



**Interoffice Memorandum**

**DATE:** September 24, 2020

**TO:** Mayor Jerry L. Demings  
-AND-  
Board of County Commissioners

**FROM:** Jon V. Weiss, P.E., Director  
Planning, Environmental, and Development Services  
Department

**CONTACT PERSON:** Ted Kozak, AICP, Chief Planner  
Zoning Division  
(407) 836-5537

**SUBJECT:** October 13, 2020 – Board Called Public Hearing  
Applicant: Northern Tool + Equipment (Kory Schmidt)  
BZA Case #VA-20-08-074, August 6, 2020; District 3

Board of Zoning Adjustment (BZA) Case # VA-20-08-074, located at 795 W. Sand Lake Road, Orlando, Florida, 32809, in District 3, is a Board called public hearing. The applicant is requesting a variance to allow a total of 225 square feet of wall sign copy area in lieu of 211.2 sq. ft.

The subject property is located on north side of W. Sand Lake Rd., approximately 500 ft. west of Winegard Rd.

At the August 6, 2020 BZA hearing, staff recommended denial of the variance. The BZA unanimously recommended approval of the requested variance with 4 conditions of approval and the addition of a new Condition #5, which states, "If there is a need to replace existing wall signage, any new future wall signage shall meet the Orange County Sign Code".

The application for this request is subject to the requirements of Article X, Chapter 2, Orange County Code, as may be amended from time to time, which mandates the disclosure of expenditures related to the presentation of items or lobbying of items before the BCC. A copy is available upon request in the Zoning Division.

If you have any questions regarding this matter, please contact Ted Kozak, AICP at (407) 836-5537.

**ACTION REQUESTED:** Approve the applicant's request; or approve the applicant's request with modifications and/or conditions; or deny the applicant's request. District 3.

**PLANNING, ENVIRONMENTAL, AND DEVELOPMENT SERVICES DEPARTMENT  
ZONING DIVISION PUBLIC HEARING REPORT**

**October 13, 2020**

The following is a board called public hearing before the Board of County Commissioners on October 13, 2020 at 2:00 p.m.

**APPLICANT:** NORTHERN TOOL+EQUIPMENT (KORY SCHMIDT)

**REQUEST:** Variance to allow a total of 225 square feet sign copy area in lieu of 211.2 sq. ft.

**LOCATION:** 795 W. Sand Lake Road, Orlando, Florida, 32809, North side of W. Sand Lake Rd., approximately 500 ft. west of Winegard Rd.

**TRACT SIZE:** 422 ft. x 282 ft. (avg.)/ 3.08 acres

**ZONING:** C-2

**DISTRICT:** #3

**PROPERTIES NOTIFIED:** 446

**BOARD OF ZONING ADJUSTMENT (BZA) HEARING SYNOPSIS ON REQUEST:**

Staff described the property, the surrounding area, the retailer's commercial operations, the existing signage and the available wall sign area based on the east building frontage. Staff provided an analysis of the six (6) criteria, and the reasons for a recommendation for denial, including the fact the retailer has other options, including the reduction of the existing wall signs or the removal of one of the existing wall signs, in order to meet sign code requirements. Staff noted that that no comments were received in support or in opposition.

The applicant's representative, the sign contractor, explained the need for the additional wall sign based upon the signed contractual agreement between the retailer and the vendor. He understood the logic behind staff's recommendation but he emphasized that the requested excess wall sign area was only a few square feet higher than the sign code requirements. He also noted the condition of landscaping on the site and its superior condition in comparison with other similar businesses. There was no one in attendance to speak in favor or in opposition to the request.

The BZA briefly discussed the applicant's contractual need and asked clarifying questions regarding the existing ground signage and its inclusion with staff's review of the proposed variance.

The BZA felt that due to the branding of the retailer, that no special privilege was conferred due to the contract obligations, and since the request included a relatively a

small sign, it was a minimum possible variance, and that there were special conditions and circumstances regarding this application. Further, the BZA stated that there is a need for the variance, which is not self-created, since it is needed in order to promote the retailer. After discussion, the BZA supported addition of a requirement that any future replacement of existing walls signs meet the Orange County Sign Code.

The BZA unanimously recommended approval of the Variance, subject to the four (4) conditions in the staff report and subject to the addition of Condition #5, which states "If there is a need to replace existing wall signage, any new future wall signage shall meet the Orange County Sign Code".

**BZA HEARING DECISION:**

A motion was made by Juan Velez, seconded by Roberta Walton and unanimously carried to recommend APPROVAL of the Variance request in that the Board made the finding that the requirements of Orange County Code, Section 30-43(3) have been met; further, said approval is subject to the following conditions (unanimous 7-0):

