

JESSE NELSON  
MAYOR

VICKIE GAINER  
CITY MANAGER

KEVIN OBOS  
LEGAL COUNSEL



COMMISSIONERS

SAM PEEBLES

PAT PERNO

JAMIE WARRICK

JUDY VANDERGRIFT

**LYNN HAVEN BOARD OF ADJUSTMENT  
REGULAR MEETING  
THURSDAY, FEBRUARY 20, 2025, AT 5:30 P.M.  
WALTER T. KELLEY CHAMBERS, CITY HALL  
825 OHIO AVE**

**AGENDA**

The Lynn Haven Board of Adjustment will consider the following request at a Regular Meeting to be held on Thursday, February 20, 2025, at 5:30 p.m. at the Walter T. Kelley Chambers, City Hall, 825 Ohio Avenue, Lynn Haven, Florida. All interested people are invited to attend, or you may submit your written comments to the Board of Adjustment through the Planning Department, 825 Ohio Avenue, Lynn Haven, FL 32444.

1. Call to Order
2. Minutes: August 22, 2024
3. VAR-25-01:  
Obsidian ML 1, LLC  
2301 Hwy 390 W  
11669-001-000

Request Variance from Section ULDC Table 5.03.07(C)(1) Standards for Permanent Signs

4. Adjourn

IF A PERSON DECIDES TO APPEAL ANY DECISION MADE BY THE COMMISSION WITH RESPECT TO ANY MATTER CONSIDERED AT THIS MEETING, THEY WILL NEED A RECORD OF THE PROCEEDINGS, AND FOR SUCH PURPOSE THEY MAY NEED TO ENSURE THAT, A VERBATIM RECORD OF THE PROCEEDINGS IS MADE, WHICH RECORD INCLUDES THE TESTIMONY AND EVIDENCE UPON WHICH THE APPEAL IS BASED. FLORIDA STATUTE 286.010.

\*\*\* IN ACCORDANCE WITH THE AMERICANS WITH DISABILITIES ACT AND 286.26, FLORIDA STATUTES, PERSONS WITH DISABILITIES NEEDING SPECIAL ACCOMMODATION TO PARTICIPATE IN THIS PROCEEDING SHOULD CONTACT THE CITY PLANNER NO LATER THAN TWO (2) DAYS PRIOR TO THE PROCEEDING AT TELEPHONE 850-265-2961 FOR ASSISTANCE. IF HEARING IMPAIRED, TELEPHONE THE FLORIDA RELAY SERVICE NUMBERS, (800) 955-8771 (TDD) OR (800) 955-8770 (VOICE), FOR ASSISTANCE.

CITY OF LYNN HAVEN  
BOARD OF ADJUSTMENT  
SPECIAL MEETING  
August 22, 2024

A Special Meeting of the Lynn Haven Board of Adjustment was held on Thursday, August 22, 2024, at 5:30 p.m. at the City Hall Meeting Chambers.

Present: Jerry Whitworth, Chairman  
Morgan Doolittle  
Douglas C. Pennington  
Aneliya Boyanov  
Christopher Clubbs  
Amanda Richard, Planning Director  
Vicki Harrison, Board Secretary

1. Call to Order at 5:30pm by Mr. Whitworth
2. Mr. Doolittle made a motion to approve the January 18, 2024, Minutes,

Second to motion: Mr. Pennington,

On vote: Boyanov: aye  
Clubbs: aye  
Doolittle: aye  
Pennington: aye  
Whitworth: aye

approved 5-0

#3. VAR-24-01: Jarod Noyes, 826 Florida Avenue Request Variance from Section 6.06.03(C)(15)(a,b,c): Ms. Richard stated the applicant/owner is Triple A Homes, LLC Jared & Heather Noyes, who were present, are requesting a variance from Section 6.06.03(C)(15)(a,b,c) ULDC Stormwater Standards as the property is unable to meet the City's Stormwater 100 year requirement, or the 25 year requirement as it was previously.

Pre-application meetings were held for potential development of these two (2) parcels. The Applicant/Owner is requesting that in lieu of meeting the City's 100 year Stormwater event, a Florida Development of Environmental Protection (FDEP) exemption be accepted by the City.

A two (2) story building is located on the property that had been converted into office and apartment rentals since it's construction in 1957, and it will now be brought up to building code. It was added onto over the years, and there was an extension built onto the back without proper permits by the previous owners, but that has since been removed by the current owners. A 2,512 sq. ft. addition is being proposed for the two (2) story building to accommodate two (2) commercial business rentals. The change of use to commercial, plus the new addition will require a development order. The decision of the variance request will determine if this proposed development can move forward as they are unable to meet the City's stormwater requirements set in Section 6.03.03(C)(15)(a,b,c) due to the size of the property and the water table issues.

Ms. Richard stated staff had suggested amending the stormwater ordinance for Florida Avenue as the water table and construction of 100 year stormwater ponds are difficult to meet. The City Manager stated she would prefer these items to be presented to the Board of Adjustment on a case by case basis. State exemptions allows for situations like this. The Chief Infrastructure Director has reviewed the submitted geotechnical report, and site plans, and is amenable to the FDEP Exemption being accepted by the City in lieu of the City's 100 year Stormwater event requirement if the Board of Adjustments allows this.

Ms. Boyanov asked if there would be any flooding issues. Chief Infrastructure Director, Mr. Baker, stated not during a normal rain event, and there is a conveyance that flows from the front to the rear of the property; this is good for the property, this is de minimis and won't create any issues, as several parcels have this same problem along Florida Avenue.

Mr. Whitworth asked if there would be any negative impacts. Mr. Baker stated no, not with the history of the downtown area.

Mr. Doolittle asked about the proposed square footage for the new development. Ms. Richard stated the development order has not been submitted with the final site plan.

Mr. Noyes addressed the board and distributed information to the members regarding the history and proposed development of the property. There was discussion about the square footage addition that is less square footage than the portion that was removed.

Public Comments – Mr. Richard Walker addressed the board and stated his concerns for development along Florida Avenue. This will be good for the district, and to be careful opening a pandora's box. This should be approved as it is needed.

Ms. Richard stated the public notices were published on the Bay County website, letters were mailed to property owners within 100' of the property, and a public notice was posted on the property. No correspondence was received that opposed the variance request, and one phone call was received that supported the variance request.

Mr. Doolittle made a motion to approve the variance request as presented,

Second to motion: Mr. Clubbs,

On vote:	Boyanov:	aye
	Clubbs:	aye
	Doolittle:	aye
	Pennington:	aye
	Whitworth:	aye

approved 5-0

Ms. Richard thanked the members for their attendance, as there can sometimes be a large gap between meetings, she appreciates their availability and dedication to meet when a variance request is received.

With there being no further business or discussion, the meeting adjourned at 5:50p.m.

Jerry Whitworth, Board Chairman

prepared by Vicki Harrison

DRAFT



**DEPARTMENT OF DEVELOPMENT & PLANNING**

825 Ohio Avenue - Lynn Haven, FL 32444  
(850) 265-2121

**STAFF REPORT**

Application for a Variance  
Board of Adjustments Meeting  
February 20, 2025

Application Information

Applicant:	Obsidian ML 1, LLC
Owner:	Obsidian ML 1, LLC
Agent:	Robert Volpe and Darrin Taylor, Holtzman Vogel
Project Name:	Cumberland Farms Sign
Requested action:	Variance on Sign Height Requirements
Location:	2301 Highway 390 West
Tax Roll Parcel Number:	11669-001-000
Land Use Map category:	Commercial
Community Redevelop. District:	No
Size:	1.69 +/- acres
Existing uses on the Site:	Gas Station

Summary of Request and Background Information

The applicant is requesting a variance from the requirements of the City's Unified Land Development Code, Table 5.03.07 (C)(1): Standards for Permanent Signs (attached), specifically the requirement that signs be no taller than ten feet (10 ft.).

