



**Interoffice Memorandum**

June 10, 2024

TO: Mayor Jerry L. Demings  
-AND-  
County Commissioners

FROM: Tanya Wilson, AICP, Director   
Planning, Environmental, and Development Services  
Department

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

SUBJECT: June 18, 2024 - Appeal Public Hearing  
Applicant/ Appellant: Joseph Kovecses For 7-Eleven  
BZA Case # VA-24-04-008, April 4, 2024; District 6

Board of Zoning Adjustment (BZA) Case # VA-24-04-008, located at 7329 W. Sand Lake Rd., Orlando, FL 32819, in District 6, is an appeal to the Board. The applicant is requesting a variance in the C-1 zoning district to allow a Billboard setback of 248 ft. in lieu of 500 ft. from the edge of right-of-way end ramp of a limited access highway.

At the April 4, 2024 BZA hearing, staff recommended denial of the variance request. There was no one in attendance to speak in favor or in opposition to the request. It was also noted that prior to the BZA hearing, no comments were received in favor or in opposition to the requests. The BZA recommended denial, and the applicant subsequently appealed the BZA recommendation because they believe it was based on incorrect applications of the Orange County Code and Florida law, erroneous assumptions by County Staff, and inadequate consideration of the variance criteria.

At the June 4, 2024 Board meeting, the Board continued the public hearing to the June 18, 2024 Board hearing at the request of the applicant.

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 at (407) 836-5537.

**ACTION REQUESTED: Deny the applicant's request; or approve the applicant's request with conditions. District 6.**

TK/ag

Attachment: Zoning Division public hearing report, appeal with exhibits, BZA staff report.

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

**June 18, 2024**

The following is a public hearing on an appeal before the Board of County Commissioners on June 18, 2024 at 2:00 p.m.

**APPLICANT/APPELLANT:** JOSEPH KOVECSES FOR 7-ELEVEN

**REQUEST:** Variance in the C-1 zoning district to allow a Billboard setback of 248 ft. in lieu of 500 ft. from the edge of right-of-way end ramp of a limited access highway.

**LOCATION:** 7329 W. Sand Lake Rd., Orlando, FL 32819, northeast corner of W. Sand Lake Rd. and Turkey Lake Rd., west of Interstate I-4, east of S. Apopka Vineland Rd., west of International Dr.

**TRACT SIZE:** +/- 0.7 acres (32,539 sq. ft.)

**ZONING:** C-1

**DISTRICT:** #6

**PROPERTIES NOTIFIED:** 116

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

Staff described the proposal, including the history and location of the property, the site plan and sign specifications, the location of the billboard in relation to the Interstate 4 off-ramp and photos of the site. Staff provided an analysis of the six (6) criteria and the reasons for a recommendation for denial since the code is intentionally restrictive pertaining to setbacks to limited access highway off-ramps and since there are other properties that would allow for the construction of a billboard without the need for a Variance. Staff noted that no comments were received in support or in opposition.

The applicant discussed the location of the property, noted the lack of visibility of the proposed billboard from Interstate 4, compared the location of other billboards in the area relative to Interstate 4, stated that the proposal complies with the intent of the sign code and further stated that the property was uniquely situated and located adjacent to both Turkey Lake Road and West Sand Lake Road in a manner that would not negatively effect the nearby Interstate 4 off-ramp.

There was no one in attendance to speak in favor or in opposition to the request.

The BZA discussed the intent of the billboard sign code requirements, expressed concerns about deviating from limited access highway separation requirements of the billboard sign code and the unanimously recommended denial of the Variance by a 6-0 vote with one seat vacant.

**BZA HEARING DECISION:**

A motion was made by Sonya Shakespeare, seconded by John Drago, carried to recommend **DENIAL** of the Variance request in that there was no unnecessary hardship shown on the land; and further, it does not meet the requirements governing Variances as spelled out in Orange County Code, Section 30-43(3) (6 in favor; 0 opposed; 1 vacant).



ORANGE COUNTY ZONING DIVISION  
201 South Rosalind Avenue, 1<sup>st</sup> Floor, Orlando, Florida  
32801 Phone: (407) 836-3111 Email: [BZA@ocfl.net](mailto:BZA@ocfl.net)  
[www.orangecountyfl.net](http://www.orangecountyfl.net)

**Board of Zoning Adjustment (BZA) Appeal Application**

**Appellant Information**

Name: Joseph A. Kovacs Jr., Esq.

Address: 215 N. Eola Ave., Orlando, FL 32801

Email: Joseph.Kovacs@lowndes-law.com Phone #: (407) 418-6704

BZA Case # and Applicant: VA-24-04-008 Joseph A. Kovacs Jr., Esq.

Date of BZA Hearing: April 4, 2024

Reason for the Appeal (provide a brief summary or attach additional pages of necessary):

See attached "Exhibit A".  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Signature of Appellant: Joseph Kovacs Date: 4/10/24

STATE OF FLORIDA  
COUNTY OF ORANGE

The foregoing instrument was acknowledged before me this 10th day of April, 2024, by Joseph Kovacs who is personally known to me or who has produced \_\_\_\_\_ as identification and who did/did not take an oath.

Nancy Lee Elswick  
Notary Public Signature

Notary Stamp:  **NANDY LEE ELSWICK**  
Notary Public  
State of Florida  
Comm# HH455399  
Expires 11/18/2027

**NOTICE: Per Orange County Code Section 30-45, this form must be submitted within 15 days after the Board of Zoning Adjustment meeting that the application decision was made.**

Fee: \$691.00 (payable to the Orange County Board of County Commissioners)

Note: Orange County will notify you of the hearing date of the appeal. If you have any questions, please contact the Zoning Division at (407) 836-3111.

See Page 2 of application for the Appeal Submittal Process.



**ORANGE COUNTY ZONING DIVISION**  
201 South Rosalind Avenue, 1<sup>st</sup> Floor, Orlando, Florida  
32801 Phone: (407) 836-3111 Email: [BZA@ocfl.net](mailto:BZA@ocfl.net)  
[www.orangecountyfl.net](http://www.orangecountyfl.net)

**Board of Zoning Adjustment (BZA) Appeal Application**

**Appeal Submittal Process**

1. Within 15 calendar days of the decision by the Board of Adjustment, the appellant shall submit the Board of Zoning Adjustment (BZA) Appeal Application to the Zoning Division in person. The application will be processed and payment of \$691.00 shall be due upon submittal. All justification for the appeal shall be submitted with the Appeal Application.
2. Zoning Division staff will request a public hearing for the subject BZA application with the Board of County Commissioners (BCC). The BCC hearing will be scheduled within forty-five (45) days after the filing of the appeal application, or as soon thereafter as the Board's calendar reasonably permits. Once the date of the appeal hearing has been set, County staff will notify the applicant and appellant.
3. The BCC Clerk's Office will provide a mailed public hearing notice of the hearing to property owners at a minimum of 500 feet from the subject property. Area Home Owner Associations (HOA) and neighborhood groups may also be notified. This notice will provide a map of the subject property, as well as a copy of the submitted appeal application.
4. Approximately one week prior to the public hearing, the memo and staff report of the request and appeal will be available for review by the applicant, appellant, and the public.
5. The decision of the BCC is final, unless further appealed to the Circuit Court. That process is detailed in [Section 30-46](#) of the Orange County Code.

#### **Exhibit A – Reason for Appeal**

Applicant respectfully appeals the Board of Zoning Adjustment (“BZA”) decision on VA-24-04-008 because it was based on incorrect applications of the Orange County Code (“Code”) and Florida law, erroneous assumptions by County Staff, and inadequate consideration of the variance criteria, including the special conditions and circumstances associated with this specific property, as provided in Code Sec. 30-43(3).