1. Development in accordance with the site plan and sign specifications dated June 9, 2020, subject to the conditions of approval and all applicable laws, ordinances, and regulations. Any proposed non-substantial deviation, change, or modification shall be subject to the Zoning Manager's review and approval. Any proposed substantial deviation, change, or modification shall be subject to a public hearing before the Board of Zoning Adjustment (BZA) where the BZA makes a recommendation to the Board of County Commissioners (BCC).
2. Pursuant to Section 125.022, Florida Statutes, issuance of this development permit by the County does not in any way create any rights on the part of the applicant to obtain a permit from a state or federal agency and does not create any liability on the part of the County for issuance of the permit if the applicant fails to obtain requisite approvals or fulfill the obligations imposed by a state or federal agency or undertakes actions that result in a violation of state or federal law. Pursuant to Section 125.022, the applicant shall obtain all other applicable state or federal permits before commencement of development.
3. Any deviation from a Code standard not specifically identified and reviewed/addressed by the Board of County Commissioners shall be resubmitted for the Board's review or the plans revised to comply with the standard.
4. If there is a need to modify any existing vegetation on the site to accommodate the new sign, the applicant shall provide a revised landscape plan which must be approved by a County arborist prior to issuance of a sign permit.
5. If there is a need to replace existing wall signage, any new wall signage shall meet the Orange County Sign Code.

# BZA STAFF REPORT

Planning, Environmental & Development Services/ Zoning Division

Meeting Date: **AUG 06, 2020**

Case Planner: **David Nearing, AICP**

Case #: **VA-20-08-074**

Commission District: **#3**

## GENERAL INFORMATION

APPLICANT(s): **NORTHERN TOOL + EQUIPMENT (KORY SCHMIDT)**

OWNER(s): **REALTY INCOME PROPERTIES 21 LLC**

REQUEST: **Variance to allow a total of 225 square feet of wall sign copy area in lieu of 211.2 sq. ft.**

PROPERTY LOCATION: **795 W. Sand Lake Road, Orlando, Florida, 32809, north side of W. Sand Lake Rd., approximately 500 ft. west of Winegard Rd.**