Additional Information

The applicant does not wish to adhere to the ten feet (10') maximum height requirement for their signs located at the gas station on the corner of Highway 390 and Jenks Avenue. This was a Tom Thumb gas station, is currently being rebranded to a Cumberland Farms gas station, and as part of this process the signage is being redesigned. The signs are currently non-conforming as they were installed prior to the amendment to the ULDC requiring that signage be a maximum height of ten feet. The existing signs are 16 ft 9 in and 15 ft, with the applicant proposing the new signs be 14 ft 9 in and 13 ft. Section 9.01.00 of the ULDC '*Continuation of Nonconforming Uses & Structures*' states that "The lawful use of a building, structure or premises, existing at the time of the adoption of this ULDC may continue although such use does not conform to the provisions of this ULDC" and 'B' "Nothing in this chapter shall be construed to prevent the ordinary & routine maintenance & repair of nonconforming structures." However, Section 9.01.02 '*Expansion or Modification of Nonconforming Uses or Structures* 'A'

states that “No existing building, structure or premises shall be changed, reconstructed, extended or structurally altered in any manner or used for any purpose not consistent with the provisions of this ULDC or any other applicable law.” This means that if a structure is modified it loses it’s nonconforming status and is required to be brought up to current code.

The applicant has stated in section III of the supporting narrative ‘Summary of Why Variance Should Be Approved’ that it appears that the City’s sign code violates Section 553.79(25) Florida Statutes because drivers will not be able to safely see the gasoline prices on SR 390. I was unable to find a Section 553.79(25), but F.S. *Section 553.79(24)(a)2.* addresses “design , construction, or location of signage advertising the retail price of gasoline” so perhaps this is the section that is being referred to and is attached.

The new proposed signage keeps the gas price section of the sign in the exact same place as it is on the current sign regarding it’s height with the top of that data section being at nine feet (9’), and is within the maximum height requirement although the applicant has reduced the size of the gasoline price portion of the sign. They have a smaller data display cabinet and more space beneath while their company logo exceeds the height requirement. The second sign does not have a gas price display at all.

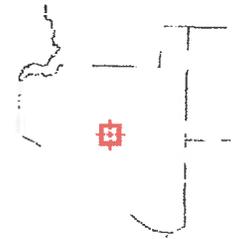
Submitted by:  
Amanda Richard, AICP  
February 20, 2025

Attachments:

Application, Arial Map, Applicant Supporting Narrative; Table 5.03.07 (C)(1): Standards for Permanent Signs; Section 9.01.00 ‘*Continuation of Nonconforming Uses & Structures*’ ; Section 9.01.02 ‘*Expansion or Modification of Nonconforming Uses or Structures and Section 9.02.02. ‘Required Findings for a Grant of a Variance’* of the ULDC; Chapter 553.79 Florida Statutes.



**Overview**



**Legend**

- Parcels
- Roads

<b>Parcel ID</b>	11669-001-000	<b>Owner</b>	OBSIDIAN ML 1, LLC	<b>Last 2 Sales</b>			
<b>Class Code</b>	STORES, 1 STORY		11995 EL CAMINO REAL	<b>Date</b>	<b>Price</b>	<b>Reason</b>	<b>Qual</b>
<b>Taxing District</b>	6		SAN DIEGO, CA 92130	5/16/2023	\$100	REMOVE CAP	U
	LYNN HAVEN	<b>Physical Address</b>	2301 HWY 390 W	7/30/2001	\$300000	N/A	Q
<b>Acres</b>	1.689	<b>Just Value</b>	Value \$955868	MLS			

(Note: Not to be used on legal documents)

**Maps have been compiled from the most authentic information available and are to be used for assessment purposes only. Bay County Property Appraiser's Office assumes NO responsibility for errors and/or omissions that may be contained herein. THIS MAP IS NOT A SURVEY**

Date created: 2/13/2025  
 Last Data Uploaded: 2/13/2025 2:04:20 AM

Developed by SCHNEIDER  
 GEOSPATIAL



**DEPARTMENT OF DEVELOPMENT & PLANNING**  
 develop\_plan@cityoflynnhaven.com  
 (850) 248-0506

**APPLICATION FOR A VARIANCE FROM THE LAND  
 DEVELOPMENT REGULATIONS**

*Deadline to submit is 20 days prior to the third Thursday of the month*

File Number 25-01  
 Date Received 12-20-2024

Application Information

Property owner:	Obsidian ML 1, LLC
Agent/Contact (if different):	Robert Volpe and Darrin Taylor, Holtzman Vogel
Telephone Number:	850-556-8882
Requested action:	Variance
Location:	2301 Highway 390 West
Bay County Parcel Number(s)	11669-001-000
Size:	1.69 acres
Existing uses on the site:	Convenience Store
Future Land Use Map category:	Commercial

Compatibility

Direction	Adjacent Existing Uses	Adjacent Future Land Use
North	Vacant and Single Family	Mixed Use
South	Office and Church	Professional Institutional
West	Commercial	General Commercial
East	Vacant and Duplexes	Mixed Use and MDR

Variance Request

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Specify the variance request by checking all that apply:

- Front yard setback from \_\_\_\_\_ feet to \_\_\_\_\_ feet  
 Rear yard setback from \_\_\_\_\_ feet to \_\_\_\_\_ feet  
 Side yard setback from \_\_\_\_\_ feet to \_\_\_\_\_ feet  
 Other Request variance from maximum sign height of 10 feet  
(see attached narrative for more information)

Explain the reasons for requesting the variance

SEE ATTACHED NARRATIVE

A variance must be consistent with the *Unified Land Development Code Section 9.02.02 (copy attached to application) of the City of Lynn Haven.*

In considering variations from the terms of Section 9.02.02, the Board of Adjustment shall, before making a decision in a specific case, first determine **that the proposed variation meets the following criteria. Please provide a brief, written justification explaining how each of the following criteria are being met.**

- (1) yes Does not constitute a change in the districts shown on the land use map; will not impair an adequate supply of light and air to adjacent property;

No change in use is requested. Proposed sign as modified is smaller than existing sign so less impact - SEE ATTACHED NARRATIVE

- (2) yes Special conditions and circumstances exist which are peculiar to the land, structure or building involved and which are not applicable to other lands, structures or buildings in the same land use district.

SEE ATTACHED NARRATIVE

- (3) yes The special conditions and circumstances do not result from the actions of the applicant.

SEE ATTACHED NARRATIVE

- 
- (4) yes Granting the variance requested will not confer on the applicant any special privilege that is denied by the ordinance to other lands, buildings or structures in the same land use district.

**SEE ATTACHED NARRATIVE**

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- (5) yes Literal interpretation of the provisions of the ordinance would deprive the applicant of rights commonly enjoyed by others in the same land use district under the terms of the ordinance and would work unnecessary and undue hardship on the applicant.

**SEE ATTACHED NARRATIVE**

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- (6) yes The variance granted is the minimum variance that will make possible the reasonable use of the land, building or structure.

**SEE ATTACHED NARRATIVE**

---

- (7) yes The granting of the variance will be in harmony with the general intent and purpose of the ordinance and that such variance will not be injurious to the area involved or otherwise detrimental to the public welfare.

**SEE ATTACHED NARRATIVE**

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- (8) yes The granting of the variance is not based on economic circumstance.

**SEE ATTACHED NARRATIVE**

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Deed Restrictions

Check the following category that applies:

X This property is not bound by any subdivision covenants or deed restrictions; or

---

\_\_\_\_\_This variance request does not violate any subdivision covenant or deed restriction on this property and if required, approval from the Homeowners Association is attached; or

\_\_\_\_\_This variance request is in conflict with subdivision covenants or deed restrictions on this property and a release from the developer or subdivision Homeowners Association is attached.

Certification and Authorization

I do hereby authorize City staff to enter my property for the purpose of site inspection.

I do hereby authorize the placement of a public notice sign(s) on my property at a location(s) to be determined by City staff.

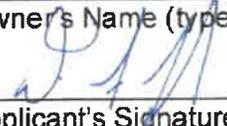
I hereby certify that the information submitted on this application is true and correct to the best of my knowledge at the time of application.