First, the BZA decision was based in part on an incorrect recitation of state statutory law that the BZA determined would allow the Applicant wide latitude to cut down trees on the property after the proposed billboard was constructed. The BZA implied that by approving the billboard, it would also be permitting the Applicant to cut down trees on the property to establish clear lines-of-sight to the billboard. Such a position is a mischaracterization of the law. The provision at issue, section 479.106, *Florida Statutes*, requires an application to the Department of Transportation (“DOT”) to remove, cut, or trim any trees on a property to ensure visibility of a sign, subject to DOT oversight and compliance considerations. Additionally, DOT may require a vegetation management plan which considers conservation and mitigation. Therefore, the implication that the Applicant could remove trees on the property at will as a direct result of a variance approval was a mischaracterization of the law and inappropriate for consideration.

Second, the BZA took the incorrect position as a basis for its decision that allowing the proposed billboard on Applicant’s property would allow any of the other property owners in the setback area to apply for similar billboard variances. Instead, Code Sec. 31.5-126(i) prohibits additional billboards within 1000 feet of an existing billboard on the same side of the road. There is already another digital billboard on the opposite side of the road from the proposed site. By operation of the Code, therefore, no other billboards would be allowed within approximately 1000 feet to the north and 1000 feet to the south of the existing proposed billboard location on either side of the road.

Third, the BZA discussed the County’s uncodified and unpublished “policy” with respect to billboards but did not analyze or apply the stated purposes behind the billboard ordinance included within the Code itself. The Staff Report explicitly found that the proposed billboard location and design met or exceeded all development standards for billboards contained within the Code, except for the 500-foot setback requirement from the I-4 ramp. Therefore, the BZA’s policy analysis was incorrect.

Fourth, the Staff Report erroneously cited to the Tourist Commercial Signage Overlay, which Staff testified at the hearing was not applicable to the proposed billboard location. However, the BZA used the reference to the Overlay to make unfounded assumptions about the County’s intent to prohibit billboards at the proposed location. Therefore, this was an improper basis for the BZA decision.

Fifth, the BZA also made unsupported assumptions about the billboard that is located almost directly across the Turkey Lake Road from the proposed location. Although Staff admitted

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BZA Date 4.4.24

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that the billboard across the road is in the same 500-foot setback area that is at issue in the variance application, Staff assumed, without a documentary basis, that the billboard across the street was constructed before the billboard setbacks were codified. Therefore, this was an improper basis for the BZA decision.

Sixth, the BZA assumed without evidence that lights associated with the proposed digital billboard would be distracting to drivers along Turkey Lake Road and West Sand Lake Road (even though the 500 feet setback is intended for the benefit of drivers on the I-4 ramp). Staff did not analyze this issue and provided no commentary or evidence in the Staff Report. The BZA made this assumption despite testimony from Staff that the billboard across the street was recently approved by the County to be converted to a digital billboard of a materially similar style and design as Applicant requested here. Also, Staff sent 116 notices of the variance application to neighboring property owners and received zero (0) objections from neighboring properties. Therefore, this was an improper basis for the BZA decision.

Seventh, the Applicant presented competent and substantial evidence to satisfy the variance criteria, which the BZA incorrectly characterized as assumptions it could not consider, despite basing its ultimate decision on assumptions from Staff and BZA members. Therefore, the BZA decision was not supported by the competent and substantial evidence presented at the hearing.

As a result of the foregoing, and for the reasons stated in Applicant's application and presentation materials, Applicant respectfully disagrees with the BZA decision and requests an appeal to, and reconsideration by, the Board of County Commissioners.

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BZA Date 4.4.24

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# BZA STAFF REPORT

Planning, Environmental & Development Services/ Zoning Division

Meeting Date: **April 04, 2024**

Commission District: **#6**

Case #: **VA-24-04-008**

Case Planner: **Taylor Jones, AICP (407) 836-5944**

**Taylor.Jones@ocfl.net**

## GENERAL INFORMATION

**APPLICANT(s):** JOSEPH KOVECSES FOR 7-ELEVEN

**OWNER(s):** 7-ELEVEN INC

**REQUEST:** Variance in the C-1 zoning district to allow a Billboard setback of 248 ft. in lieu of 500 ft. from the edge of right-of-way end ramp of a limited access highway.

**PROPERTY LOCATION:** 7329 W. Sand Lake Rd., Orlando, FL 32819, northeast corner of W. Sand Lake Rd. and Turkey Lake Rd., west of Interstate I-4, east of S. Apopka Vineland Rd., west of International Dr.

**PARCEL ID:** 26-23-28-0000-00-081

**LOT SIZE:** +/- 0.7 acres (32,539 sq. ft.)

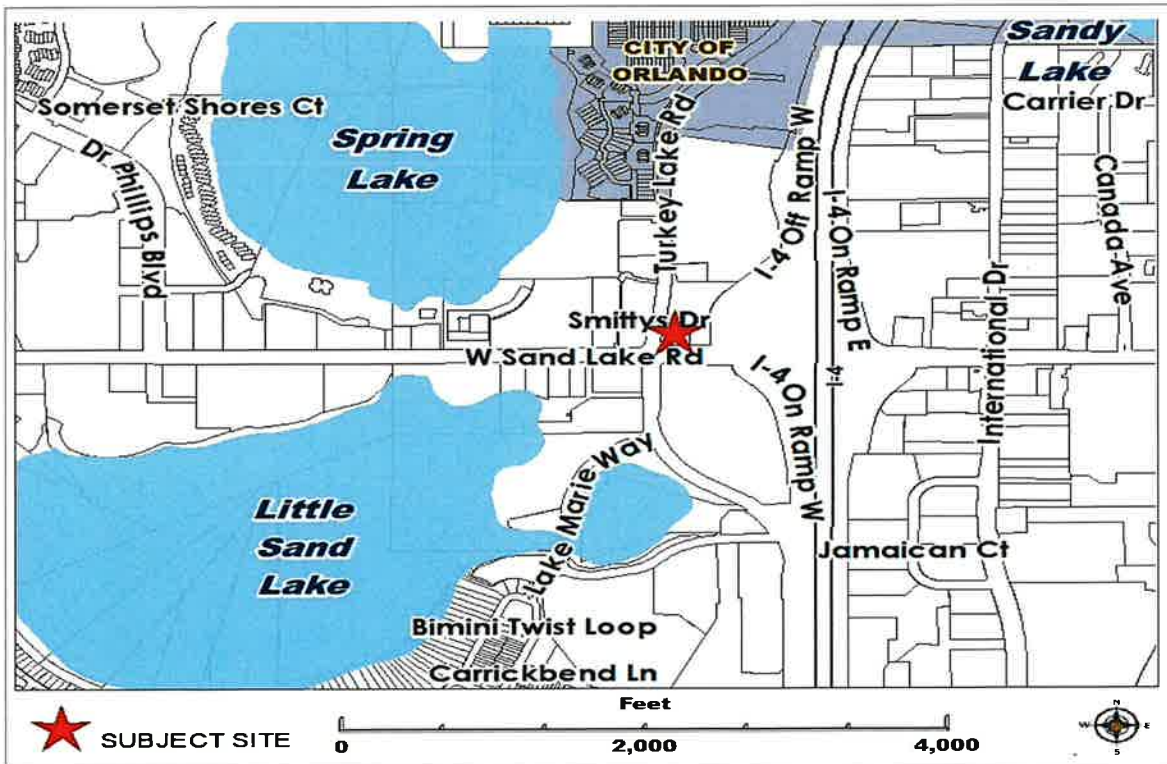
**NOTICE AREA:** 1,500 ft.

**NUMBER OF NOTICES:** 116

## STAFF RECOMMENDATIONS

Denial. However, if the BZA should find that the applicant has satisfied the criteria necessary for the granting of 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-1	PD	PD	PD	C-1
Future Land Use	C	C	C	C	C
Current Use	Commercial – Gas Station	Commercial - Hotel	Commercial – Retail	Commercial- Hotel	Commercial - Vacant

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**BACKGROUND AND ANALYSIS**

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**DESCRIPTION AND CONTEXT**

The subject property is located in the C-1, Retail Commercial District, which allows commercial uses. Billboards are permitted in the C-1 zoning district, subject to compliance with the standards of code.