PARCEL ID: **26-23-29-0000-00-109**

LOT SIZE: **422 ft. x 282 ft. (avg.)/ 3.08 acres**

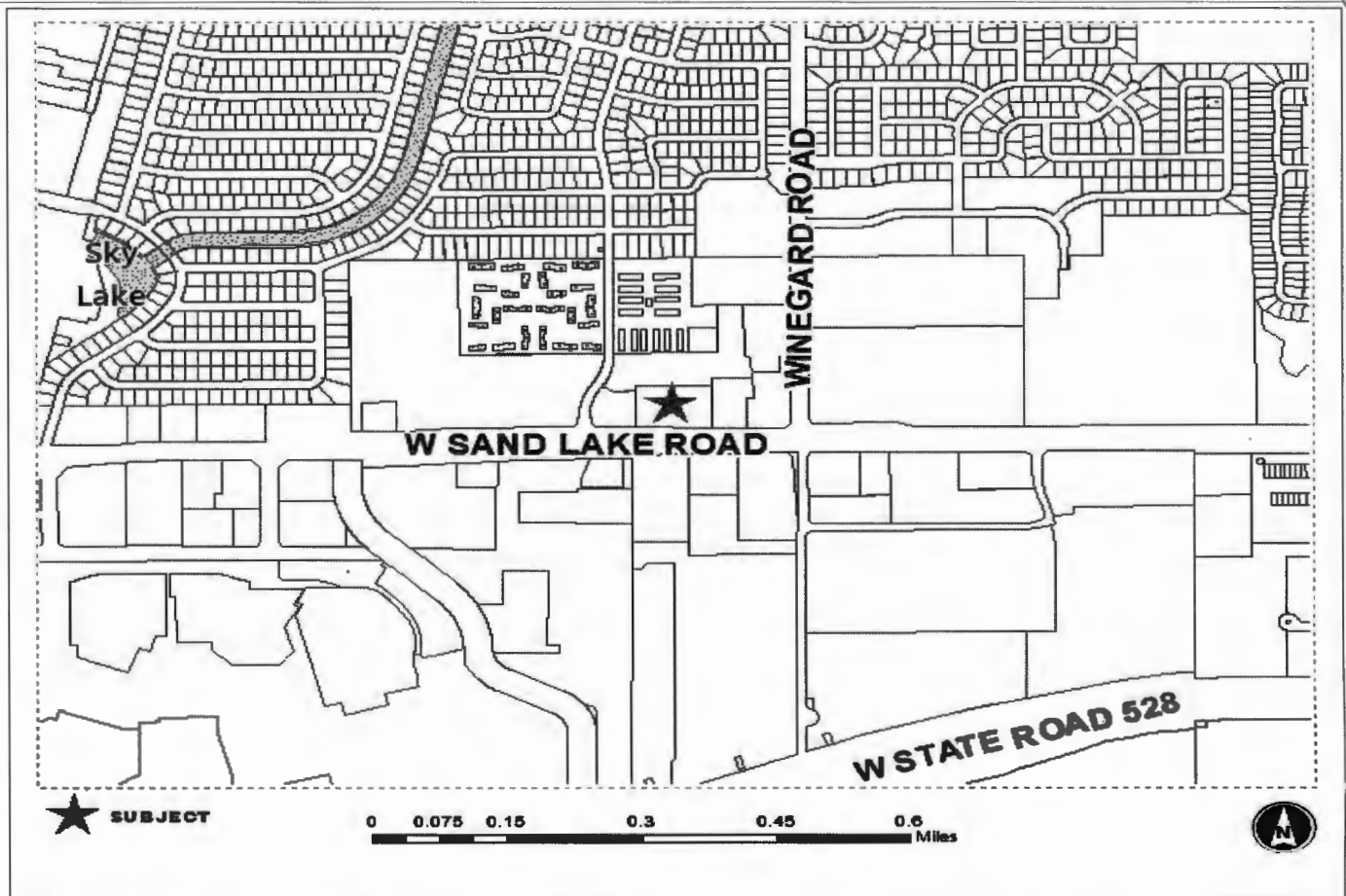
NOTICE AREA: **800 ft.**

NUMBER OF NOTICES: **446**

## STAFF RECOMMENDATIONS

Denial. However, should the BZA find that the applicant has satisfied the criteria necessary to grant a variance, staff recommends that the approval be subject to the conditions in this report.

## LOCATION MAP



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**SITE & SURROUNDING DATA**

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	Property	North	South	East	West
Current Zoning	C-2	P-D	P-D	C-2	C-2 & P-D
Future Land Use	C	PD-HDR	PD-C/IND & O	C & PD-HDR	C
Current Use	Commercial	Multifamily	Vacant	Commercial	Convenience retail

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**BACKGROUND AND ANALYSIS**

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**DESCRIPTION AND CONTEXT**

The subject property is located in the C-2, General Commercial district. The C-2 district allows a variety of commercial businesses including automotive repair/sales, selected trade shops, and provides a larger area than that of the retail commercial district.

The subject property is a 3.08 acre parcel which was created through a lot split (LS 2003-154). The property is developed with a 30,607 sq. ft. structure for an existing business which specializes in the sale of power tools and equipment. The subject property was conditionally rezoned from I-3 to C-2 in June, 1998 with two (2) conditions which have been met. The first condition requires a masonry wall between the residential to the north and the commercial. The second condition prohibits outdoor storage and display. A masonry wall was installed along the north property line of the subject property, and no outdoor storage was observed on the site.

Per the sign code, the building is allowed up to 211.2 sq. ft. of wall signage per Sec 31.5-15, which is 1.5 sq. ft. for each foot of building frontage. For the purposes of calculating allowable sign area, frontage is determined based on the location of the primary entrance to the building, which in this case is the east elevation. With an east elevation of 140.8 ft., there is 205.37 sq. ft. of signage installed, including two (2) circular signs, each 38.48 sq. ft. in size totaling 76.96 sq. ft., and one rectangular sign totaling 128.41 sq. ft.; therefore, there is a remaining balance of 5.83 sq. ft. of available wall sign. The existing wall signage was installed through permit #B06012020. In addition to the existing wall signage, the site also contains a 30 ft. tall 144.84 sq. ft. pole sign, and a 24 sq. ft. ground sign, also installed through permit #B06012020, both of which are double sided.

The applicant's cover letter indicates that they are under contractual obligation to provide a particular sign on the wall of the building advertising a particular brand of power tool. The proposed sign is 9' 9" x 2' (19.5 sq. ft.) in size. With the 5.83 sq. ft. still available, the applicant's requested addition results in a total sign area of 224.87 sq. ft. of sign copy area, an excess of 13.67 sq. ft.

Staff notes that the applicant could reduce the size of one or more existing signs by the required amount to forgo the variance and still fulfill their contractual obligation. The diameter of one (1) or both of the circular signs could be reduced to accommodate the needed square footage, and the reduced size would be imperceptible. Or they could remove one (1) of the circular signs to accommodate the new sign proposed.

**District Development Standards**

	Code Requirement	Proposed
Max Height:	35 ft.	30 ft.
Min. Lot Width:	100 ft. (Major street)	438 ft.
Min. Lot Size:	8,000 sq. ft.	138,165 sq. ft./3.08 acres

**Building Setbacks (that apply to structure in question) (Measurements in feet)**

	Code Requirement	Proposed
Front:	60 ft. (Major street setback)	81 ft. (West)
Rear:	25 ft. (Abuts residential)	65 ft. (North)
Side:	5 ft.	27 ft. (West)/250 ft. (East)

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**STAFF FINDINGS**

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**VARIANCE CRITERIA**

**Special Conditions and Circumstances**

There are no special conditions or circumstances particular to this site. The site is rectangular and has over 450 ft. of frontage with good visibility.

**Not Self-Created**

The need for additional signage is the result of the applicant entering into a contractual obligation with a particular merchant. The need for additional signage is over and above what the sign code permits, and is self-created.

**No Special Privilege Conferred**

Staff did not find any other nearby examples where additional wall or ground sign area was granted through the variance process. Granting this variance will confer a special privilege, and potentially establish a precedent.

**Deprivation of Rights**

Failure to grant this variance will not deprive the applicant of the ability to install signage. Existing signage could be modified to accommodate the contractual signage.

**Minimum Possible Variance**

Since the applicant has available wall copy area, this is not the minimum possible variance.

**Purpose and Intent**

The purpose of the sign code is to ensure that a consistent amount of signage is permitted for all properties, and to avoid sign clutter. The granting of a variance for an additional 13.8 sq. ft. of wall sign copy area will exceed the amount of signage above which is allowed by the sign code. This would be

contrary to the purpose and intent of the code since the request is based on convenience and financial considerations and not a proven hardship.