\_\_\_\_\_  
Owner's Signature <sup>1</sup>

\_\_\_\_\_  
Date

\_\_\_\_\_  
Owner's Name (type or print)

\_\_\_\_\_  
Title and Company (if applicable)

  
\_\_\_\_\_  
Applicant's Signature, if not owner

**12/18/2024**

\_\_\_\_\_  
Date

**Darrin Taylor**

**Director of Planning, Holtzman Vogel**

\_\_\_\_\_  
Applicant's Name (type or print)

\_\_\_\_\_  
Title and Company (if applicable)

<sup>1</sup> A notarized agent authorization is required if the applicant is not the owner, and the owner is allowing the applicant to act on his/her behalf.

Please attach:

- Required Fee \$600.00
  - Survey
  - Location Map
  - Deed
  - A Legal Description (if different from the deed)
-



PREVIOUS SIGNAGE (TYP. @ 2 SIDES) | APPROXIMATE SCALE 3/8" = 1'-0"



PROPOSED SIGNAGE (TYP. @ 2 SIDES) | APPROXIMATE SCALE 3/8" = 1'-0"

**FEDERAL HEATH**  
 VISUAL COMMUNICATIONS  
 www.FederalHeath.com  
 1030 Peachtree Dunwoody Ave., Suite A Atlanta, GA 30328  
 (404) 486-4125 Fax: (404) 584-4123

Manufacturing Partner:  
 Columbus, GA, USA, 31907, 404-252-1111  
 Office Location:  
 Atlanta, GA, USA, 30328, 404-486-4125  
 TomThumb Design/Build, LLC, 1175 Peachtree Corners, GA, 30094  
 Columbus, GA, USA, 31907, 404-252-1111  
 Tampa, FL, 33609, 813-889-1111  
 Building Quality Signage Since 1991 |

REVISIONS  
 Client Approval/Date  
 Landlord Approval/Date

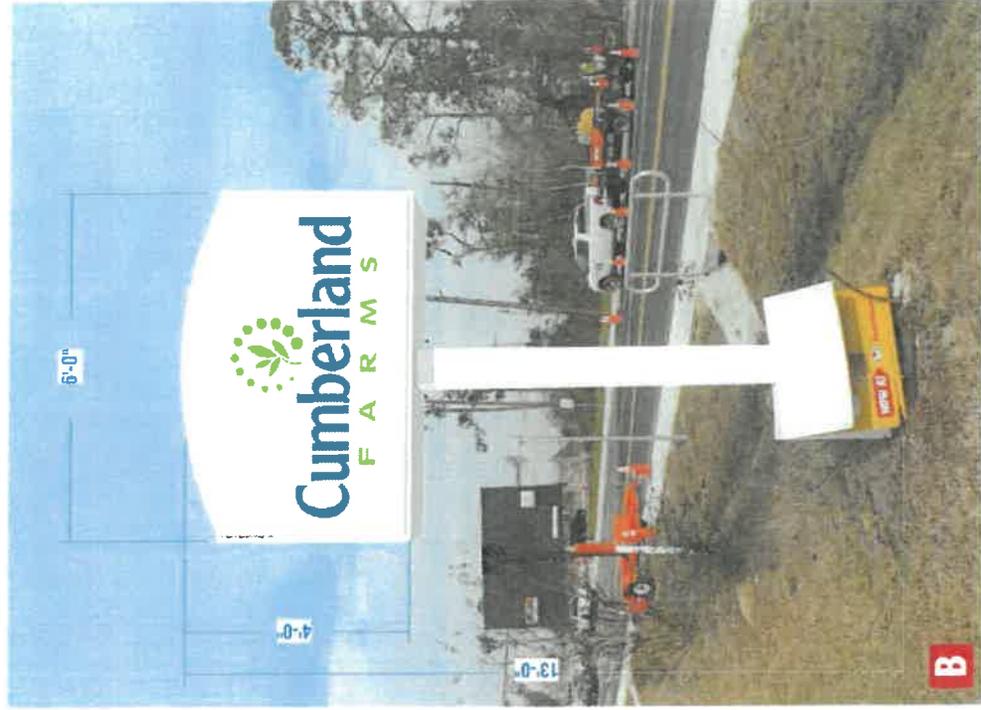
Account Rep: Dan Hull  
 Project Manager: Jeannie Biller  
 Drawn By: Wes Stephens  
 Liberate Inc. (404) 486-4125  
 APPROVED FOR THE CITY OF LYNN HAVEN, FL  
 THE ABOVE DESCRIBED AREA IS NOT A STATE OF FLA. SIGN.

Project/Location:  
**Cumberland Farms**  
 STORE TT134  
 2301 W HIGHWAY 390  
 LYNN HAVEN, FL 32444

Job Number: 29-14352-00  
 Date: 8 November 2022  
 Sheet Number: 3 of 14  
 Design Number: 29-14352-00 R7



EXISTING (TYP. @ 2 SIDES) | APPROXIMATE SCALE 1/2" = 1'-0"



PROPOSED (TYP. @ 2 SIDES) | APPROXIMATE SCALE 1/2" = 1'-0"

**FEDERAL HEALTH**  
 VISUAL COMMUNICATIONS  
 www.federalhealth.com  
 1020 Pittsburgh Drive, Suite A, Denver, CO 80215  
 (740) 368-7720 Fax: (740) 368-4123

Manufacturing Facility:  
 Columbus, GA; Dallas, TX; Denver, CO; Houston, TX; Jacksonville, FL; Kansas City, MO; Little Rock, AR; Memphis, TN; Miami, FL; Milwaukee, WI; New York, NY; Oklahoma City, OK; Omaha, NE; Phoenix, AZ; Portland, OR; Raleigh, NC; Richmond, VA; Sacramento, CA; St. Louis, MO; Tampa, FL; Wichita, KS; Wichita Falls, TX; York, PA.

Building Quality Signage Since 1961  
 Client Approval Date: \_\_\_\_\_  
 Landlord Approval Date: \_\_\_\_\_

Account Rep: \_\_\_\_\_  
 Project Manager: **Jearmie Biller**  
 Drawn By: **Wes Stephens**  
 ALL ELECTRICAL AND LIGHTING REQUIREMENTS TO BE PROVIDED BY THE CLIENT. ALL SIGNAGE SHALL BE PERMITTED AND APPROVED BY ALL LOCAL AND STATE AGENCIES.

Project / Location:  
**Cumberland**  
 STORE TT134  
 2301 W HIGHWAY 390  
 LYNN HAVEN, FL 32444

Job Number: 29-14352-00  
 Date: 8 November 2022  
 Sheet Number: 5 of 14  
 Design Number: 29-14352-00 R7

# VARIANCE APPLICATION FOR CUMBERLAND FARMS RE-BRANDING

## **SUPPORTING NARRATIVE INCLUDING JUSTIFICATION AND SUPPORTING PLANNING ANALYSIS**

### **I. SUMMARY OF PROJECT**

The applicant is seeking to re-brand the Tom Thumb convenience store, located at the intersection of State Road (SR) 390 and Jenks Avenue, as Cumberland Farms. The store address is 2301 Highway 390 West which is identified as Parcel # 11669-001-000 by the Bay County property appraiser. The parcel is 1.69 acres and has the appropriate land use and zoning. Attached as **Exhibit 1** is a location map.

The re-branding requires the modifying of two existing signs on site. The existing sign structure will remain as is, but the cabinetry, which has the Tom Thumb logo, must be replaced. These changes are part of the national re-branding of the Tom Thumb convenience stores. The two signs are described below.

**Table 1: Signs Requiring Modification**

<b>Sign Location</b>	<b>Content</b>	<b>Existing Height</b>	<b>Proposed Height</b>
Highway 390	Store Brand and Gasoline Prices	16 ft 9 in	14 ft 9 in
Jenks Avenue	Store Brand only	15 ft	13 ft

Modifying the sign cabinets results in a height reduction of two feet for each sign. Based on initial discussions, the City considers the cabinet replacement as new development and the sign modifications must meet the new permitted maximum sign height in the City which is ten feet. The applicant is requesting the variance to allow for the requested proposed heights shown in Table 1 above.

