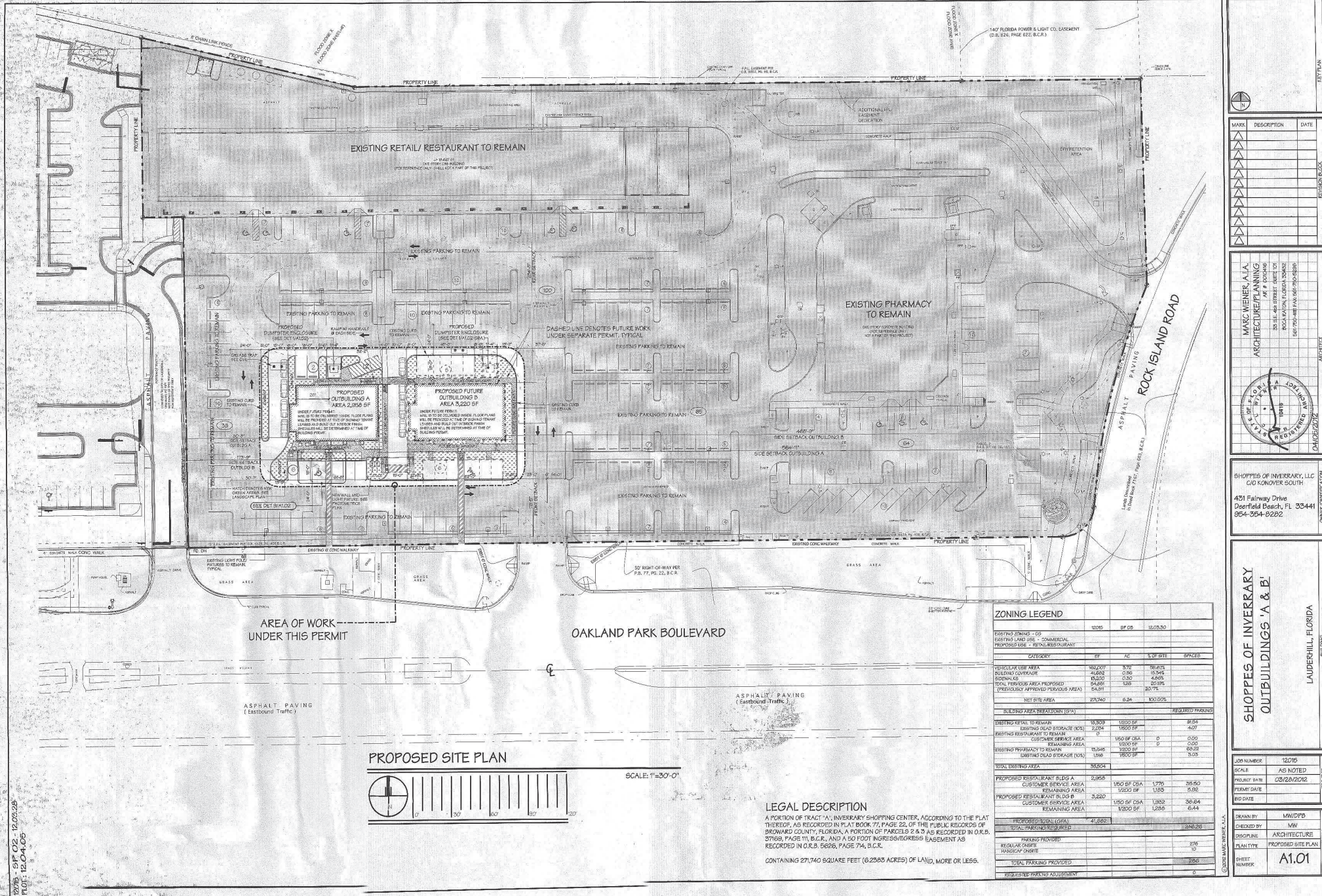
PRESIDING OFFICER

ATTEST:



CITY CLERK

	FIRST READING	SECOND READING
MOTION	<u>Bates</u>	<u>Bates</u>
SECOND	<u>Benson</u>	<u>Thurston</u>
M. BATES	<u>Yes</u>	<u>Yes</u>
H. BENSON	<u>Yes</u>	<u>Yes</u>
H. BERGER	<u>Yes</u>	<u>Yes</u>
K. THURSTON	<u>Yes</u>	<u>Yes</u>
R. KAPLAN	<u>No</u>	<u>No</u>



City of Lauderdale, FL

Proximity Map for Development Application: 24-VAR-001

