

**Town of Loxahatchee Groves, Florida  
Town Council Agenda Item Report; Resolution 2022-53  
Culvers Sign Variance V-2022-02**

**PREPARED BY:** Jim Fleischmann

September 8, 2022

**SUBJECT: Resolution 2022-53 - Permit** a Secondary Wall Sign and increase the size of the Menu Board Sign above the maximum allowed by the Town Code.

**1. BACKGROUND/HISTORY**

**History:** The Town Council approved a Site Plan on July 6, 2021 for the Culver's Restaurant portion of the 4.49 acre Groves town Center Pod B

**Issue Statement:** The Applicant has requested that a second Wall Sign be allowed on the west elevation of the of Culvers Restaurant building and the Menu Board sign be increased, as follows:

1. Allow a Secondary Wall Sign facing "B" Road at 29.96 sq. ft.; and
2. Increase the size of the Menu Board Sign from a ULDC maximum of 12 square feet to 24 sq. ft.

**Issue Resolution:** Per the ULDC, a variance will not be contrary to the public interest if the Applicant has demonstrated, by competent and substantial evidence, that each of five review criteria in Section 150-020 is met. In order to recommend approval of the proposed variance, the Town Council should find that the application meets each of the five criteria.

**2. CURRENT ACTIVITY**

The Planning and Zoning Board (PZB), at its meeting on August 25, 2022 recommended approval of the Culvers Restaurant Sign Variance Application V-2022-02 by a 4 – 0 vote.

Based upon the PZB report titled: "Agenda Item Staff Summary Variance Application V-2022-02" dated August 25, 2022, Staff finds that the Applicant has demonstrated that each of the five review criteria in ULDC Section 150-020 has been satisfied and therefore recommends approval of Resolution 2022-53.

**3. ATTACHMENTS**

1. Resolution 2022-53
2. Planning and Zoning Board Staff Report dated August 25, 2022

**4. RECOMMENDED ACTION:** Approval of Resolution 2022-53, as recommended by PZB and Staff.

## **TOWN OF LOXAHATCHEE GROVES**

### **RESOLUTION 2022-53**

**A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF LOXAHATCHEE GROVES, FLORIDA, APPROVING THE CULVERS SIGN VARIANCE, FOR LAND OWNED BY KASEY BETHEL, CONSISTING OF 1.397 ACRES MORE OR LESS, LOCATED ON THE NORTH SIDE OF SOUTHERN BOULEVARD EAST OF “B” ROAD LOXAHATCHEE GROVES, FLORIDA, LEGALLY DESCRIBED IN EXHIBIT “A” TO THIS RESOLUTION; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTS; AND PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, the Town Council, as the governing body of the Town of Loxahatchee Groves, Florida (“Town”), pursuant to the authority vested in Chapter 163 and Chapter 166, Florida Statutes, is authorized and empowered to consider applications relating to variances from land development regulations for development on property within the Town; and

**WHEREAS**, the Council, pursuant to Section 150-010 (Authority) of the Town of Loxahatchee Groves Unified Land Development Code (ULDC) is granted the authority to permit a variance to the provisions of the ULDC related to: (1) height; (2) yards; (3) parking and loading; (4) landscaping and buffers; (5) separation of uses; (6) plot coverage; and/or (7) such other provisions of the Code which do not specifically prohibit such requests; and

**WHEREAS**, the notice and hearing requirements, as provided for in Article 115 (Public Hearing Notices) of the ULDC have been satisfied; and

**WHEREAS**, the Town Planning and Zoning Board (P&Z Board), at its meeting of August 25, 2022 recommended approval of the Culvers Variance Application V--2022-02; and

**WHEREAS**, the Culvers. Application V-2022-02, was presented to the Town Council at a quasi-judicial public hearing conducted on September 8, 2022; and

**WHEREAS**, the Town Council has considered the evidence and testimony presented by the applicant and other interested parties and the recommendations of Town staff and Town P&Z Board; and