### **II. APPLICANT AND AGENT INFORMATION AND APPROVAL REQUIRED**

Applicant/Property Owner	Obsidian ML 1, LLC 11995 El Camino Real San Diego, California 92130
Agent	Robert Volpe and Darrin Taylor Holtzman Vogel, PLLC 119 South Monroe Street, Suite 500 Tallahassee, Florida 32301 Email: dtaylor@holtzmanvogel.com

**EXHIBIT 1**  
**LOCATION MAP**

# LOCATION MAP



**EXHIBIT 2**

**COMPARISON OF EXISTING AND PROPOSED SIGNS**

Parcel	Parcel ID# 11669-001-000
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### III. SUMMARY OF WHY VARIANCE SHOULD BE APPROVED

The applicant is re-branding the convenience store at 2301 Highway 390 West which includes replacing the signage from the Tom Thumb brand to Cumberland Farms. The existing sign structure will remain but the cabinet for the Tom Thumb will be replaced with Cumberland Farms. Our Firm represents this company which develops new stores and re-brands existing stores through-out the Southeastern United States. This current re-branding proposal (replacing the light cabinet but retaining the signposts etc.) has been determined to not be new development in other local governments since the existing sign structure remains in place. It is unusual for this type of re-branding to be considered "new development." Additionally, it appears the City's new sign code violates Section 553.79(25), F.S. for signs which display gasoline prices because drivers will not be able to safely see the gasoline prices on SR 390. Finally, there are unique site factors that impact the site and impede drivers' ability to see and respond to the signage at the lower height and those factors must be considered if the new sign codes are applied to this proposed re-branding.

We have filed this variance application because the client is eager to proceed with the Cumberland Farms re-branding. This application demonstrates that the proposed sign modifications to the existing onsite signage meets the City's variance criteria and because: 1) the sign creates less impacts since the sign is significantly smaller than the current sign, 2) the sign is not being replaced only the sign cabinet, 3) there are unique factors on site that impede the ability of drivers to see the signs at the lower height, and 4) application of the new code violates Section 553.79(25), Florida Statutes. For these reasons we are asking the City to approve the re-branding of both signs onsite at the height listed in Table 1.

### IV. BACKGROUND/PROJECT DETAILS AND ANALYSIS

This convenience store was built in approximately 2002. The subject parcel is oddly shaped and sandwiched between SR 390 West and Jenks Avenue where Jenks Avenue wraps around the property along the northern border. There exist unique site factors that impact this site. These factors include the following:

1. When the store was originally built both SR 390 and Jenks Avenue were two lane roadways with open medians. At that time there were few restrictions on traffic flow which allowed drivers to cross the open medians and provide for full turning movements into the store's parking lot from both SR 390 and Jenks Avenue. The conditions today are far different. Both SR 390 and Jenks Avenue have more than doubled in size since 2002. SR 390 is now a six lane roadway with multiple turning lanes and a concrete median restricting left turn movements in and out of the store 's parking lot. Jenks Avenue has also expanded from two lanes to four lanes but still has an open median.
2. The property when originally developed had to construct the stormwater

facility at the northern site boundary along Jenks Avenue. This pushed the store, the parking lot/pumps and signage away from the intersection. Today the store's building footprint is approximately 250 feet away from the intersection. This distance was not a major factor when the adjacent roadways were two lanes and open medians. However, the current road configuration along with the store's placement away from the intersection impacts driver's ability to access the store.

The applicant is requesting to replace the cabinets for each sign. Attached as **Exhibit 2** is a graphic comparing the existing and proposed signs. The graphic clearly shows that the new signs will reduce the maximum sign height by two feet, each.

Since these two signs were constructed the City of Lynn Haven has modified its sign ordinance. The City's current code restricts the maximum permitted sign height to ten feet pursuant to Chapter 5, Section 5.03.00 and Table 5.03.05(D), LDC. The modified signs would be three feet (for the Jenks Avenue sign) and 4 ft 9 inches (for the 390 sign) higher than the new City standards even with the proposed sign reductions. The City staff has stated that the replacement of the two sign cabinets is new development and therefore a variance is necessary to replace the sign cabinets at the proposed height.

The City's position is very unusual in Florida and the Southeastern United States. This type of re-branding, which requires changing the store's name and replacing the sign cabinet, is typically considered a type of minor development where only a sign permit is required if the existing sign structure is kept. This allows national convenience store owners to rapidly change the store brand name of its hundreds or thousands of stores without having to update signs to meet the latest sign ordinance. The City's position impacts the ability of national brands to meet their corporate logo and branding standards.

In addition, the City's reduction in maximum sign height appears to violate Section 553.79(24), Florida Statutes. In 2020 the Florida Legislature amended the Florida Building Code to prevent any ordinance that imposes any requirement on signage advertising the retail price of gasoline which "prevents the signage from being clearly visible and legible to drivers of approaching motor vehicles from a vantage point on any lane of traffic in either direction on a roadway abutting the gas station". The sign along SR 390 West at a maximum of 10 feet results in an even lower height for the gasoline prices which impacts the ability of drivers from seeing the gasoline prices, especially those drivers traveling toward Panama City on SR 390.

## **V. SURROUNDING AREA/COMPATIBILITY**

All property surrounding the convenience store is approved for urban development. The least intense land uses are the single family residential on the northwest corner which is part of the Northshore subdivision and the Medium Density Residential to the east of the property which has been developed for many years as duplexes. Both neighborhoods were in place when the convenience store was constructed in 2002.

The proposed sign modifications do not impact any adjacent uses. Additionally, the existing signs are 2 to 3 feet higher than the proposed signs, so the new signs create less impact to the surrounding area. Below is a table identifying the future and existing land uses that surround the Project.

**TABLE 2: SUMMARY OF ADJACENT FUTURE LAND USES**

<b>DIRECTION</b>	<b>FUTURE LAND USE</b>	<b>EXISTING LAND USE</b>
NORTH	Mixed Use	Vacant and Single Family
SOUTH	Professional and Institutional	Office/Retail Strip Center and Church
EAST	Mixed Use and MDR	Vacant and Duplexes
WEST	Commercial	Commercial

**VI. CONSISTENCY WITH VARIANCE CRITERIA**

The proposed modifications to the existing signage as reflected in Table 1 meet the variance criteria for the City of Lynn Haven as established in Section 9.02.02, LDC. Below is an analysis of why this submittal meets the City’s criteria.

**Criteria #1** - Does not constitute of change in the districts shown on the land use map; will not impact an adequate supply of light and air to adjacent property.

**CONSISTENCY** – The proposed sign modifications do not require a change in land use and will not impact light and air to adjacent property. The proposed signs are smaller than the existing signs on the property so any impacts will be reduced.

**Criteria #2** - Special conditions and circumstances exist which are peculiar to the land, structure or building involved and which are not applicable to other lands, structures, or buildings in the same land use district.

**CONSISTENCY** – The property is sandwiched between SR 390 and Jenks Avenue. These roadways were only two lanes with open medians when the convenience store was constructed in 2002. Since that time both roadways have doubled in size with 390 now a six lane road with turn lanes and a concrete median and Jenks Avenue as a four lane road with an open median. Additionally, the site when originally developed required the stormwater facility to be constructed in the front of the property. This moved the building, parking lot and signage away from the intersection. Today the footprint of the building is approximately 250 feet from the intersection. These factors impact the ability of drivers to see the site and the supporting signage and safely access the store, especially for those drivers traveling toward Panama City.

**Criteria #3** - The special conditions do not result from the actions of the applicant.

**CONSISTENCY** – The applicant did not control any of these factors.

**Criteria #4** - Granting the variance requested will not confer on the applicant any special privilege that is denied by the ordinance to other lands, buildings, or structures in the same land use district.

**CONSISTENCY** – The variance does not provide any special privilege to the applicant. The applicant is impacted by the unique onsite burdens mentioned in the analysis for Criteria #2. These factors have doubled the size of the adjacent roadways since the original store was developed and forced the building away from the intersection. Requiring the reduction of the onsite signage will significantly impact the store’s advertising and the ability of the public to see the signage and pull into the store safely.

**Criteria #5** - Literal interpretation of the provisions of the ordinance would deprive the applicant of rights commonly enjoyed by others in the same land use district under the same terms of the ordinance and would work unnecessary and undue hardship on the applicant.