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### CONDITIONS OF APPROVAL

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1. Development shall be in accordance with the site plan and sign specifications dated June 9, 2020, subject to the conditions of approval, and all applicable laws, ordinances, and regulations. Any proposed non-substantial deviations, changes, or modifications will be subject to the Zoning Manager's review and approval. Any proposed substantial deviations, changes, or modifications will be subject to a public hearing before the Board of Zoning Adjustment (BZA) where the BZA makes a recommendation to the Board of County Commissioners (BCC).
2. Pursuant to Section 125.022, Florida Statutes, issuance of this development permit by the County does not in any way create any rights on the part of the applicant to obtain a permit from a state or federal agency and does not create any liability on the part of the County for issuance of the permit if the applicant fails to obtain requisite approvals or fulfill the obligations imposed by a state or federal agency or undertakes actions that result in a violation of state or federal law. Pursuant to Section 125.022, the applicant shall obtain all other applicable state or federal permits before commencement of development.
3. Any deviation from a Code standard not specifically identified and reviewed/addressed by the Board of County Commissioners shall be resubmitted for the Board's review or the plans revised to comply with the standard.
4. If there is a need to modify any existing vegetation on the site to accommodate the new sign, the applicant shall provide a revised landscape plan which must be approved by a County arborist. prior to issuance of a sign permit.

C: Kory Schmidt  
2800 Southcross Dr. W  
Burnsville, MN 55306

c: Samantha Gensler  
821 Fentress Ct.  
Daytona Beach, FL 32117

**COVER LETTER**

Monday, June 8, 2020

RE: Variance  
Northern Tool + Equipment  
795 Sand Lake Rd  
Orlando, FL 32809

To Whom It May Concern:

We are seeking a variance to add (1) 9'9" x 2' (19.5 square foot) sign to the front East elevation of the existing building located at 795 Sand Lake Road.

The current sign code for wall signs allows a total of one and one-half (1½) square feet of copy area for one (1) linear foot of building frontage per establishments, having up to two hundred (200) linear feet of building frontage. An additional one-half (½) square foot of copy area shall be allowed for each linear foot over two hundred (200) linear feet provided the total copy area for signage shall not exceed four hundred (400) square feet per establishment. Per the code, we would exceed the allowance by 19.5 square feet. Currently there is 400 square feet of sign area on the property and the addition of the Stihl sign would bring the total area to 419.5 square feet.

The special circumstances are:

**Not Self-Created**

Under Northern Tool + Equipment's partnership with Stihl, it is a requirement that a Stihl sign is placed on the exterior of the building in a similar manner as an implement dealer or car dealership represents and displays their brands. For Northern Tool + Equipment to meet the criteria required to become a vendor at the said property, we are asking for the variance on these grounds.

**No Special Privilege Conferred**

This is not a special privilege unique to this business and does not pose nor create any special exceptions other than the right to display one vendor sign as shown.

**Deprivation of Rights**

Northern Tool + Equipment should be allowed the right to advertise a brand that is sold on premise that is a condition of the agreement between Stihl and Northern Tool + Equipment.

**Minimal Possible Variance**

The sign size being sought is 19.5 square feet. This is a sign just large enough to be visible, but not excessive in size. The size and placement on the building is proportionate to the area the sign is placed.

**Purpose and Intent**

The intent of the sign is to display that the location sells Stihl tools. The sign poses no harm or danger to the public and will not distract the public in any way.