**WHEREAS**, the ULDC requires that the action of the town Council of Loxahatchee Groves be adopted by resolution;.

**NOW, THEREFORE**, be it resolved by the Town Council of the Town of Loxahatchee Groves as follows:

**Section 1.** Each “WHEREAS” clause set forth above is true and correct and herein incorporated by this reference.

**Section 2.** The Town Council has considered the analysis and findings of the Planning and Zoning Board report entitled “Agenda Item Staff Summary: Variance Application V-2022-02:” dated September August 25, 2022 and the Town Planning and Zoning Board recommendation and makes the following findings of fact:

- 1. V-2022-02 is a request to permit a Secondary Wall Sign of 29.96 sq. ft. on the west building elevation and increase the Menu Board size from 12 sq. ft. to 24 sq. ft.; and.
- 2. V-2022-02, complies with relevant and appropriate portions of applicable Town of Loxahatchee Groves land development regulations, including Sections 150-010(B) and 150-010(C).
- 3. The Applicant has demonstrated, by competent substantial evidence, based upon responses to the criteria of Section 150-020 (Considerations for variances) of the Town of Loxahatchee Groves land development regulations, that V-2022-02 meets the stated criteria and is not contrary to the public interest.

**Section 3.** The Town Council of the Town of Loxahatchee Groves approves the Culvers Variance Application V-2022-02 for the parcel of land legally described in Exhibit A, attached hereto and made a part hereof, and generally located as shown on a vicinity sketch as indicated in Exhibit A, attached hereto and made a part hereof.

**Section 4.** The approval is subject to Section 150-030 (Time limits) of the Town of Loxahatchee Groves Unified Land Development Code and other provisions requiring that development commence in a timely manner.

**Section 5.** All resolutions or parts of resolutions in conflict herewith are hereby repealed to the extent of such conflict.

**Section 6.** If any clause, section, other part or application of this Resolution is held by any court of competent jurisdiction to be unconstitutional or invalid, in part or application, it shall not affect the validity of the remaining portions or applications of this Resolution.

**Section 7.** This Resolution shall become effective upon adoption.

Council Member \_\_\_\_\_ offered the foregoing resolution. Council Member \_\_\_\_\_ seconded the motion, and upon being put to a vote, the vote was as follows:

	<u>Aye</u>	<u>Nay</u>	<u>Absent</u>
Robert Shorr, MAYOR	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Laura Danowski, VICE MAYOR	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Marge Herzog, COUNCIL MEMBER	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Marianne Miles, COUNCIL MEMBER	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Phillis Maniglia, COUNCIL MEMBER	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

**RESOLVED AND ADOPTED** by the Town Council of the TOWN OF LOXAHATCHEE GROVES, Florida this 8th day of September 2022.

**TOWN OF LOXAHATCHEE GROVES,  
FLORIDA**

ATTEST:

\_\_\_\_\_  
Mayor Robert Shorr

\_\_\_\_\_  
Town Clerk

\_\_\_\_\_  
Vice Mayor Laura Danowski

\_\_\_\_\_  
Council Member Phillis Maniglia

APPROVED AS TO LEGAL FORM:

\_\_\_\_\_  
Council Member Marge Herzog

\_\_\_\_\_  
Town Attorney

\_\_\_\_\_  
Council Member Marianne Miles

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**EXHIBIT A****LEGAL DESCRIPTION AND LOCATION MAP**

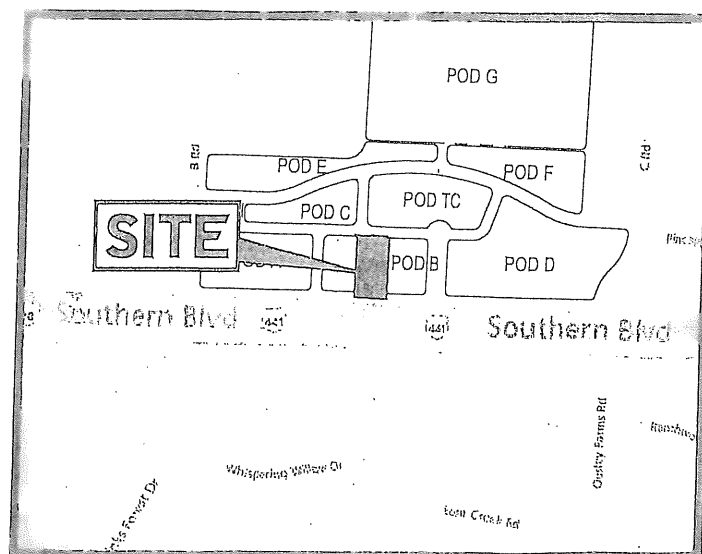
**The following Legal Description is applicable to Resolution 2022-53:**

A portion of Pod and Tract LB4. "Groves Town Center PUD", according to the plat thereof, as recorded in plat book 128, pages 66 through 70, of the public records of Palm Beach County, Florida, more particularly as described as follows:

Commencing at the southwest corner of said Tract LB4; Thence south  $88^{\circ}26'46''$  east along the south line of said Tract LB4, also being the North Right-Of-Way line of Southern Boulevard 249.06 feet to the point of beginning; Thence north  $01^{\circ}33'14''$  East 348.33 feet; Thence south  $88^{\circ}26'46''$  east 174.65 feet; Thence south  $01^{\circ}33'44''$  west 348.33 feet to a point on the aforementioned south line and north Right-Of-Way line; Thence north  $88^{\circ}26'4''^{1}$  west along said south line and north Right-Of-Way line 174.65 feet to the point of beginning.

Said lands situate, lying, and being in the Town of Loxahatchee Groves, Palm Beach County, Florida, and containing 60,834 square feet (1.3966 acres), more or less.

**Parcel Control Numbers: 41-41-43-31-13-002-0010 (portion)**

**LOCATION MAP**

**TOWN OF LOXAHATCHEE GROVES  
PLANNING AND ZONING BOARD  
August 25, 2022**

**AGENDA ITEM STAFF SUMMARY: VARIANCE APPLICATION VA-2022-01**

***A. DESCRIPTION OF THE PROPERTY***

***Project Name:*** Culver's Sign Variance Application VA-22-02 (Groves Town Center Pod B)

***Agent:*** Robert Rogers, Rogers' Sign Corp.

***Applicants:*** Kasey Bethel, Contract Purchaser

***Owners:*** Solar Sport Systems, Inc.

***Parcel Control Number (PCN):*** 41-41-43-31-13--002-0010 (portion).

***Project Location:*** Southern Boulevard. East of the northeast corner of Southern Boulevard and "B" Road (Pod B of the Groves Town Center MUPD).

***Size of Property:*** 1.39 acres.

***FLU Map Designation:*** Portion of the Commercial Low (CL) Pod B of the Groves Town Center Multiple Land Use Conceptual Master Plan.

***Zoning Map Designation:*** Multiple Land Use Planned Unit Development (MLU/PUD)

***Existing Use:*** Palm Beach County Property Appraiser (PAPA) Use Code – 1000 Vacant Commercial.

***B. APPROVAL HISTORY***

The Subject Site, located on the north side of Southern Boulevard east of "B" Road in Loxahatchee Groves, is a portion of the 4.49 acre Pod B of the 90 acre "Groves Town Center" which was assigned a Multiple Land Use (MLU) future land use designation by the Town for the purpose of implementing a mixed-use development concept consisting of the following three land uses: Commercial Low (CL), Commercial Low Office (CL-O), and Institutional (INST). Subsequent to the MLU approval, the Groves Town Center parcel was assigned an MLU/PUD zoning approval, including a Conceptual Master Plan.

The Town Council approved a Site Plan on July 6, 2021 for the Culver's Restaurant portion of the 4.49 acre Groves town Center Pod B

***C. APPLICATION REQUEST***

The Applicant has requested variances from ULDC Section 90-040(B) (3) *Building wall sign* and Section 90-040(B) (5) *Monument or Panel Sign* to allow for: (1) a second building wall sign; and (2) an increase in the maximum square footage of the menu sign.