The subject property is 32,539 sq. ft., in size, and located at the northeast corner of the intersection of Turkey Lake Rd. and W. Sand Lake Road. It was developed with a 7-Eleven convenience store with gas pumps in 1989. The subject property is bordered by a hotel to the north and east, which separates the parcel from the Interstate 4 (I-4) off ramp at Sand Lake Rd.

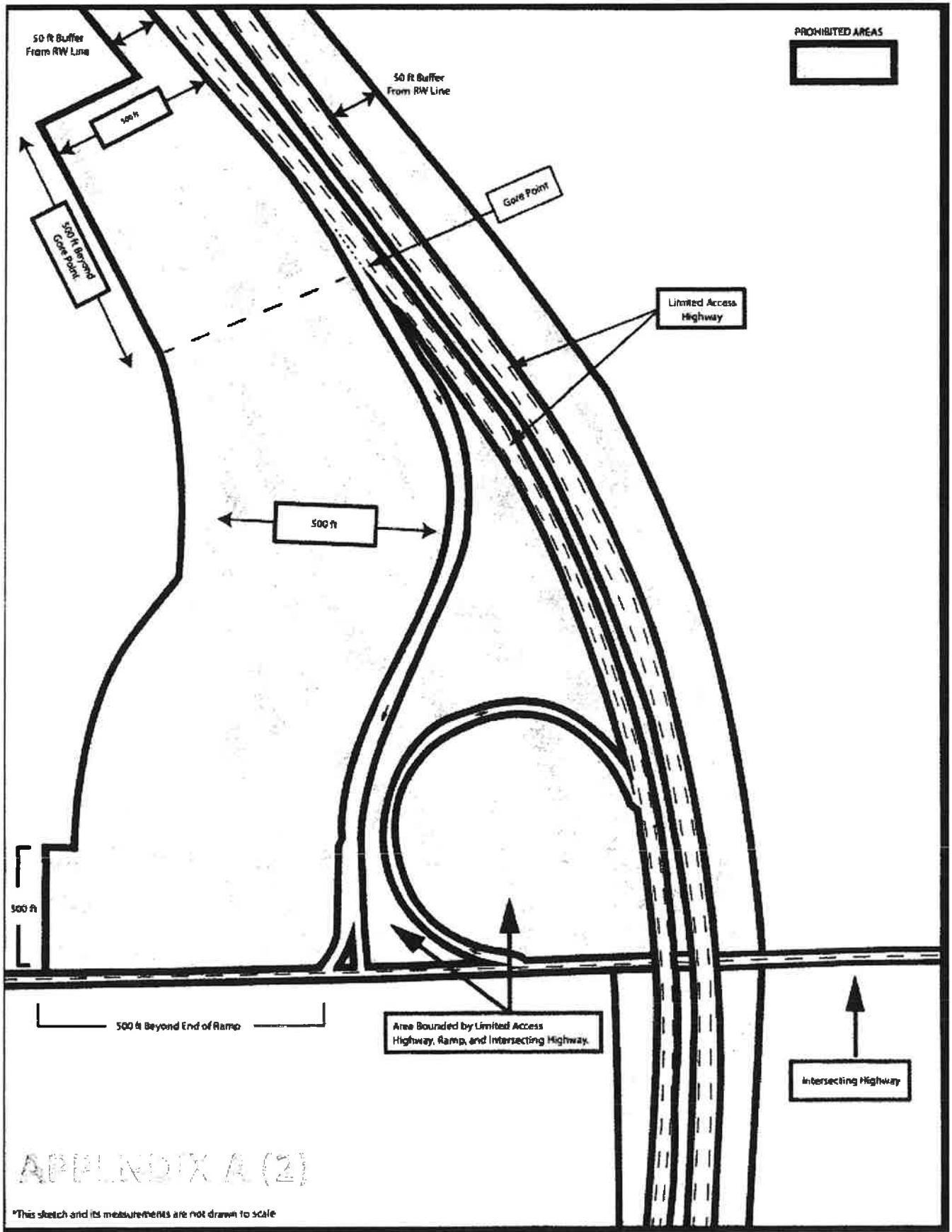
The request is to construct a 378 sq. ft., 40 ft. high, 2-sided, V-shaped digital billboard adjacent to Turkey Lake Rd., in the northwestern corner of the property. Orange County Sign Code Section 31.5-126(m)(2) states that:

A billboard shall be set back at least five hundred (500) feet from the edge of the right-of-way, with the setback area commencing at the point that is five hundred (500) feet beyond one (1) end of a ramp of a limited access highway, continuing along the outside edge of the entire length of the ramp, and terminating at the point that is five hundred (500) feet beyond the end of the other ramp. The five hundred (500) foot linear distance from an end of a ramp shall be measured beginning at the gore point of the ramp.

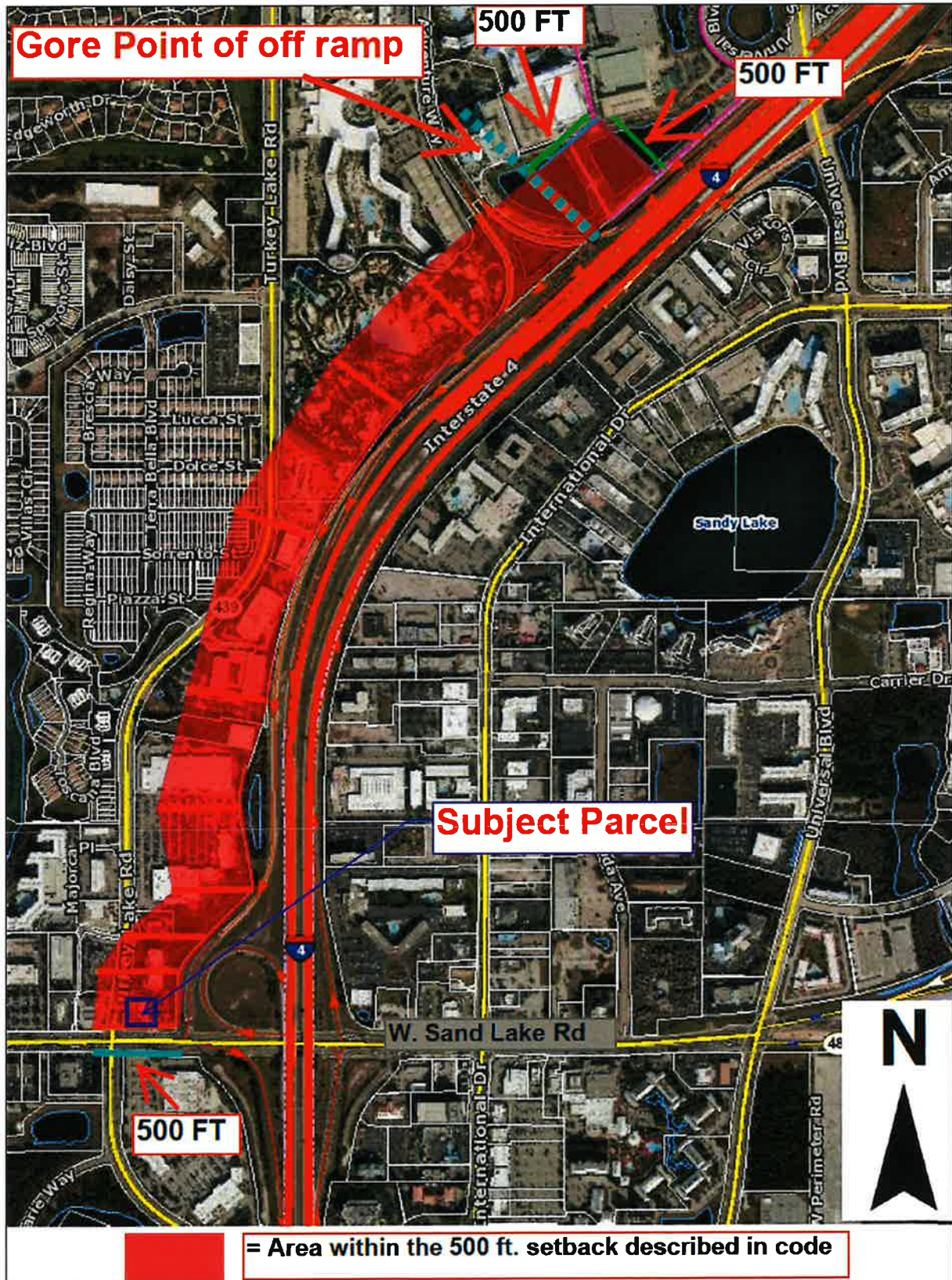
The code also includes graphic depictions, noted as Appendix A in Code, of what is described in this section of code, showing the setback area for billboards where limited access highway ramps intersect with non limited access highways. The two graphic depictions show how the setback would be measured on two differently designed ramp types. One of these graphics has been included on the next page as **Graphic 1**.