**CONSISTENCY** – Criteria #5 recognizes that the City’s sign code is not contextual, but rather applies a “one-size-fits-all” height standard. Limiting signs to ten feet at this location does not take into consideration the size, location, context, or other factors that relate to how residents and citizens see and interact with signage. The literal interpretation (i.e., restricting signs to ten foot maximum height) does not consider the ability for motorists to safely see signs in this location. This change can impact the ability of drivers to be able to see the signage and safely react in time to turn into the store. This was not an issue for this site when SR 390 and Jenks Avenue were two lane roads. Now with the roadway expansion and closed median the reduced signage exacerbates the ability of drivers to make decisions where and when to turn into the store.

**Criteria #6** - The variance granted is the minimum variance that will make possible the reasonable use of the land, building or structure.

**CONSISTENCY** – The requested variance will still result in a height reduction of the existing signage by two feet, each, and will ensure that any impacts by the proposed modifications are less than the impacts allowed today.

**Criteria #7** - The granting of the variance will be in harmony with the general intent and purpose of the ordinance and that such variance will not be injurious to the area involved or otherwise detrimental to the public welfare.

**CONSISTENCY** – The proposed sign modifications will further the City’s goals to reduce the overall height of signs onsite but not to the level that violates Florida Statutes.

**Criteria #8** - The granting of the variance is not based on economic circumstance.

**CONSISTENCY** – Economic circumstances are not the basis of this request.

## VI. CONCLUSION

The proposed sign modifications as reflected in Table 1 result in less impacts than the current signage. When compared to the City’s new sign standards, the proposed modifications are a safer option for the drivers that are accessing the convenience store due to the unique site conditions and ensure consistency with the Florida Statutes. This application demonstrates the consistency of our proposal with the City’s requirements for a variance as explained in Section VI of this analysis. Below is a summary of the distinct reasons raised in this analysis which more than justify the need for the variance approval.

1. This application is the result of a national re-branding of Tom Thumb stores. Quick re-branding of stores is needed by national businesses, which is also a position that local governments commonly support. Requiring signage to meet new code requirements as part of a re-branding effort hinders the ability of businesses to rapidly change brands. Based on our experience working with many local governments this is standard practice.
2. Florida Statutes is clear that sign height is a significant public factor in ensuring safe roadways, especially regarding the retail price of gasoline. Provisions which reduce the ability of drivers to see the retail price of gasoline is prohibited by the Florida Building Code.
3. The proposed sign modifications reduce the maximum height by two feet which furthers the City’s goal to reduce the height of signs while also recognizing that the signs are not being replaced. The existing signage structure remains except for the sign cabinet which has the Tom Thumb logo.
4. The convenience store was originally surrounded by two lane roads when constructed in 2002. Today SR 390 and Jenks Avenue have exploded into six and four lane major roadways with multiple turn lanes and closed medians. These changes impact the ability of drivers to see, react and turn into the establishment. The current sign height helps to mitigate these changes by giving drivers more time to see and react. Reducing the signage height serves to obstruct the signage for drivers.
5. The building footprint, parking lot and pumps have been placed more than 200 feet from the intersection due to the onsite stormwater facilities and the site conditions. The existing signage is also pushed away from the roadway. Reducing the height of the onsite signage exacerbates this issue.
6. The requested variance is based on factors that have not been created by the applicant and are unique to the site.

5.03.07 - Design Standards for All Permanent Signs

A. Generally All permanent signs shall comply with the design, construction and location standards in this section.

B. Placement standards

1. A building sign shall project no more than four (4) feet perpendicularly from the surface to which it is attached.
2. The combined area of permanent and temporary signs placed on or behind windows shall not exceed twenty-five (25) percent of the total window area at the same floor level on the side of the building or unit upon which the signs are displayed.
3. Signs located within a clear visibility triangle shall conform to the requirements of Section 6.05.04.
4. Supports for signs or sign structures shall not be placed in or upon a public right-of-way or public easement, except under the terms of a lease between the owner of the easement or right-of-way and the owner of the sign.
5. No ground sign shall project over a public right-of-way.
6. All signs over pedestrian ways shall provide a minimum of seven and one-half (7½) feet of clearance.
7. All signs over vehicular ways shall provide a minimum of thirteen and one-half (13½) feet of clearance.
8. A building sign shall not extend beyond any edge of the surface to which it is attached, nor disrupt a major architectural feature of the building.

C. Size, number, and spacing for permanent on-site signs

1. **Ground signs** The permissible number, area, spacing, and height of permanent accessory ground signs for each multiple occupancy complex and each occupant not located in a multiple occupancy complex shall be determined according to the following tables:

**Table 5.03.07(C)(1). Standards for Permanent Signs.**

Sign Number, Area, Spacing, and Height
--

Frontage on a Public Right-of-Way (feet)	Number of Signs Allowed	Total Sign Area (sq.ft.)	Maximum Sign Area for Individual Signs (sq. ft.)	Minimum Distance from Side Property Line (feet)	Minimum distance from other permanent sign on site (feet)	Maximum Height (feet)
Less than 50	1	24	24	10	N/A	10
50-99.9	1	32	32	15	N/A	10
100-199.9	1	70	70	20	N/A	10
200-299.9	1	70	70	50	N/A	10
300-399.9	2	72	72	50	100	10
400 or more	3	96	96	50	100	10

2. Building signs shall comply with the standards in the following table:

**Table 5.03.07(C)(2). Building Sign Size, Height, and Number.**

Multiple Occupancy Complexes or Building <sup>1</sup>			Single Occupancy Structure
Standard	Per Building Side	Per Occupant	Per Building Side

<p>Total Sign Area</p>	<ul style="list-style-type: none"> <li>• 10% of each facade area; or,</li> <li>• 200 s.f., whichever is smaller</li> </ul>	<ul style="list-style-type: none"> <li>• 20% of each facade area; or</li> <li>• 200 s.f., whichever is smaller</li> </ul>	<ul style="list-style-type: none"> <li>• 20% of each facade area; or</li> <li>• 200 s.f., whichever is smaller</li> </ul>
<p>Number of Signs</p>	<p>1</p>	<p>3</p>	<p>3</p>
<p>Maximum Height</p> <ul style="list-style-type: none"> <li>• Building height up to 20 ft.</li> <li>• Building height between 21 ft. and 100 ft.</li> </ul>	<ul style="list-style-type: none"> <li>• 18 ft.</li> <li>• A single building sign is allowed above eighteen (18) feet on each side of the building</li> </ul>		

<sup>1</sup> Building signs for multiple occupancy complexes constructed or remodeled after December 11, 1990, shall conform to an approved sign format.

(Ord. No. 1139, § 1, 10-25-22)

### 9.01.01 - Continuation of Nonconforming Uses and Structures

The lawful use of a building, structure or premises, existing at the time of the adoption of this ULDC, may continue although such use does not conform to the provisions of this ULDC.

- A. Subject to the provisions in Section 9.01.00, the use of land or buildings existing on the date of enactment of this ULDC shall be allowed to continue, if such use is otherwise lawful.
- B. Nothing in this chapter shall be construed to prevent the ordinary and routine maintenance and repair of nonconforming structures.
- C. Existing prohibited land uses within the wellhead protection area shall be considered nonconforming uses as established in Section 3.03.02.

### 9.01.02 - Expansion or Modification of Nonconforming Uses or Structures

- A. No existing building, structure or premises shall be changed, reconstructed, extended or structurally altered in any manner or used for any purpose not consistent with the provisions of this ULDC or any other applicable law.
- B. Such nonconforming use shall not be enlarged, increased or extended or occupy a greater area of land than at the time of the adoption of this ULDC.
- C. If such nonconforming use shall be discontinued for a continuous period of one hundred eighty (180) days, every future use of such premises shall be in conformity with the provisions of this ULDC.
- D. A nonconforming structure may be repaired when such structure is partially destroyed or damaged, provided that the costs of repair or replacement are less than fifty (50) percent of the value of the structure, based on the appraised value as assessed by the County Property Appraiser.
- E. Any nonconforming building or structure, which has been destroyed fifty (50) percent or more by fire, explosion, or the public enemy, may not be continued, except in conformity with this ULDC.
- F. Any nonconforming building or structure, which has been destroyed fifty (50) percent or more by an act of God may be rebuilt to the same footprint and aesthetics as prior to the act of God so long as such is completed in conformance with the Florida Building Code, all other Municipal, County, State, and Federal laws as well as in compliance with all State and Federal administrative rules and regulations. Any nonconforming building or structure which has been destroyed fifty (50) percent or more by an act of God which is not rebuilt to the same footprint and aesthetics shall be completed in conformance with the existing and most recent ULDC. It shall be the responsibility of the owner of the nonconforming building or structure to show that reconstruction is to be completed as to the same footprint and aesthetics.