Culvers

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Variance Application VA 2022-01  
August 2022

Specifically, the Applicant has requested variance approval to allow a west elevation building wall sign of 29.96 square feet and a menu board sign of 24 sq. Refer to Exhibits 1 - 3 for proposed sign illustrations.

#### **D. STAFF REVIEW**

ULDC Section (B) (3) b states that one wall sign is permitted unless a building is located at a street corner where a second sign is permitted. As the Culvers Restaurant is not located at a corner, a second wall sign is currently not permitted. The requested wall sign variance is to allow a second wall sign of 29.96 sq. ft. on the west building elevation (Refer to Exhibits 1 and 2).

ULDC Section 90-040(B)(5)b states that a drive-thru (panel sign) is permitted on a building of 1,000 sq. ft. or more with a maximum face area of no greater than 12 sq. ft.. The requested panel sign variance is to allow a drive-thru menu board of 24 sq. ft. (Refer to Exhibit 3).

Variance procedures and requirements are contained in Article 150 *Variances* of the Town's ULDC. Per ULDC Section 150-010(B), the Town Council may grant a variance provided that such approval will not result in a use which is specifically or by inference prohibited in the zoning district.

Further, per ULDC Section 150-010(C), variance applications will not be considered with respect to the following:

1. Where plans have been submitted and approved and permits issued, and additional work not shown on the approved plans has been performed. Previous plans have not been submitted and approved, permits issued and additional work completed on the wall sign or menu board on the property.

2. Where a property has been subdivided and as a result an existing structure is in violation of the provisions of the ULDC. There is no existing structure in Pod B.

Brief descriptions of abutting properties are presented in the following table. Southern Boulevard, followed by the C-51 Canal right-of-way, borders the Subject Site to the south and vacant parcels within the Groves Town Center mixed-use planned development, border the Subject Site the north, west and east.

#### **Inventory of Abutting Properties**

<b>Direction</b>	<b>Description</b>
North	Vacant – Pod "C" of Groves Town Center
South	Southern Boulevard followed by C-51 Canal
East	Approved – Southern Palms Car Wash
West	Vacant Parcel – Pod "B" of Groves Town Center

Per ULDC Section 150-020 of the ULDC, a variance will not be contrary to the public interest if the Applicant has demonstrated, by competent and substantial evidence, that

each of five review criteria is met. The five criteria and the Applicant's responses are presented below:

**Criterion 1:** *That special conditions and circumstances exist which are unique to the property, or the intended use of the property, that do not generally apply to other properties in the same zoning district.*

**Applicant's Response:** The property dimensions do not allow the main business entrance to face a roadway which would allow a wall sign over the entrance. The business will have two frontages on roadways but there is only allowance for one sign. The restrictive code for the menu board allowance would severely limit the number of items customers would see are available for order.

**Staff Analysis:** The Property is located on Southern Boulevard which functions as a freeway with a considerable traffic volume moving at high speeds. A wall sign facing Southern Boulevard is, therefore, necessary and appropriate. The ULDC anticipates permitting one wall sign per tenant with an individual standard entrance. Due to the configuration of the lot, Culvers standard entrance faces west, as opposed to south toward Southern Boulevard. This creates a unique situation where two wall signs are appropriate; one facing Southern Boulevard and a second over the standard entrance on the west elevation.

Due to the number of food items available for order, Culvers requires a menu board larger than the ULDC permits in order adequately inform drive-thru customers regarding possible food selections.

Staff concludes that frontage on Southern Boulevard and the location of the standard entrance on the west elevation create special conditions and circumstances related to justification for the second wall sign. The size of Culvers food offering creates a need for a menu board larger than the ULDC permits. On this basis, Staff concludes that Criterion 1 has been satisfied.