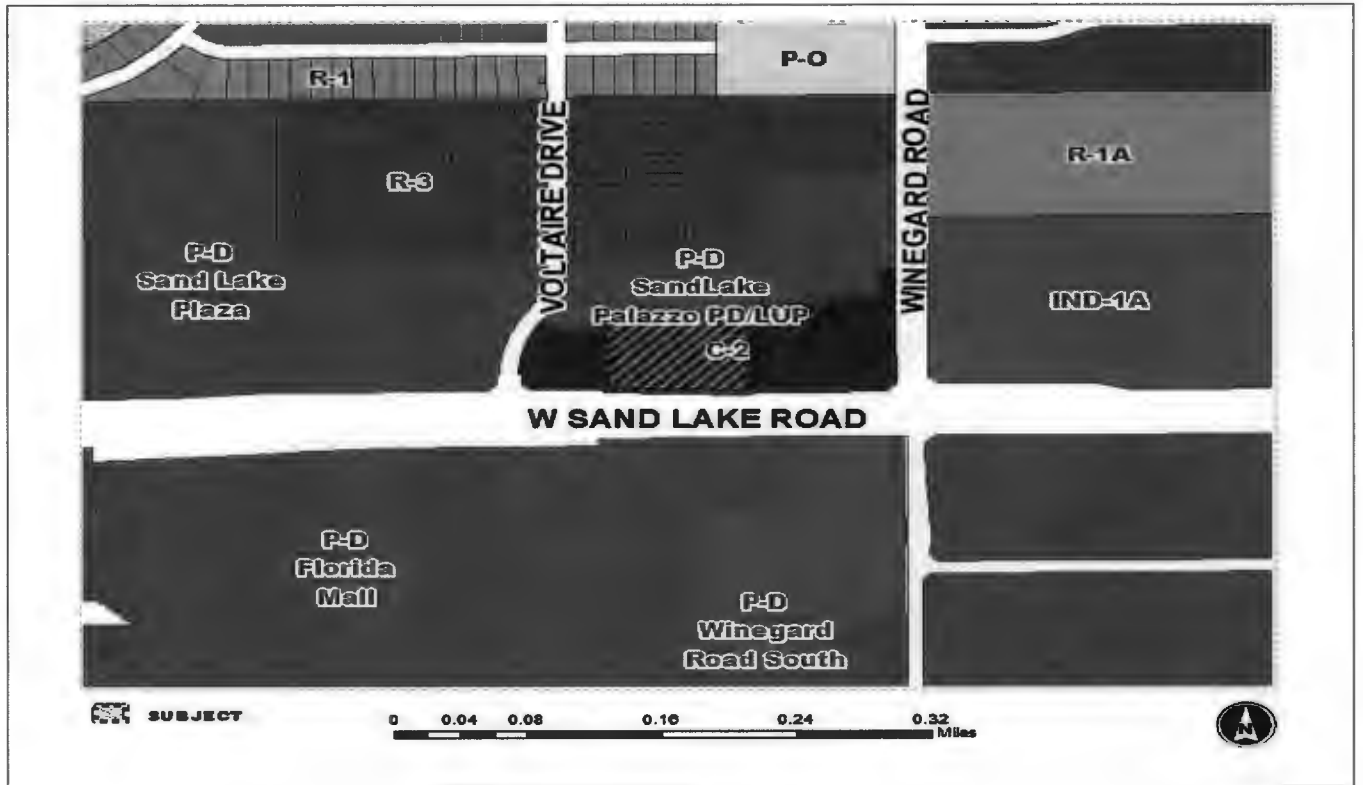
Thank you,



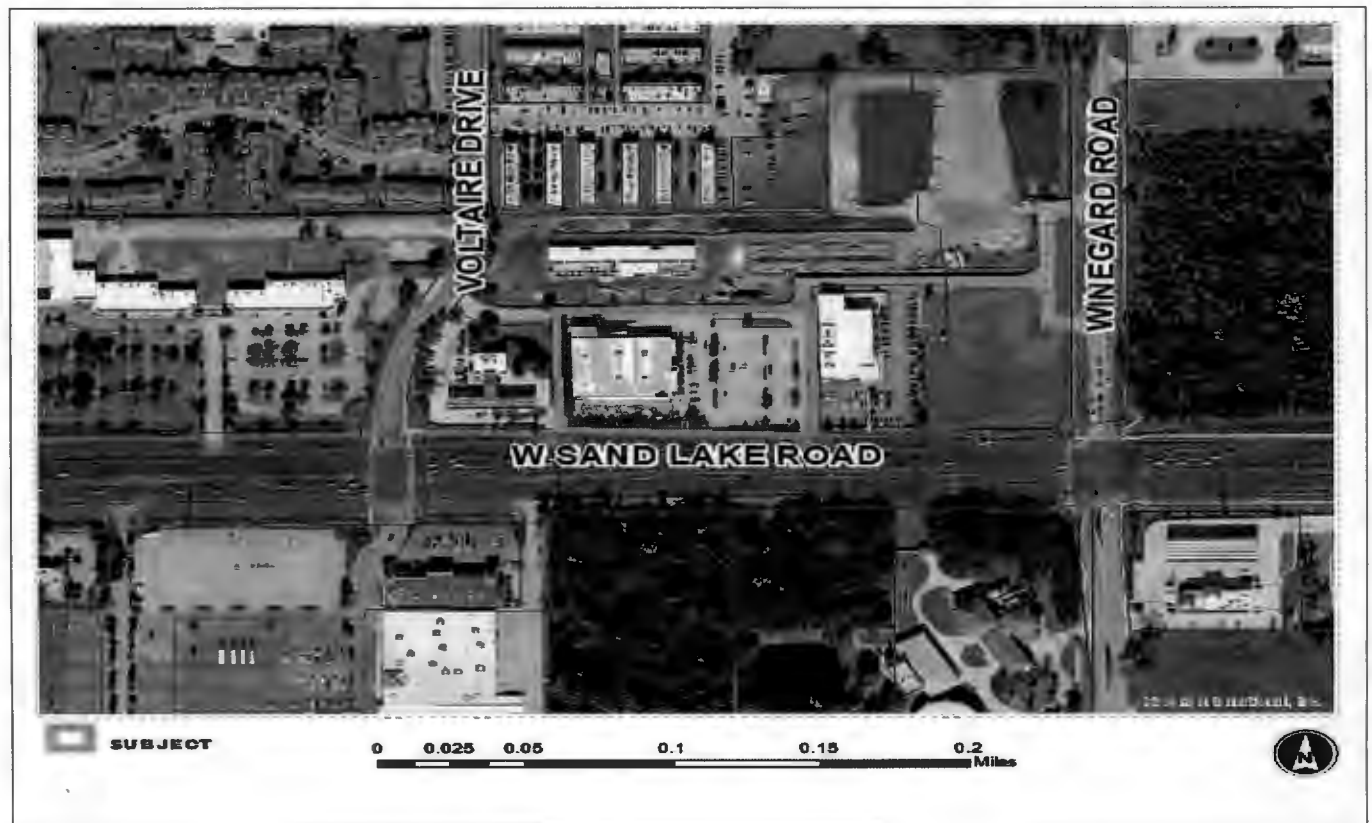
Kory Schmidt  
Northern Tool + Equipment