G. Where the nonconformity is solely due to either the impervious surface ratio or the stormwater management system, structural additions may be made under the following conditions:

1. The proposed addition is less than twenty (20) percent of the existing square footage, or less than five hundred (500) square feet, whichever is less;
2. The addition is not within the required setbacks or buffers;
3. No additional off-site discharge of stormwater is created; and
4. No additional parking spaces are required.

(Ord. No. 1070, § 1, 1-22-19)

## 9.02.02 - Required Findings for a Grant of Variance

In considering variations from the terms of this ULDC, the grant of a variance shall be based on an affirmative response for each of the following:

**Table 9.02.02 Findings for Grant of a Variance.**

<b>Variance Findings</b>	
A.	The proposed variation does not constitute a change in the districts shown on the Official Land Use Map;
B.	Special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other lands, structures, or buildings in the same land use district;
C.	The special conditions and circumstances do not result from the actions of the applicant;
D.	Granting the variance requested will not confer on the applicant any special privilege that is denied by the ULDC to other lands, buildings, or structures in the same land use district;
E.	Literal interpretation of the provisions of the ULDC would deprive the applicant of rights commonly enjoyed by others in the same land use district under the terms of the ULDC and would work unnecessary and undue hardship on the applicant;
F.	The variance granted is the minimum variance that will make possible the reasonable use of the land, building, or structure;
G.	The grant of the variance will be in harmony with the general intent and purpose of this ULDC and that such variance will not be injurious to the area involved or otherwise detrimental to the public welfare;
H.	Is not based on economic circumstances; and
I.	That the variance, if granted, is based on the findings required by this section.





party submission management software or application that can be downloaded on a mobile device. Requests for inspections may be submitted in a nonelectronic format, at the discretion of the building official.

(e) A local enforcement agency must post its procedures for processing, reviewing, and approving submitted building permit applications on its website.

(f) A local government may not require a contract between a builder and an owner for the issuance of a building permit or as a requirement for the submission of a building permit application.

(2)(a)1. Except as provided in subsection (8), an enforcing agency may not issue any permit for construction, erection, alteration, modification, repair, or demolition of any building or structure until the local building code administrator or inspector has reviewed the plans and specifications required by the Florida Building Code, or local amendment thereto, for such proposal and found the plans to be in compliance with the Florida Building Code. If the local building code administrator or inspector finds that the plans are not in compliance with the Florida Building Code, the local building code administrator or inspector shall identify the specific plan features that do not comply with the applicable codes, identify the specific code chapters and sections upon which the finding is based, and provide this information to the local enforcing agency. If the building code administrator, plans examiner, or inspector requests another local enforcing agency employee or a person contracted by the local enforcing agency to review the plans and that employee or person identifies specific plan features that do not comply with the applicable codes, the building code administrator, plans examiner, or inspector must provide this information to the local enforcing agency. The local enforcing agency shall provide this information to the permit applicant.

2. An enforcing agency may not issue any permit for construction, erection, alteration, modification, repair, or demolition of any building until the appropriate firesafety inspector certified pursuant to s. [633.216](#) has reviewed the plans and specifications required by the Florida Building Code, or local amendment thereto, for such proposal and found that the plans comply with the Florida Fire Prevention Code and the Life Safety Code. Any building or structure which is not subject to a firesafety code shall not be required to have its plans reviewed by the firesafety inspector.

3. Any building or structure that is exempt from the local building permit process may not be required to have its plans reviewed by the local building code administrator. Industrial construction on sites where design, construction, and firesafety are supervised by appropriate design and inspection professionals and which contain adequate in-house fire departments and rescue squads is exempt, subject to local government option, from review of plans and inspections, providing owners certify that applicable codes and standards have been met and supply appropriate approved drawings to local building and firesafety inspectors.

4. The enforcing agency shall issue a permit to construct, erect, alter, modify, repair, or demolish any building or structure when the plans and specifications for such proposal comply with the Florida Building Code and the Florida Fire Prevention Code and the Life Safety Code as determined by the local authority in accordance with this chapter and chapter 633.

(b) After the local enforcing agency issues a permit, the local enforcing agency may not make or require any substantive changes to the plans or specifications except changes required for compliance with the Florida Building Code, the Florida Fire Prevention Code, or the Life Safety Code, or local amendments thereto. If a local enforcing agency makes or requires substantive changes to the plans or specifications after a permit is issued, the local enforcing agency must identify the specific plan features that do not comply with the applicable codes, identify the specific code chapters and sections upon which the finding is based, and provide the information to the permitholder in writing.

(c)1. A plans examiner or inspector who fails to provide the building code administrator with the reasons for making or requiring substantive changes to the plans or specifications is subject to disciplinary action against his or her certificate under s. [468.621\(1\)\(i\)](#).

2. A building code administrator who fails to provide a permit applicant or permitholder with the reasons for making or requiring substantive changes to the plans or specifications is subject to disciplinary action against his or her certificate under s. [468.621\(1\)\(i\)](#).

(3) Except as provided in this chapter, the Florida Building Code, after the effective date of adoption pursuant to the provisions of this part, shall supersede all other building construction codes or ordinances in the state, whether at the local or state level and whether adopted by administrative regulation or by legislative enactment. However, this subsection does not apply to the construction of manufactured homes as defined by federal law. Nothing contained in this subsection shall be construed as nullifying or divesting appropriate state or local agencies of authority to make inspections or to enforce the codes within their respective areas of jurisdiction.

(4) The Florida Building Code, after the effective date of adoption pursuant to the provisions of this part, may be modified by local governments to require more stringent standards than those specified in the Florida Building Code, provided the conditions of s. [553.73\(4\)](#) are met.

(5)(a) During new construction or during repair or restoration projects in which the structural system or structural loading of a building is being modified, the enforcing agency shall require a special inspector to perform structural inspections on a threshold building pursuant to a structural inspection plan prepared by the engineer or architect of record. The structural inspection plan must be submitted to and approved by the enforcing agency before the issuance of a building permit for the construction of a threshold building. The purpose of the structural inspection plan is to provide specific inspection procedures and schedules so that the building can be adequately inspected for compliance with the permitted documents. The special inspector may not serve as a surrogate in carrying out the responsibilities of the building official, the architect, or the engineer of record. The contractor's contractual or statutory obligations are not relieved by any action of the special inspector. The special inspector shall determine that a professional engineer who specializes in shoring design has inspected the shoring and reshoring for conformance with the shoring and reshoring plans submitted to the enforcing agency. A fee simple title owner of a building, which does not meet the minimum size, height, occupancy, occupancy classification, or number-of-stories criteria which would result in classification as a threshold building under s. [553.71\(12\)](#), may designate such building as a threshold building, subject to more than the minimum number of inspections required by the Florida Building Code.

(b) The fee owner of a threshold building shall select and pay all costs of employing a special inspector, but the special inspector shall be responsible to the enforcement agency. The inspector shall be a person certified, licensed, or registered under chapter 471 as an engineer or under chapter 481 as an architect.

(c) The architect or engineer of record may act as the special inspector provided she or he is on the Board of Professional Engineers' or the Board of Architecture and Interior Design's list of persons qualified to be special inspectors. School boards may utilize employees as special inspectors provided such employees are on one of the professional licensing board's list of persons qualified to be special inspectors.

(d) The licensed architect or registered engineer serving as the special inspector shall be permitted to send her or his duly authorized representative to the job site to perform the necessary inspections provided all required written reports are prepared by and bear the seal of the special inspector and are submitted to the enforcement agency.

(6) A state or local enforcement agency may perform virtual inspections at the discretion of the enforcement agency. However, a state or local enforcement agency may not perform virtual inspections for structural inspections on a threshold building. For purposes of this subsection, the term "virtual inspection" means a form of visual inspection which uses visual or electronic aids to allow a building code administrator or an inspector, or team of inspectors, to perform an inspection without having to be physically present at the job site during the inspection.