The subject property is near the limited access highway of I-4, and its ramp intersection with W. Sand Lake Road. The ramp configuration matches that shown in **Graphic 1**, with the configuration having an interior on-ramp and an exterior off-ramp. Because this property is within 500 ft. of the ramp intersection, the 500 ft. setback described in code and shown in the graphic is applicable to any billboard on this property.

Graphic 1



The distance from the gore point of the off ramp to the intersection of the ramp and W. Sand Lake Rd is greater than 1 mile (approx. 5,700 ft), which increases the applicable setback area. The 500 ft. setback area for the I-4 ramp and W. Sand Lake Rd. intersection, as described in code and depicted in the graphic, is shown in the graphic below, with the required setback area highlighted in red:



The entirety of the subject parcel falls within the required setback area, which necessitates the need for the variance request. The proposed billboard is 248 ft. from the right-of-way line of the off ramp, instead of the required 500 ft. An enhanced graphic, showing the subject property in proximity to the ramp intersection and the 500 ft. setback is included below, titled Enhanced Graphic. The 500 ft. setback area is shown in orange. The proposed billboard is 248 ft. from the limited access right-of-way line, and 308 ft. from the existing edge of pavement of the ramp itself.

Enhanced Graphic



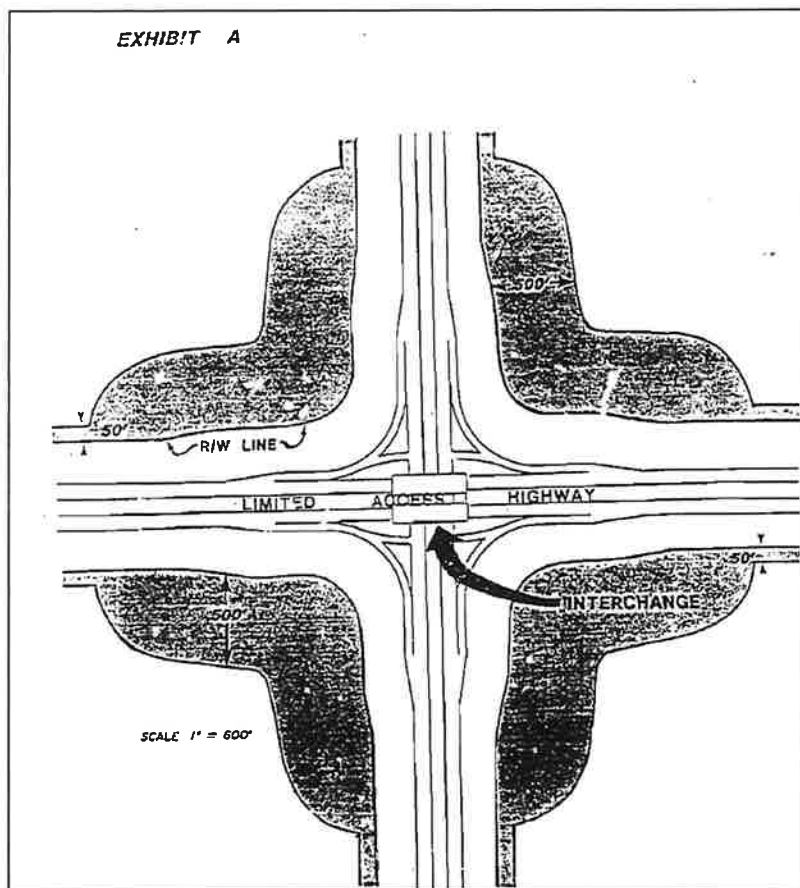
The proposed billboard meets all other provisions of the code. While the Code allows for billboards, the provisions are intentionally restrictive, and in this case are not being met. Over the years the code has become increasingly restrictive with respect to billboards. Further, the County's standard practice over the past 20-30 years has been to add a prohibition on any new billboards for any rezoning to commercial or industrial or PD that is approved to further restrict the allowable locations of billboard in the county and further limit the total number of billboards.

The specific language of Sec. 31.5-126(m)(2), as well as the graphics depicting the setbacks from off-ramps were added to code in 2015. However, language has existed in the sign code since its original adoption in 1990 regulating billboard locations relative to on and off ramps of limited access highways, and where they intersect with non-limited access highways. The original sign ordinance from 1990 (Ordinance 90-10), included the following language, as well as the following exhibit:

1990 Code Language:

(ii) A billboard located within the linear area beginning five hundred (500) feet from one end of an interchange ramp of a limited access highway and ending five hundred (500) feet from the other end of the interchange ramp, which distance shall be measured along the edge of the pavement of the interchange ramp, limited access highway, and nonlimited access highway, shall be setback at least five hundred (500) feet from the edge of the right-of-way of the interchange ramp, limited access highway or non-limited access highway. See Exhibit "A" attached hereto and incorporated herein.

1990 Exhibit A:



## Development Standards for Billboards

	Code Requirement	Proposed
Max Height:	40 ft.	40 ft.
Minimum Clearance:	13.5 ft.	26 ft.
Maximum Copy Area (per sign face):	400 sq. ft.	378 sq. ft.

## Setbacks (that apply to billboard in question)

	Code Requirement	Proposed
Front:	15 ft.	128 ft. (South)
Rear:	15 ft.	37.98 ft. (North)
Side:	5 ft.	118 ft. (East)
Side Street:	15 ft.	15 ft. (west)
Separation from billboard on same side of non-limited access highway	1,000 ft.	1,200 ft. (to North) No billboards are located on east side of Turkey Lake Rd. south of this property
Separation from park	200 ft.	1.84 miles (Tangelo Community Park to the Northeast)
Separation from agriculturally zoned property	100 ft.	3.97 miles
Separation from residential district	200 ft.	515 ft.
Separation from end of a limited access highway on/off ramp	500 ft.	248 ft. (variance request)

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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 that do not exist on other properties that abut limited access highways, or which are in close proximity to off ramp intersections of limited access highways. Further, on the immediate east of Interstate 4 is the Tourist Commercial Signage Overlay, which prohibits billboards altogether, even on properties that are zoned to allow billboards.

#### Not Self-Created

The need for the Variance is self-created, as a billboard is not a guaranteed use or right on a property and is only permitted if all requirements of code can be met.

**No Special Privilege Conferred**

Granting the variance as requested would confer special privilege, as several other parcels are also located within the 500 ft. setback area of the off-ramp intersection. As shown in the Setback Diagram in this report, due to the length of the off ramp, a number of parcels fall within the 500 ft. setback, while also fronting Turkey Lake Rd. Granting the Variance for this property would confer privilege to this property that those other properties, as well as any number of properties in the county that are in close proximity to off ramps, do not enjoy.