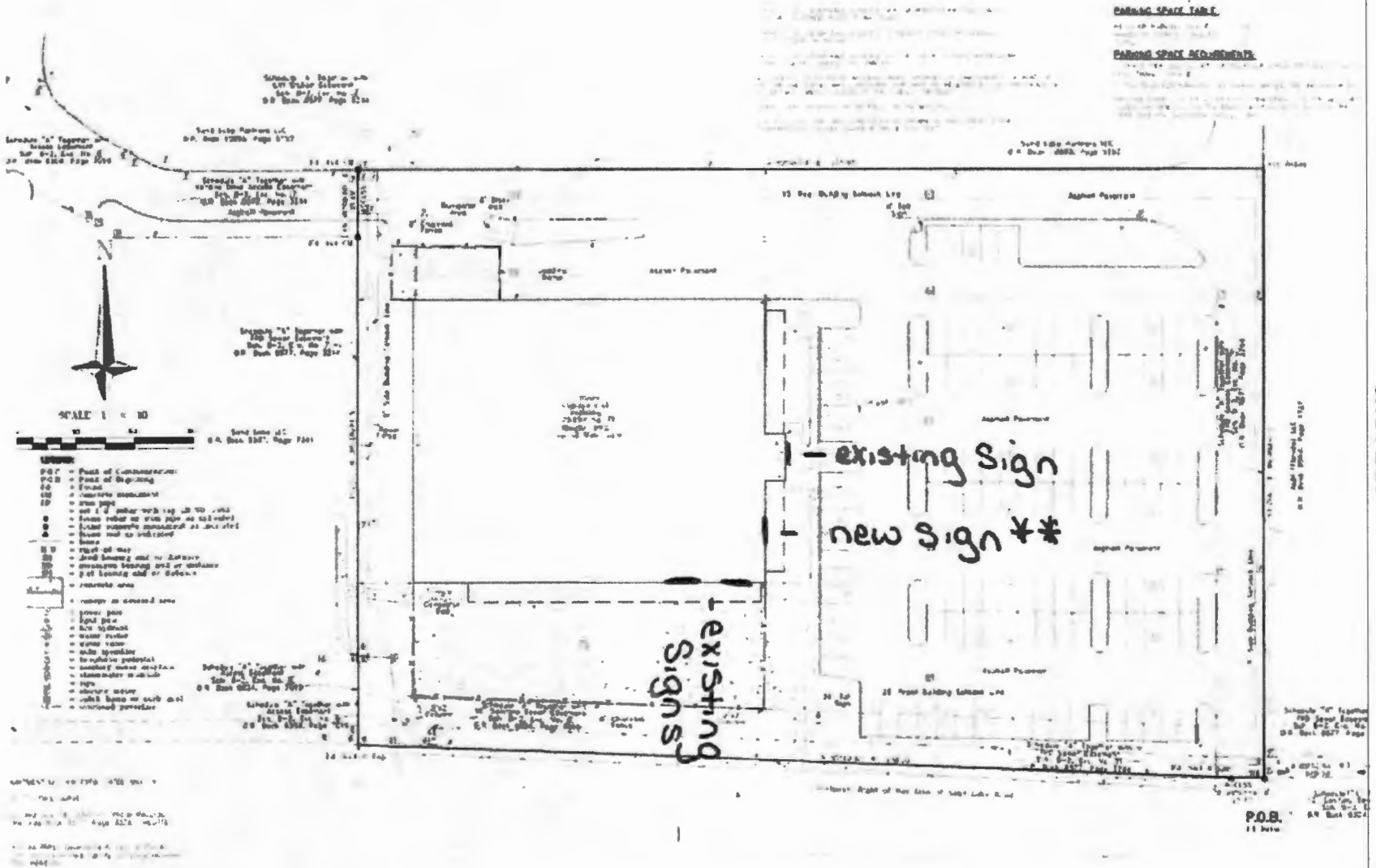
ZONING MAP



AERIAL MAP



6



**PARKING SPACE TABLE**

TYPE	NO. OF SPACES
STANDARD	10
COMPACT	5
TOTAL	15

**PARKING SPACE REQUIREMENTS**

1. THE TOTAL NUMBER OF PARKING SPACES SHALL BE AS SHOWN IN THE ABOVE TABLE.

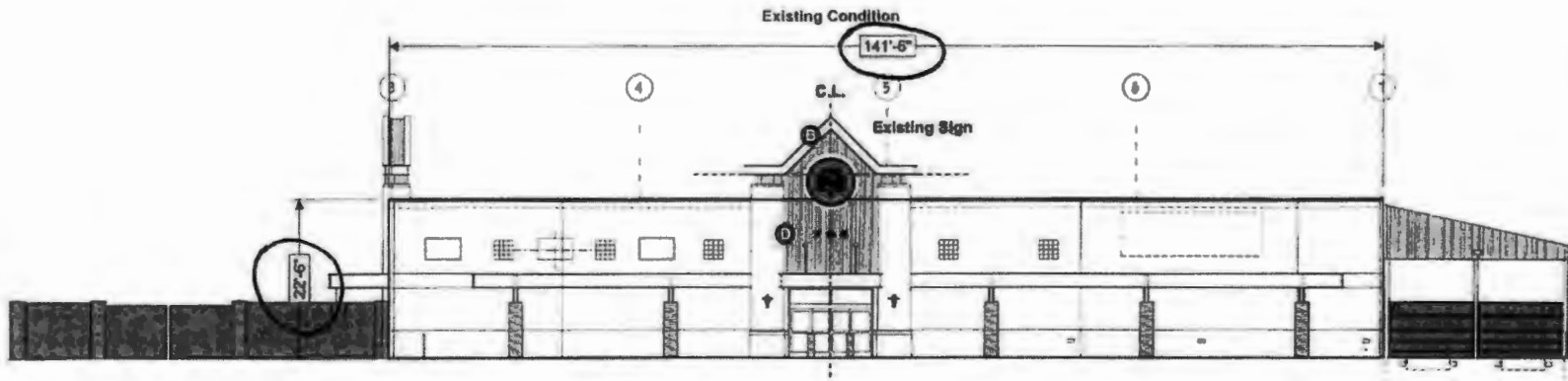
2. THE PARKING SPACES SHALL BE LOCATED AS SHOWN ON THE ATTACHED SITE PLAN.