(7)(a) A local enforcement agency must refund 10 percent of the permit and inspection fees to a permit holder if:

1. The inspector or building code administrator determines that the work, which requires the permit, fails an inspection; and
2. The inspector or building code administrator fails to provide, within 5 business days after the inspection, the permit holder or his or her agent with a reason, based on compliance with the Florida Building Code, Florida Fire Prevention Code, or local ordinance, for why the work failed the inspection.

(b) If any permit and inspection fees are refunded under paragraph (a), the surcharges provided in s. [468.631](#) or s. [553.721](#) must be recalculated based on the amount of the permit and inspection fees after the refund.

(8) A permit may not be issued for any building construction, erection, alteration, modification, repair, or addition unless the applicant for such permit complies with the requirements for plan review established by the Florida Building Commission within the Florida Building Code. However, the code shall set standards and criteria to authorize preliminary construction before completion of all building plans review, including, but not limited to, special permits for the foundation only, and such standards shall take effect concurrent with the first effective date of the Florida Building Code. After submittal of the appropriate construction documents, the building official may issue a permit for the construction of foundations or any other part of a building or structure before the construction documents for the entire building or structure have been submitted. The holder of such permit for the foundation or other parts of a building or structure shall proceed at the holder's own risk and without assurance that a permit for the entire structure will be granted. Corrections may be required to meet the requirements of the technical codes.

(9) Each enforcement agency shall require that, on every threshold building:

(a) The special inspector, upon completion of the building and prior to the issuance of a certificate of occupancy, file a signed and sealed statement with the enforcement agency in substantially the following form: To the best of my knowledge and belief, the construction of all structural load-bearing components described in the threshold inspection plan complies with the permitted documents, and the specialty shoring design professional engineer has ascertained that the shoring and reshoring conforms with the shoring and reshoring plans submitted to the enforcement agency.

(b) Any proposal to install an alternate structural product or system to which building codes apply be submitted to the enforcement agency for review for compliance with the codes and made part of the enforcement agency's recorded set of permit documents.

(c) All shoring and reshoring procedures, plans, and details be submitted to the enforcement agency for recordkeeping. Each shoring and reshoring installation shall be supervised, inspected, and certified to be in compliance with the shoring documents by the contractor.

(d) All plans for the building which are required to be signed and sealed by the architect or engineer of record contain a statement that, to the best of the architect's or engineer's knowledge, the plans and specifications comply with the applicable minimum building codes and the applicable firesafety standards as determined by the local authority in accordance with this chapter and chapter 633.

(10) No enforcing agency may issue a building permit for construction of any threshold building except to a licensed general contractor, as defined in s. [489.105\(3\)\(a\)](#), or to a licensed building contractor, as defined in s. [489.105\(3\)\(b\)](#), within the scope of her or his license. The named contractor to whom the building permit is issued shall have the responsibility for supervision, direction, management, and control of the construction activities on the project for which the building permit was issued.

(11) Any state agency whose enabling legislation authorizes it to enforce provisions of the Florida Building Code may enter into an agreement with any other unit of government to delegate its responsibility to enforce those provisions and may expend public funds for permit and inspection fees, which fees may be no greater than the fees charged others. Inspection services that are not required to be performed by a state agency under a federal delegation of responsibility or by a state agency under the Florida Building Code must be performed under the alternative plans review and inspection process created in s. [553.791](#) or by a local governmental entity having authority to enforce the Florida Building Code.

(12) An enforcing authority may not issue a building permit for any building construction, erection, alteration, modification, repair, or addition unless the permit either includes on its face or there is attached to the permit the following statement: "NOTICE: In addition to the requirements of this permit, there may be additional restrictions applicable to this property that may be found in the public records of this county, and there may be additional permits required from other governmental entities such as water management districts, state agencies, or federal agencies."

(13) The local enforcing agency may not issue a building permit to construct, develop, or modify a public swimming pool without proof of application, whether complete or incomplete, for an operating permit pursuant to s. [514.031](#). A certificate of completion or occupancy may not be issued until such operating permit is issued. The

local enforcing agency shall conduct its review of the building permit application upon filing and in accordance with this chapter. The local enforcing agency may confer with the Department of Health, if necessary, but may not delay the building permit application review while awaiting comment from the Department of Health.

(14) Nothing in this section shall be construed to alter or supplement the provisions of part I of this chapter relating to manufactured buildings.

(15) One-family and two-family detached residential dwelling units are not subject to plan review by the local fire official as described in this section or inspection by the local fire official as described in s. [633.216](#), unless expressly made subject to the plan review or inspection by local ordinance.

(16)(a) A property owner, regardless of whether the property owner is the one listed on the application for the building permit, may close a building permit by complying with the following requirements:

1. The property owner may retain the original contractor listed on the permit or hire a different contractor appropriately licensed in this state to perform the work necessary to satisfy the conditions of the permit and to obtain any necessary inspections in order to close the permit. If a contractor other than the original contractor listed on the permit is hired by the property owner to close the permit, such contractor is not liable for any defects in the work performed by the original contractor and is only liable for the work that he or she performs.

2. The property owner may assume the role of an owner-builder, in accordance with ss. [489.103\(7\)](#) and [489.503\(6\)](#).

3. For purposes of this section, the term "close" means that the requirements of the permit have been satisfied.

(b) If a building permit is expired and its requirements have been substantially completed, as determined by the local enforcement agency, the permit may be closed without having to obtain a new building permit, and the work required to close the permit may be done pursuant to the building code in effect at the time the local enforcement agency received the application for the permit, unless the contractor has sought and received approval from the local enforcement agency for an alternative material, design, or method of construction.

(c) A local enforcement agency may close a building permit 6 years after the issuance of the permit, even in the absence of a final inspection, if the local enforcement agency determines that no apparent safety hazards exist.

(17)(a) A local enforcement agency may not deny issuance of a building permit to; issue a notice of violation to; or fine, penalize, sanction, or assess fees against an arms-length purchaser of a property for value solely because a building permit applied for by a previous owner of the property was not closed. The local enforcement agency shall maintain all rights and remedies against the property owner and contractor listed on the permit.

(b) The local enforcement agency may not deny issuance of a building permit to a contractor solely because the contractor is listed on other building permits that were not closed.

(18) Certifications by contractors authorized under the provisions of s. [489.115\(4\)\(b\)](#) shall be considered equivalent to sealed plans and specifications by a person licensed under chapter 471 or chapter 481 by local enforcement agencies for plans review for permitting purposes relating to compliance with the wind resistance provisions of the code or alternate methodologies approved by the commission for one and two family dwellings. Local enforcement agencies may rely upon such certification by contractors that the plans and specifications submitted conform to the requirements of the code for wind resistance. Upon good cause shown, local government code enforcement agencies may accept or reject plans sealed by persons licensed under chapter 471, chapter 481, or chapter 489. A truss-placement plan is not required to be signed and sealed by an engineer or architect unless prepared by an engineer or architect or specifically required by the Florida Building Code.

(19)(a) The Florida Building Commission shall establish, within the Florida Building Code adopted by rule, standards for permitting residential buildings or structures moved into or within a county or municipality when such structures do not or cannot comply with the code. However, such buildings or structures shall not be required to be brought into compliance with the building code in force at the time the building or structure is moved, provided:

1. The building or structure is structurally sound and in occupiable condition for its intended use;
2. The occupancy use classification for the building or structure is not changed as a result of the move;
3. The building is not substantially remodeled;

4. Current fire code requirements for ingress and egress are met;
5. Electrical, gas, and plumbing systems meet the codes in force at the time of construction and are operational and safe for reconnection; and
6. Foundation plans are sealed by a professional engineer or architect licensed to practice in this state, if required by the building code for all residential buildings or structures of the same occupancy class;

(b) The building official shall apply the same standard to a moved residential building or structure as that applied to the remodeling of any comparable residential building or structure to determine whether the moved structure is substantially remodeled. The cost of moving the building and the cost of the foundation on which the moved building or structure is placed shall not be included in the cost of remodeling for purposes of determining whether a moved building or structure has been substantially remodeled.