**Criterion 2:** *That any alleged hardship is not self-created is not self-created by any person having an interest in the property and is not the result of mere disregard for, or ignorance of, the provisions of the Code, but is instead the result of one or more of the special condition(s) found above.*

**Applicant's Response:** The code only allows a second sign for businesses on a corner lot and not for businesses with multiple frontages not on a corner. The code only allows for a 12 sq. ft. menu board with is substantially smaller than the industry average of 50+- square feet to allow customers to see all items available for order at a legible font size.

**Staff Analysis:** The hardship is determined to consist of the west-facing location of the standard entrance, the ULDC maximum menu board sign in relation to industry standards, and the large available food offering in relation to the maximum menu board size. As a result, the hardship was not self-created. On this basis, Staff concludes that Criterion 2 has been satisfied.



**Criterion 3:** *That literal interpretation of the Code would deprive the applicant of reasonable use of the property, in that the applicant would be deprived of rights commonly enjoyed by properties in the same zoning district, and would thereby cause an unnecessary and undue hardship.*

**Applicant's Response:** Not allowing a second wall sign over the business entrance visible from the secondary frontage would cause confusion for potential customers not being able to identify the business. The limited size menu board would cause customers to not be aware of all items available for order directly impacting the sales of the business.

**Staff Analysis:** *The issue of customer visibility (i.e. location of the standard entrance and customer awareness of menu items) are addressed in Criteria 1 and 2. Based upon the above analysis, denial of the proposed Secondary Wall Sign and enlarged Menu Board would deprive the Applicant of the same rights (i.e. Wall signage both facing Southern Boulevard and visible from the standard entrance and visibility of the preferred menu within the drive-thru). On this basis, Staff concludes that Criterion 3 has been satisfied.*

**Criterion 4:** *The Variance proposed is the minimum variance that will make possible the reasonable use of the property and it will not confer on the applicant any special privilege that is denied to any other properties in the same zoning district.*

**Applicant's Response:**

Allow a second wall sign visible from the secondary frontage over the main business entrance of 29.96 sq. ft. Allow a larger menu board of 24 sq. ft.

**Staff Analysis:** The Applicant stated that a Secondary Wall Sign is needed to provide visibility for customers in terms of location of the standard entrance to the restaurant. Primary Wall Signs are allowed up to 36 sq. ft. by the ULDC while the Applicant is requesting a Secondary Wall Sign of 29.96 sq. ft.

The Applicant stated that Menu Board proposed size of 24 sq. ft., less than the industry standard of 50 sq. ft., is needed to inform customers of the food offering. Menu Boards are allowed up to 12 sq. ft. by the ULDC while the Applicant is requesting a sign approval of 24 sq. ft.

Sign Variances have been approved for Publix, Tractor Supply, Wendy's and Aldi, in consideration of their individual needs and business requirements. On this basis, having established the basis for its request, Staff concludes that Criterion 4 has been satisfied.

**Criterion 5:** *That the granting of the variance will be in-harmony with the general intent and purpose of the Code and such variance will not be injurious to the area involved or otherwise detrimental to the public welfare.*

**Applicant's Response:** The code allows for corner lot businesses to have a secondary wall sign but not businesses with a Southern Boulevard frontage and not on a corner lot. The intention of allowing a business to be visible from all road frontages

would be maintained. Allowing the larger menu board consistent with industry standards would not impact the surrounding area since it would only be visible to customers in the drive thru.