3. THE PARKING SPACES SHALL BE MAINTAINED IN A CLEAN AND SAFE CONDITION AT ALL TIMES.

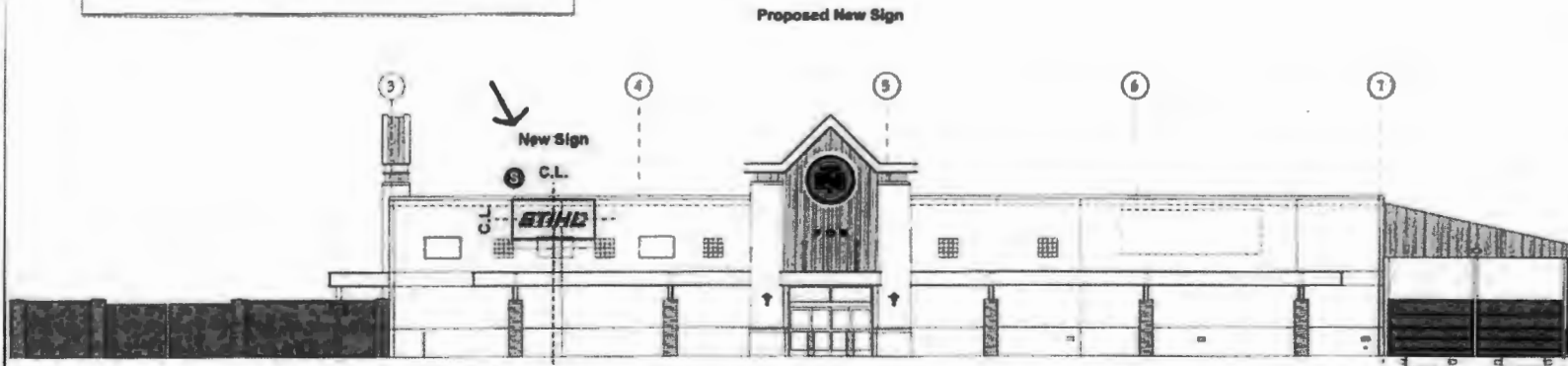
W. Sand Lake Road

**ADD New Stihl Letterset onto Existing Storefront**  
**Building Front East Elevation with Sign Location:**

SCALE: 1/16" = 1'-0"



**INSTALLATION INSTRUCTIONS:**  
CENTER the (Stihl letterset) Left to Right in the space as shown.  
INSTALL the (Stihl letterset) at an agreed upon height as shown.