**Deprivation of Rights**

There is no deprivation of rights as a billboard is not a guaranteed use or right and is only permitted if all requirements of the code can be met. The property can still be utilized for commercial uses, as it currently is.

**Minimum Possible Variance**

The request is the minimum possible variance for this site, as the billboard is located on this property as far from the off ramp right-of-way as possible on the proposed site. However, a Variance would not be required if a site that met the standards was proposed.

**Purpose and Intent**

Per Sec. 31.5-126(n) of the sign code, control of billboards in areas adjacent to limited access highways is declared to be necessary to protect the public investment in limited access highways, as well as to attract visitors and residents to the county by preserving the natural beauty of the County near limited access highways, and to assure that information in the specific interest of the traveling public is presented safely and aesthetically. Further, increased setbacks around intersections of limited access highway ramps and non-limited access highways have existing since 1990, and the adoption of the current sign code as it exists today, and has further been amended to continue to restrict billboards in such areas. Approval of the Variance would conflict with the purpose of intent of the Zoning regulations and will be detrimental to the surrounding area.

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## CONDITIONS OF APPROVAL

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1. Development shall be in accordance with the site plan, elevations, and sign specifications dated January 29, 2024, 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. A permit shall be obtained for the billboard within 2 years of final action on this application by Orange County, or this approval is null and void. The Zoning Manager may extend the time limit if proper justification is provided for such an extension.

C: Joseph Kovecses  
215 N. Eola Drive  
Orlando, FL 32801





JOSEPH A. KOVECSES, JR.

*Of Counsel*

joseph.kovecses@lowndes-law.com

215 North Eola Drive, Orlando, Florida 32801-2028

T: 407-418-6704 | F: 407-843-4444

MAIN NUMBER: 407-843-4600



January 23, 2024

Board of Zoning Adjustment  
Orange County Zoning Division  
201 S Rosalind Ave, 1<sup>st</sup> Floor  
Orlando, FL. 32801

**Re: Justification Statement for Billboard Variance Request – 7329 Sand Lake Rd. –  
Parcel #26-23-28-0000-00-081**

Dear Board of Zoning Adjustment:

Please accept this letter and the enclosed documents as the application materials for a variance from Section 31.5-126(m) of the Orange County Land Development Code in order to build a digital billboard sign. The uniqueness of the property and circumstances beyond the control of the Applicant warrant a variance to allow the proposed billboard to be within 500 feet of a limited access highway.

The supporting documents include:

- BZA Application for Variance
- Property Card
- Special Warranty Deed
- Property Owner Sunbiz Information
- Site Plan Set

**FACTUAL BASIS FOR VARIANCE REQUEST**

The subject property is located at 7329 West Sand Lake Road, Orlando, Florida 32819 with parcel ID number 26-23-28-0000-00-081 (the "Property") (See **Exhibit 1**). The Property is zoned as Retail Commercial (C-1) with a future land use designation of Commercial and is currently developed as a 7-Eleven Gas Station and convenience store. The Property is owned by 7-Eleven, Inc. a Texas corporation with its principal offices at 3200 Hackberry Road, Irving, Texas. A copy of the deed is enclosed. The Florida Sunbiz entry for 7-Eleven, Inc., a Texas corporation with its principal address at 3200 Hackberry Road,



January 23, 2024

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Irving, TX 75063 lists Nathaneal Gardner as an Officer/Director. A copy of the Sunbiz page is enclosed. The agent authorization form included in the application was Executed by Nathaneal Gardner.

The Property is located at the intersection of West Sand Lake Road and Turkey Lake Road (See Exhibit 2). The Property lies within a 500 feet billboard setback because of its proximity to an Interstate 4 ("I-4") off-ramp located on the other side of a parcel containing a Drury Inn & Suites hotel development. The distance between the location of the proposed billboard and the I-4 off-ramp is 341.55 feet.

Sec. 31.5-126(m)(2) provides that "a billboard shall be set back at least five hundred (500) feet from the edge of the right-of-way, with the setback area commencing at the point that is five hundred (500) feet beyond one (1) end of a ramp of a limited access highway, continuing along the outside edge of the entire length of the ramp, and terminating at the point that is five hundred (500) feet beyond the end of the other ramp. The five hundred (500) foot linear distance from an end of a ramp shall be measured beginning at the gore point of the ramp."

While the proposed billboard location lies within the billboard setback area, the location does not undermine the intention of section 31.5-126(m). The proposed billboard will be placed as far to the west as possible on the Property and will be 36 feet from the north property line and 5 feet along the western property line meeting the required internal lot setbacks. The proposed location of the billboard is 341.55 feet from the I-4 off-ramp. The billboard will not be facing I-4, but instead directed at traffic traveling along Turkey Lake Road. Additionally, with the proposed orientation of the billboard, it will not be visible from the I-4 ramp because of the adjacent hotel development and matured vegetation. (See Exhibit 3). The I-4 main southbound travel lane is 941.50 feet from the proposed billboard location and is 43 feet higher than the existing grade at the Property, and 26 feet higher than the off-ramp. Therefore, there is no risk of distracting drivers on the I-4 off ramp or otherwise interfering with views from the ramp.

#### **COMPLIANCE WITH SECTION 30-43 VARIANCE CRITERIA**

*Section 30-43 (3) of the Orange County Code stipulates specific standards for the approval of variances. No application for a zoning variance will be approved unless the Board of Zoning Adjustment finds that the following standards are met:*

- a. **Special Conditions and Circumstances** – 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 zoning district. Zoning violations or nonconformities on neighboring properties shall not constitute grounds for approval of a proposed zoning variance.*

January 23, 2024

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There are multiple special conditions and circumstances that are unique to the Property. The Property is an outparcel of a larger development parcel, which larger parcel is adjacent to the I-4 off ramp, and which larger parcel is currently developed as a Drury Inn & Suites hotel. The Property sits at a corner of intersection of Sand Lake Road and Turkey Lake Road, which is a major thoroughfare to Universal Studios creating high traffic rights-of-way on two sides of the Property (see Exhibit 2). While this traffic makes it a desirable location for a billboard, unfortunately the off-ramp for the I-4/Sand Lake Road intersection is unusually large with a winding on-ramp and off-ramp that pushes the requirement of 500 feet closer to the Property. Given the location and size of the Property, there is an extremely limited area for the billboard to be placed on the Property. Given that the Property is zoned C-1 and billboards are a Permitted Use, the Applicant is essentially prohibited from the full enjoyment of its property development rights.

- b. **Not Self-Created** – *The special conditions and circumstances do not result from the actions of the applicant. A self-created or self-imposed hardship shall not justify a zoning variance; i.e., when the applicant himself by his own conduct creates the hardship which he alleges to exist, he is not entitled to relief.*

The detrimental effect on the Applicant's ability to develop the Property is not a result of its own actions, but rather results from the aggregate effects of the roadways that surround the Property. If the unusually shaped on-ramps and off-ramps, and location on the corner of a large intersection were not at this location, the Property would be fairly allowed to place a billboard onsite without requesting a variance from the 500-foot requirement.

- c. **No Special Privilege Conferred** – *approval of the zoning variance requested will not confer on the applicant any special privilege that is denied by this Chapter to other lands, buildings, or structures in the same zoning district.*

A billboard is a permitted use in the C-1 zoning district. Other properties that are zoned C-1 can place a billboard on their property when they are not at risk of advertising to ramps of limited access highways. Not all C-1 properties are along a wide thoroughfare, intersection, and freeway intersection with an unusually wide right-of-way. There will be no special privilege in approving this relief to allow the construction of a billboard that is a permitted use and does not undermine the policies behind the 500-foot setback requirement.