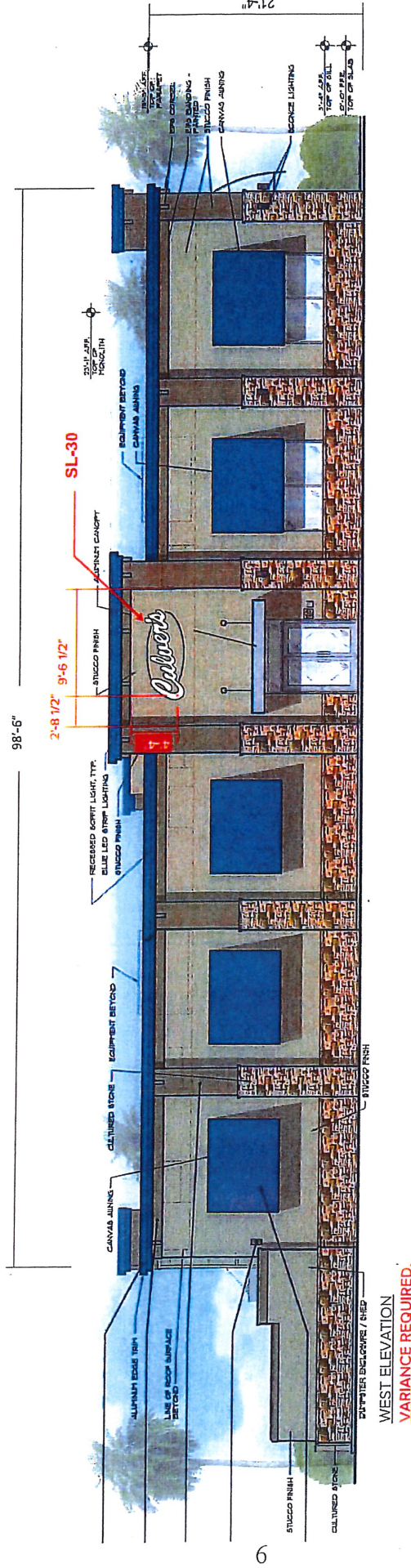
**Staff Analysis:** Per Section 40-010(a) of the Town's Land Development Code, the purpose and intent of a Planned Unit Development (PUD) zoning district is to provide creative solutions to implement Town planning directives. Groves Town Center has been designed in accordance with the design guidelines of an MUPD development. As such, signage should be designed to effectively and safely advertise properties understanding their function and design. Granting the Variance Request will be in harmony with the general intent and purpose of the Code and will not be injurious to the surrounding area or public welfare.

Per Section 90-005(C) *Compatibility of the ULDC*, signs should be made compatible with the overall objectives of the Comprehensive Plan by ensuring compatibility with surrounding land uses. Approval of the Variance will maintain compatibility with commercial development along Southern Boulevard and further enhance the safety of motorists and customers. On this basis, Staff concludes that Criterion 5 has been satisfied.

#### ***E. STAFF RECOMMENDATION***

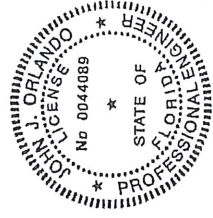
It is concluded that the Applicant has demonstrated, by competent and substantial evidence, that each of five review criteria in ULDC Section 150-020, as required by code, has been met. Based upon this conclusion, Staff recommends approval of Variance Application VA- 22-02 permitting a Secondary Wall Sign of 29.96 sq. ft. on the west elevation and a Menu board of 24 sq. ft.

### **EXHIBIT 1 – PROPOSED WEST ELEVATION WALL SIGN**



## EXHIBIT 1 – PROPOSED WEST ELEVATION WALL SIGN

Culvers  
Variance Application VA 2022-01  
August 2022



**John Orlando**  
Digitally signed by John Orlando  
Date: 2021.12.20 17:54:17 -0500

This item has been electronically signed and sealed by John J. Orlando, PE using a digital signature and seal.  
Printed copies of this document are not considered signed and sealed and the signature must be verified on any electronic copies.  
Conforms to the requirements of the 7th Edition (2006) of the Florida Building Code section 1620.10(12) and 3102.9(14) - 170 mph Exposure category - C, IIIA category - II  
John J. Orlando PE LLC - 165 Old Bridge Road - Maitland, FL 32751-4716 / 407-215-5384 - jorlando@ccrnet.com - Florida registration # 00440889  
Job 1162185  
Sheet 1 of 3







# EXHIBIT 3 – PROPOSED MENU BOARD DESIGN SPECIFICATIONS



24 sq ft

FRONT ELEVATION  
scale | 1/2" = 1'