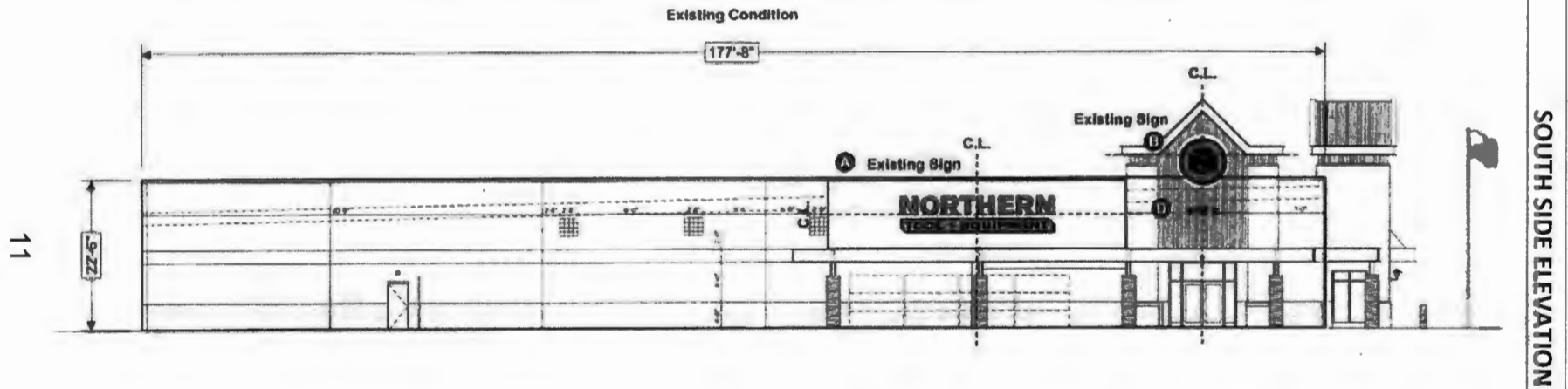


FRONT/EAST ELEVATION

No Change to Existing Storefront

Building Side South Elevation with Sign Location:

SCALE: 1/16" = 1'-0"



EXISTING SIGNS

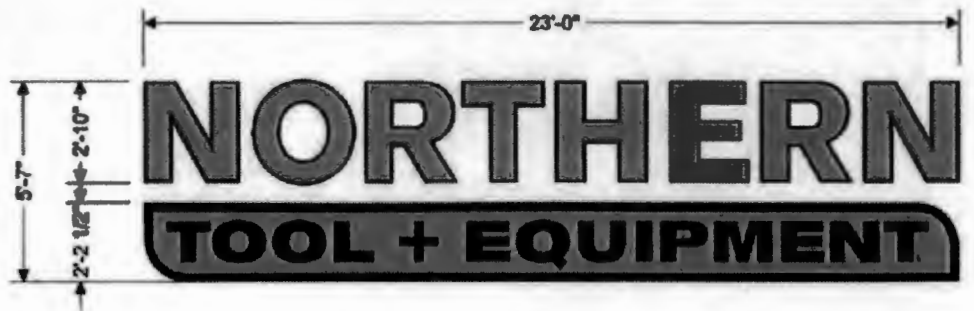


Ⓑ Sign Area: 49 sq. ft. Existing Sign

Front elevation sign



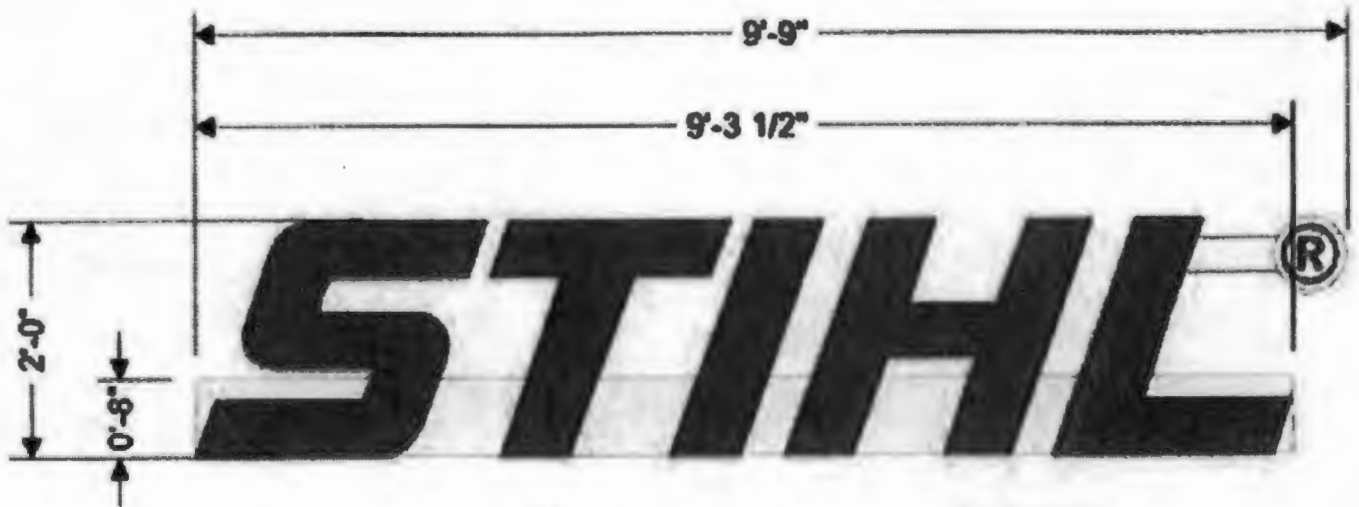
Ⓑ Sign Area: 49 sq. ft. Existing Sign



Ⓐ Sign Area: 128.41 sq. ft. Existing Sign

Side elevation signs

PROPOSED SIGN



Ⓢ Sign Area: 19.5 Sq. Ft. New Sign

**SITE PHOTOS**



**Front façade of subject property looking west**



**Approximate location of proposed sign looking west**

**SITE PHOTOS**



**Approximate location of proposed sign looking northwest**



**Existing sign looking northwest**