- d. **Deprivation of Rights** – *Literal interpretation of the provisions contained in this Chapter would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district under the terms of this Chapter and would work unnecessary and undue hardship on the*

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*applicant. Financial loss or business competition or purchase of property with intent to develop in violation of the restrictions of this Chapter shall not constitute grounds for approval or objection.*

As stated above, the proposed use is permitted in C-1 zoning. But for adoption and application of the 500-foot setback requirement, the owner would be allowed to build the billboard by right. The special conditions and circumstances deprive the rights of the Property owner to use their property as set forth in the C-1 zoning district. Thus, literal interpretation of the set back requirement poses an unnecessary and undue hardship in a circumstances such as this where the billboard will not be direct at or visible from the off-ramp.

- e. ***Minimum Possible Variance*** – *The zoning variance approved is the minimum variance that will make possible the reasonable use of the land, building, or structure.*

The proposed billboard structure is positioned as far away from the off-ramp as possible while still upholding the 5 feet required side setback along Turkey Lake Road. Thus, the request is the minimum reduction to the 500-foot setback requirement to still adhere to all other Orange County development standards.

- f. ***Purpose and Intent*** – *Approval of the zoning variance will be in harmony with the purpose and intent of the Zoning Regulations ad such zoning variance will not be injurious to the neighborhood or otherwise detrimental to the public welfare.*

The billboard will be angled toward north and south bound traffic along Turkey Lake Road and not toward the I-4 off-ramp. The billboard structure will also not be seen from the off-ramp as shown by the progression of Google street view photographs contained within Exhibit 3, which meets the intent of the standard and overall code. The billboard structure will also not be seen from any residential zoning districts, parks, or agricultural districts.

#### **SPECIAL CONSIDERATIONS FOR VARIANCE REQUESTS FOR SIGNAGE**

Please allow this section to satisfy the information requirement on page 12 of the BZA application packet.

- **Type of Sign**: Mono-pole billboard sign with two faces as shown in enclosed site plan with elevations.
- **Reason for the Request**: Proposed location is within the 500 limited access highway off-ramp setback area.

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- **Size of Copy Area:** 378 square feet of signage area per face.
- **Sign Dimensions:** 36 ft by 10.5 feet sign face area with 3 feet of apron below the copy area. See enclosed site plan with elevations for more detail.
- **Proposed Height:** 40 feet maximum sign height.
- **Distance from Property Lines:** 36 feet from the north property line and 5 feet from the western property line.

#### **COMPLIANCE WITH SECTION 31.5-126 BILLBOARDS**

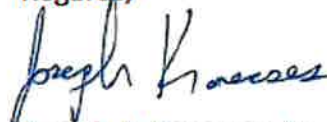
The proposed billboard complies with Section 31.5-126(a) through (t) with the exception of 31.5-126(m)(2) for which this variance is sought.

#### **CONCLUSION**

In summary, the requested variance of the applicable billboard setback from 500 feet to 341.55 feet from a limited access highway, as otherwise required by sec. 31.5-126(m), satisfies the variance criteria and fairness warrants the granting of the request. Allowing this variance will not be detrimental to any adjacent properties, the surrounding area, or to the public welfare in general. The requested variance will only allow the Property owner to enjoy its rights granted to it in accordance with Permitted Uses for the C-1 zoning district. The orientation of the sign to Turkey Lake Road, which cannot be viewed from the I-4 off-ramps due to the existing development and mature vegetation, supports the variance request.

As a result, the applicant respectively requests that you grant the variance from the setback requirement as requested herein.

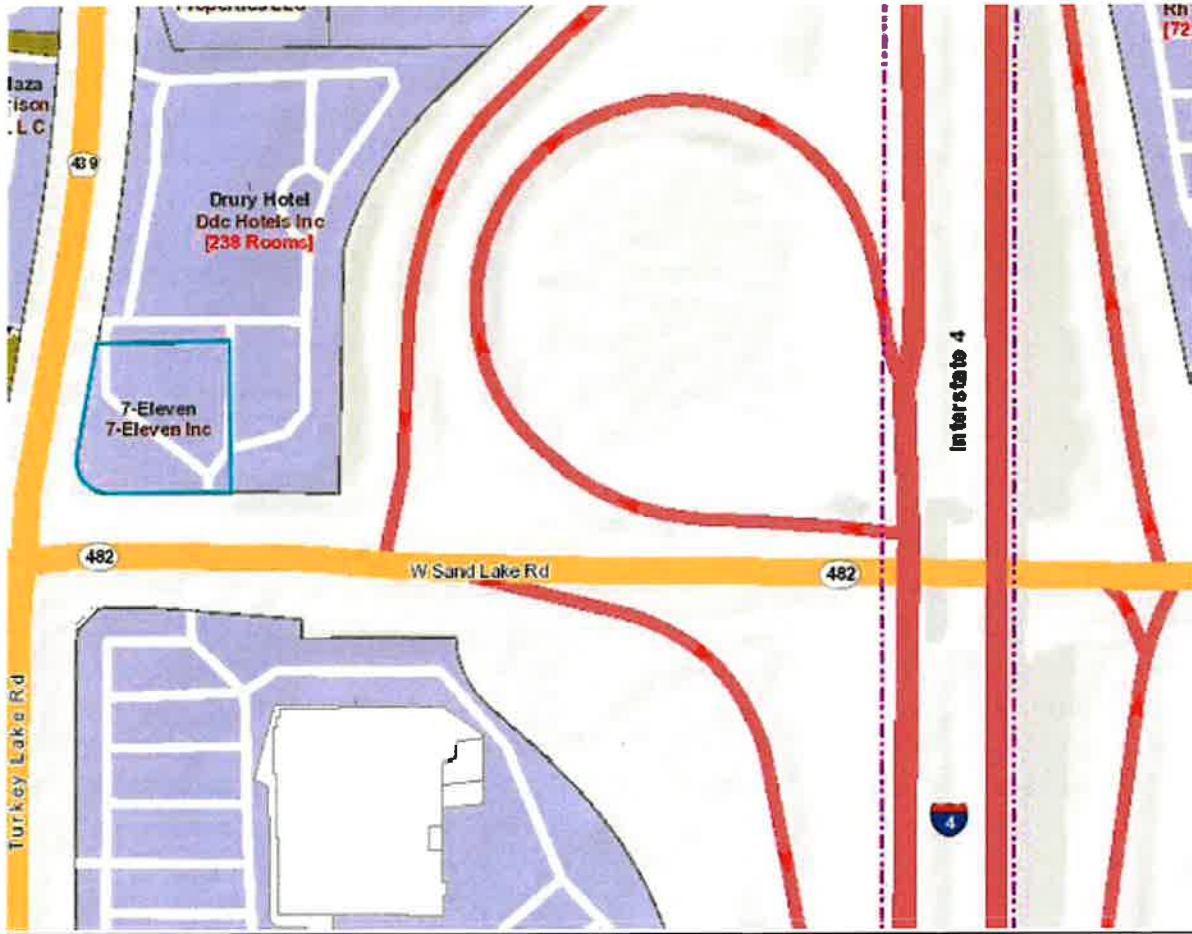
Regards,



Joseph A. Kovacs, Jr.  
Of Counsel

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**Exhibit 1**



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Exhibit 2

Picture 2.1: W. Sand Lake Rd Approaching Intersection with Turkey Lake Rd



Picture 2.2: Within Intersection Looking Down Turkey Lake Road



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Picture 2.3: Within Intersection Looking Down Turkey Lake Road