(20) Notwithstanding any other provision of law, state agencies responsible for the construction, erection, alteration, modification, repair, or demolition of public buildings, or the regulation of public and private buildings, structures, and facilities, shall be subject to enforcement of the Florida Building Code by local jurisdictions. This subsection applies in addition to the jurisdiction and authority of the Department of Financial Services to inspect state-owned buildings. This subsection does not apply to the jurisdiction and authority of the Department of Agriculture and Consumer Services to inspect amusement rides or the Department of Financial Services to inspect state-owned buildings and boilers.

(21)(a) A local enforcing agency, and any local building code administrator, inspector, or other official or entity, may not require as a condition of issuance of a one- or two-family residential building permit the inspection of any portion of a building, structure, or real property that is not directly impacted by the construction, erection, alteration, modification, repair, or demolition of the building, structure, or real property for which the permit is sought.

(b) This subsection does not apply to a building permit sought for:

1. A substantial improvement as defined in s. [161.54](#) or as defined in the Florida Building Code.
2. A change of occupancy as defined in the Florida Building Code.
3. A conversion from residential to nonresidential or mixed use pursuant to s. [553.507\(3\)](#) or as defined in the Florida Building Code.
4. A historic building as defined in the Florida Building Code.

(c) This subsection does not prohibit a local enforcing agency, or any local building code administrator, inspector, or other official or entity, from:

1. Citing any violation inadvertently observed in plain view during the ordinary course of an inspection conducted in accordance with the prohibition in paragraph (a).
2. Inspecting a physically nonadjacent portion of a building, structure, or real property that is directly impacted by the construction, erection, alteration, modification, repair, or demolition of the building, structure, or real property for which the permit is sought in accordance with the prohibition in paragraph (a).
3. Inspecting any portion of a building, structure, or real property for which the owner or other person having control of the building, structure, or real property has voluntarily consented to the inspection of that portion of the building, structure, or real property in accordance with the prohibition in paragraph (a).
4. Inspecting any portion of a building, structure, or real property pursuant to an inspection warrant issued in accordance with ss. [933.20-933.30](#).

(d) This subsection is repealed upon receipt by the Secretary of State of the written certification by the chair of the Florida Building Commission that the commission has adopted an amendment to the Florida Building Code which substantially incorporates this subsection, including the prohibition in paragraph (a), as part of the code and such amendment has taken effect.

(22) If an assessment of a new building's interior radio coverage and signal strength under the Florida Fire Prevention Code determines that installation of a two-way radio communication enhancement system is required, a contractor having the appropriate license issued by the department must submit a design to the local authority having jurisdiction for a two-way radio communication enhancement system to correct noncompliant radio coverage. The local authority having jurisdiction may not withhold issuance of a temporary certificate of occupancy

for the building based solely on the need for a two-way radio communication enhancement system. Upon approval of the design by the local authority having jurisdiction, the jurisdiction must require the installation of the two-way radio communication enhancement system within 12 months after the issuance of a temporary certificate of occupancy. An extension for a temporary certificate of occupancy may not be unnecessarily withheld.

(23) For the purpose of inspection and record retention, site plans or building permits may be maintained in the original form or in the form of an electronic copy at the worksite. These plans and permits must be open to inspection by the building official or a duly authorized representative, as required by the Florida Building Code.

(24)(a) A political subdivision of this state may not adopt or enforce any ordinance or impose any building permit or other development order requirement that:

1. Contains any building, construction, or aesthetic requirement or condition that conflicts with or impairs corporate trademarks, service marks, trade dress, logos, color patterns, design scheme insignia, image standards, or other features of corporate branding identity on real property or improvements thereon used in activities conducted under chapter 526 or in carrying out business activities defined as a franchise by Federal Trade Commission regulations in 16 C.F.R. ss. 436.1, et. seq.; or
2. Imposes any requirement on the design, construction, or location of signage advertising the retail price of gasoline in accordance with the requirements of ss. 526.111 and 526.121 which prevents the signage from being clearly visible and legible to drivers of approaching motor vehicles from a vantage point on any lane of traffic in either direction on a roadway abutting the gas station premises and meets height, width, and spacing standards for Series C, D, or E signs, as applicable, published in the latest edition of Standard Alphabets for Highway Signs published by the United States Department of Commerce, Bureau of Public Roads, Office of Highway Safety.

(b) This subsection does not affect any requirement for design and construction in the Florida Building Code.

(c) All such ordinances and requirements are hereby preempted and superseded by general law. This subsection shall apply retroactively.

(d) This subsection does not apply to property located in a designated historic district.

(25)(a) A local law, ordinance, or regulation may not prohibit or otherwise restrict the ability of a private property owner to obtain a building permit to demolish his or her single-family residential structure located in a coastal high-hazard area, moderate flood zone, or special flood hazard area according to a Flood Insurance Rate Map issued by the Federal Emergency Management Agency for the purpose of participating in the National Flood Insurance Program if the lowest finished floor elevation of such structure is at or below base flood elevation as established by the Florida Building Code or a higher base flood elevation as may be required by local ordinance, whichever is higher, provided that such permit otherwise complies with all applicable Florida Building Code, Florida Fire Prevention Code, and Life Safety Code requirements, or local amendments thereto.

(b) An application for a demolition permit sought under this subsection may only be reviewed administratively for compliance with the Florida Building Code, the Florida Fire Prevention Code, and the Life Safety Code, or local amendments thereto, and any regulations applicable to a similarly situated parcel. Applications may not be subject to any additional local land development regulations or public hearings. A local government may not penalize a private property owner for a demolition that is in compliance with the demolition permit.

(c) If a single-family residential structure is demolished pursuant to a demolition permit, a local government may not impose additional regulatory or building requirements on the new single-family residential structure constructed on the site of the demolished structure which would not otherwise be applicable to a similarly situated vacant parcel.

(d) This subsection does not apply to any of the following:

1. A structure designated on the National Register of Historic Places.
2. A privately owned single-family residential structure designated historic by a local, state, or federal governmental agency on or before January 1, 2022.
3. A privately owned single-family residential structure designated historic after January 1, 2022, by a local, state, or federal governmental agency with the consent of its owner.

History.—s. 10, ch. 74-167; s. 4, ch. 77-365; s. 10, ch. 83-160; s. 1, ch. 83-352; s. 2, ch. 84-24; s. 3, ch. 84-365; s. 2, ch. 85-97; s. 2, ch. 86-135; s. 2, ch. 87-287; s. 5, ch. 87-349; s. 2, ch. 88-142; s. 1, ch. 88-378; s. 1, ch. 91-7; s. 4, ch. 93-249; ss. 57, 260, ch. 94-119; s. 7, ch.

94-284; s. 461, ch. 94-356; s. 72, ch. 95-144; s. 2, ch. 95-379; s. 14, ch. 96-298; s. 73, ch. 96-388; s. 1175, ch. 97-103; ss. 48, 49, ch. 98-287; ss. 82, 83, 84, 135, ch. 2000-141; ss. 27, 34, 35, 37, ch. 2001-186; ss. 2, 3, 4, 6, ch. 2001-372; s. 666, ch. 2003-261; s. 10, ch. 2005-147; s. 36, ch. 2010-176; s. 1, ch. 2011-82; s. 73, ch. 2012-5; s. 15, ch. 2012-13; s. 150, ch. 2013-183; s. 16, ch. 2013-193; s. 126, ch. 2014-17; s. 22, ch. 2014-154; ss. 19, 39, ch. 2016-129; s. 36, ch. 2017-3; s. 3, ch. 2017-149; s. 5, ch. 2019-75; s. 11, ch. 2019-86; s. 131, ch. 2020-2; s. 15, ch. 2021-25; s. 3, ch. 2021-201; s. 2, ch. 2021-212; s. 4, ch. 2021-224; s. 3, ch. 2022-136; s. 1, ch. 2023-229; s. 1, ch. 2023-296; s. 227, ch. 2024-6; s. 3, ch. 2024-191.

CUMBERLAND FARMS RE-BRANDING  
VARIANCE APPLICATION FOR TWO SIGN MODIFICATIONS

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