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**Exhibit 3**

Picture 3.1: Traveling down I-4 Off-Ramp



Picture 3.2: Traveling down I-4 Off-Ramp



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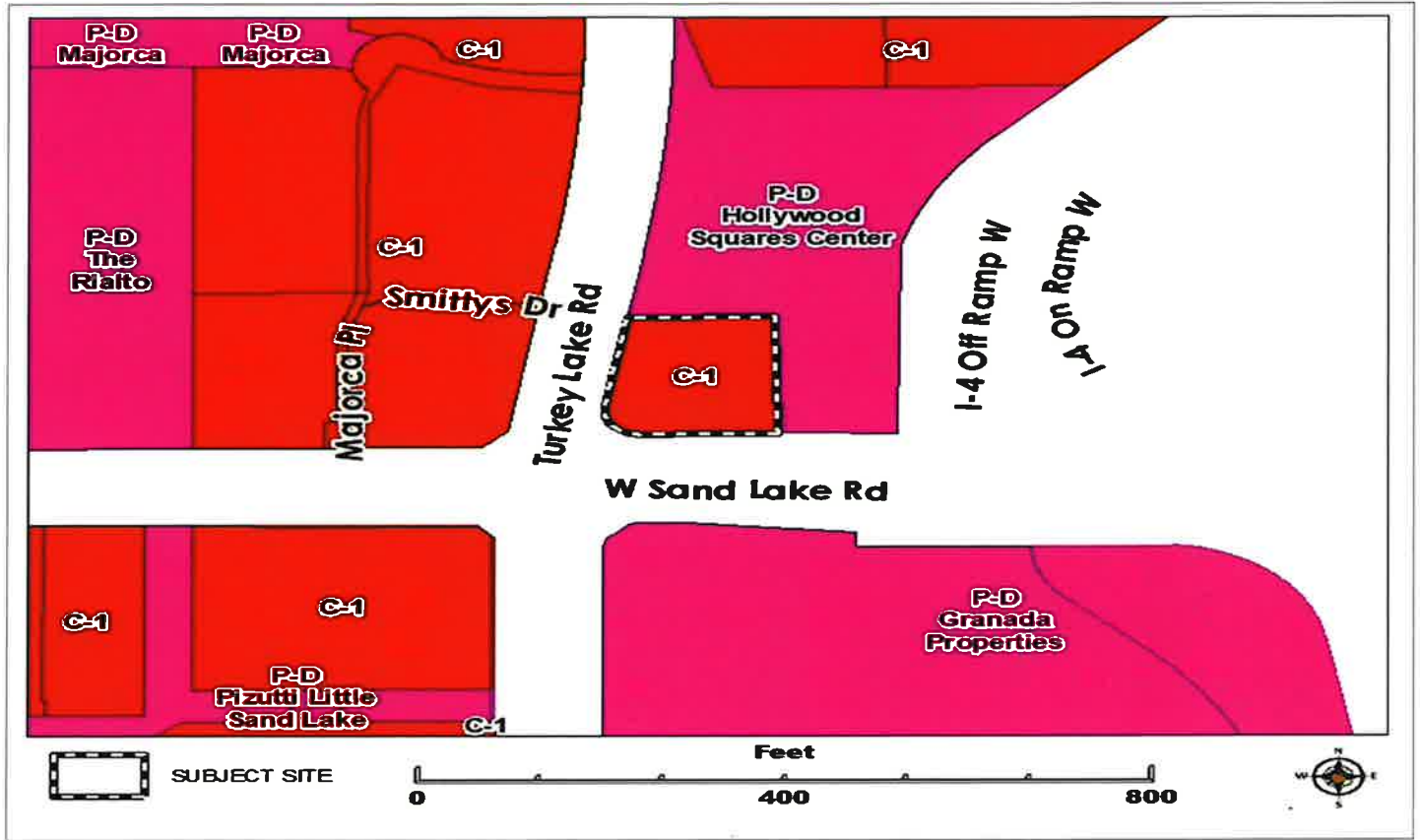
Picture 3.3: Traveling down I-4 Off-Ramp



Picture 3.4: Traveling down I-4 Off-Ramp



ZONING MAP

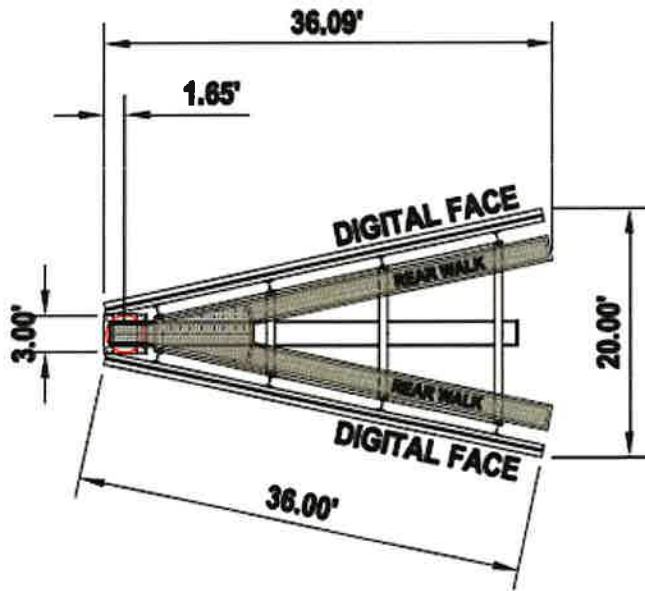
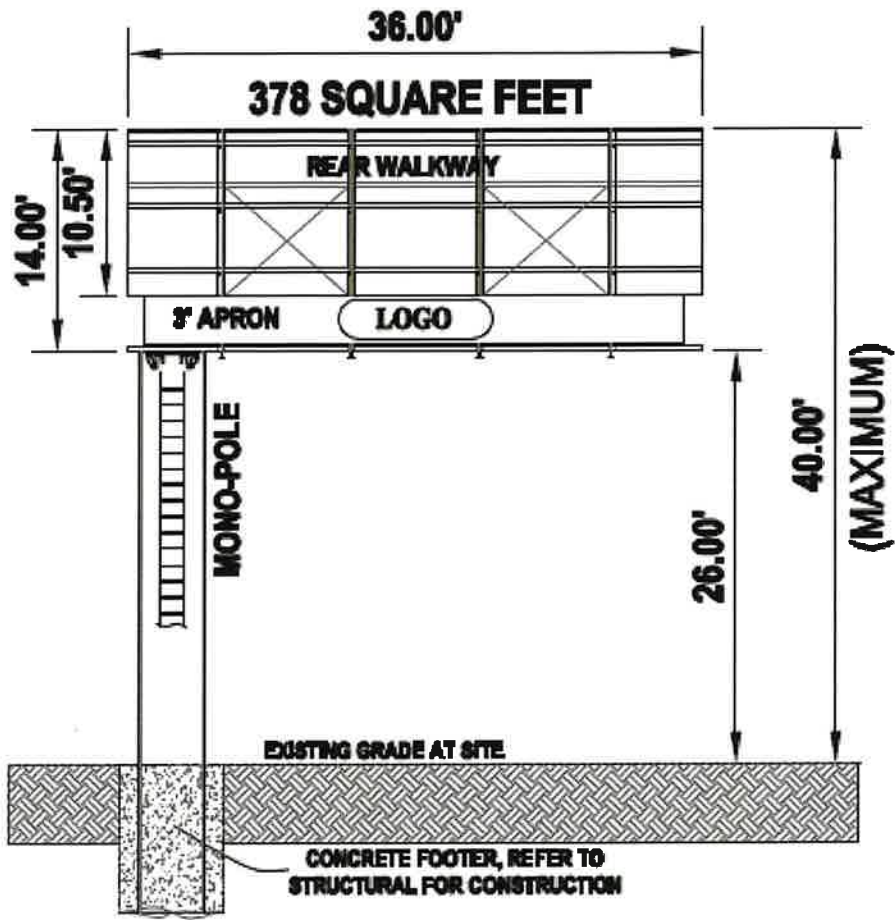


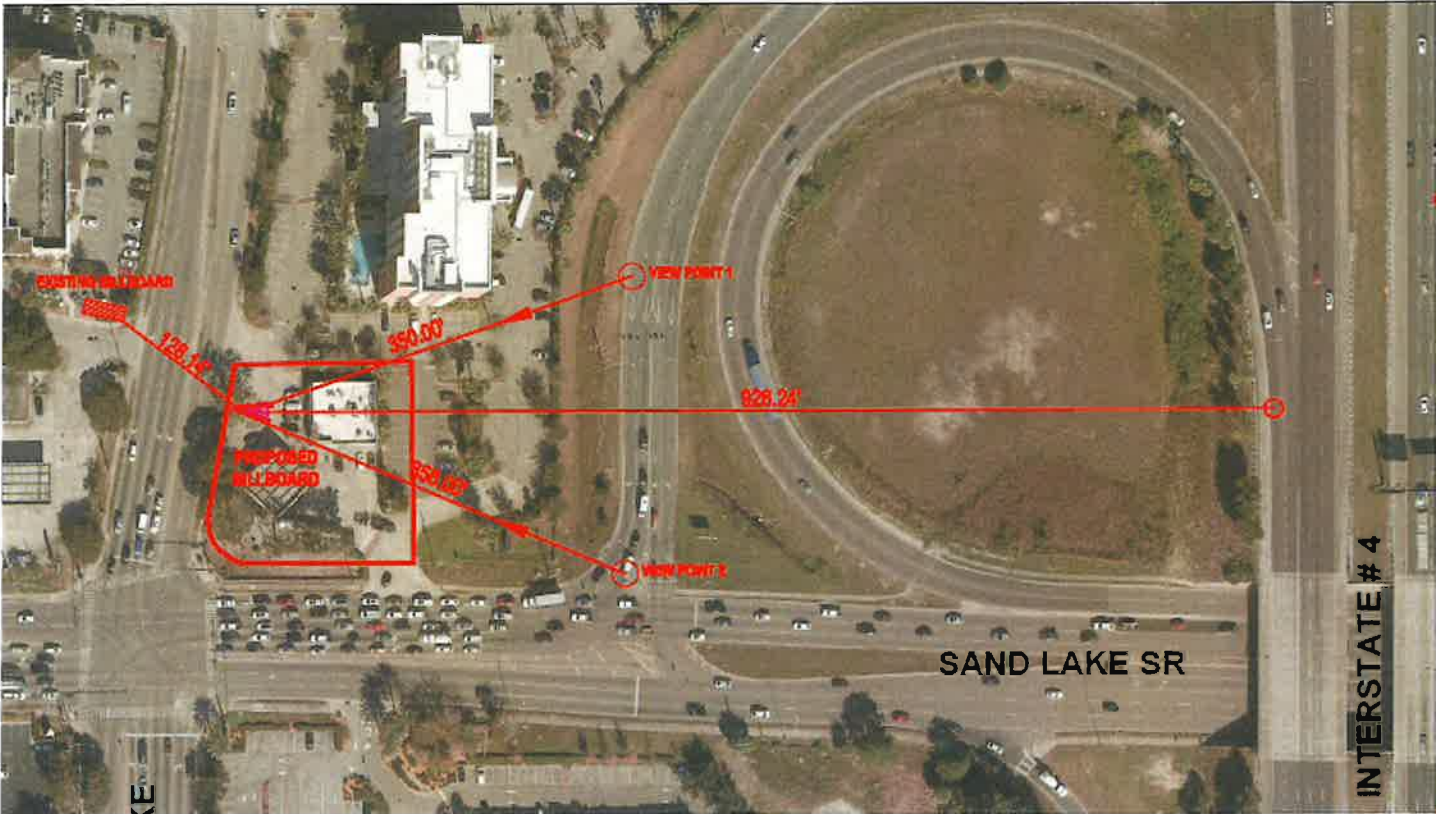
AERIAL MAP





BILLBOARD ELEVATION AND PLAN





**PERSPECTIVE 1**

**PERSPECTIVE 2**



**SITE PHOTOS**

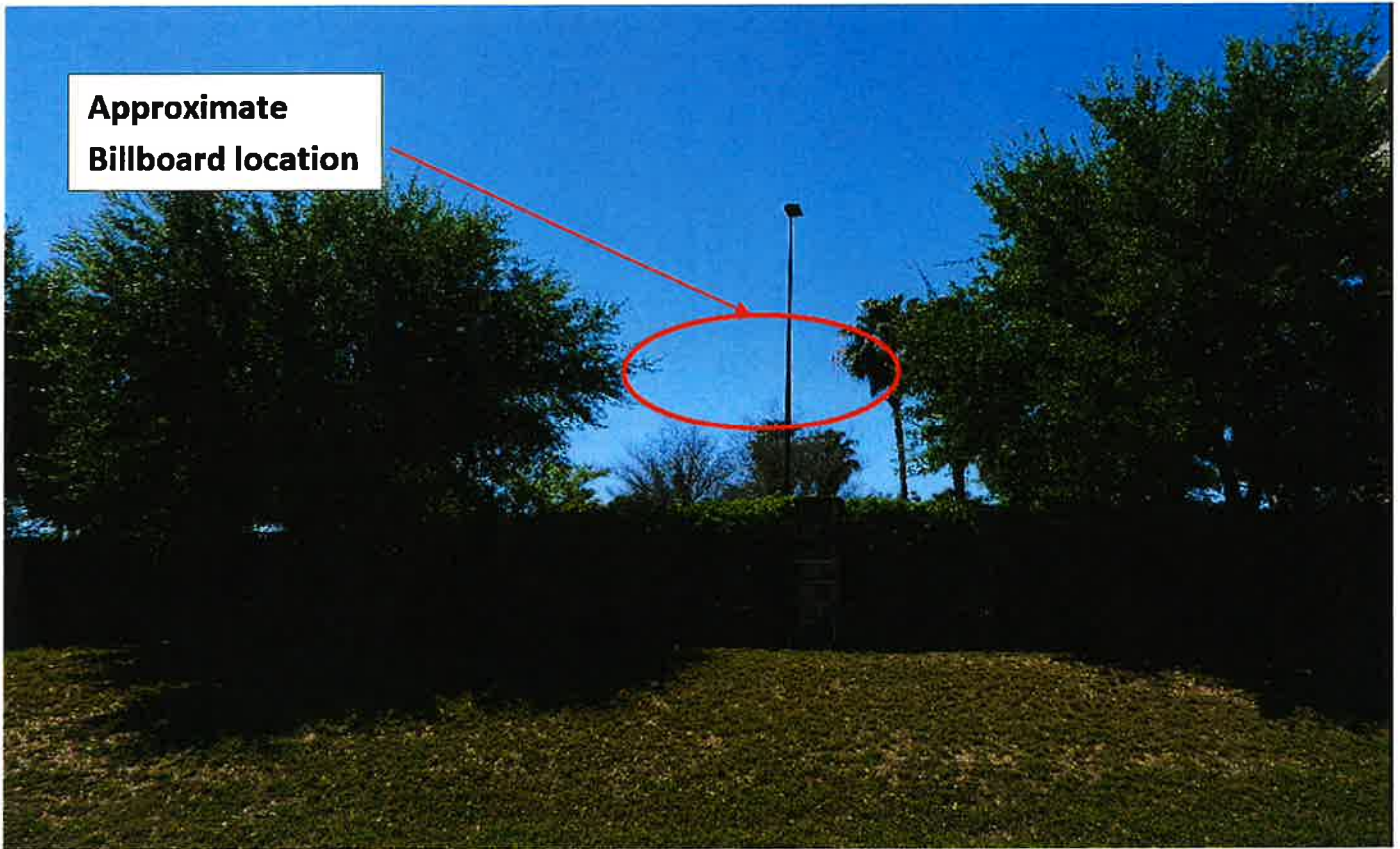


**Facing southwest toward subject property, from I-4 off ramp**



**Facing west toward subject property, from I-4 off ramp**

**SITE PHOTOS**



**Facing west toward subject property, from I-4 off ramp**



**Facing north, down Turkey Lake Rd, looking at billboard location**





Facing East, toward subject property

