

ZONING VARIANCE REVIEW REPORT

TO: Pasco County Development Review Committee FILE: ZN10-2014
FROM: Lee W. Millard PETITION #2014
Assistant Zoning/Code Commission District #2
Compliance Administrator
SUBJECT: Variance Request Development Review Committee
South Central Pasco County Hearing Date: 6/24/10, NPR
APPLICANTS: **1408 SOUTH, LLC/
MATTRESS GIANT** TAZ #163

PETITION SUMMARY:

Variance No. 2014 in the names of 1408 South, LLC/Mattress Giant has been filed to allow adjustment of the standards established within Article 600, General Land Development Standards; Section 601, Signs; Subsection 601.14, On-Site Signs; Permit Required of the Pasco County Land Development Code (LDC). The site under consideration is located on the east side of Dale Mabry Highway, approximately 2,200 feet north of Pasco-Hillsborough County Line Road (Parcel ID No. 35-26-18-0000-06000-0000), and contains 3.79 acres, m.o.l.

EXPLANATION OF VARIANCE:

600 GENERAL LAND DEVELOPMENT STANDARDS

601.14 On-Site Signs; Permit Required.

- C. Standards for on-site signs in nonresidential districts. On-site signs on properties in nonresidential districts which abut a residential district shall not be erected closer than ten (10) feet from any residential zoning district. Finishing materials shall be consistent with those used on the structure to which the sign relates.
- 2. Regulations for wall signs. Wall signs shall be allowed in nonresidential districts, provided the following specific regulations are met, in addition to the general regulations stated above:
 - d. One (1) wall sign shall be permitted for each establishment in a multiple-occupancy parcel. Establishments located at a corner shall be allowed one (1) wall sign for each side of the establishment that faces a public street.

REQUESTED ADJUSTMENT:

The applicants are requesting an increase in the maximum allowed number of wall signs from one to two to allow a wall sign on the north building elevation not facing a public street, which, if approved, will allow the applicants to install an additional wall sign on the north building elevation.

The surrounding zoning districts and land uses are as follows:

	<u>Zoning District</u>	<u>Land Use</u>
North:	MPUD Master Planned Unit Development	Single-Family Dwelling; Monopole Billboard Sign
East:	MPUD Master Planned Unit Development	Wetlands; Retention Pond
South:	MPUD Master Planned Unit Development	Wetlands; Target Store
West:	A-C Agricultural	Dale Mabry Highway; Undeveloped

FINDINGS OF FACT:

1. Presently, the subject site is comprised of an end unit within the County Line Commons Center; it contains 3.79 acres, m.o.l.; and is located in a C-2 General Commercial Zoning District.
2. The applicants have stated that:

The strict application of the land development regulation creates an unreasonable or unfair noneconomic hardship or an inordinate burden that was not created by the variance applicants.

A burden is created by not allowing the tenant at this location to properly identify this location with signs that are compatible in the overall size of the building.

The one special condition and circumstance that is existing is the distance of the storefront from the property line. The store is set back several hundred feet, so visibility is a key factor in our request for this variance and we believe that a second sign is needed to help with visibility.

The specific application of the land development regulation conflicts with an important goal, objective, or policy of the Comprehensive Plan, or with the intent and purpose of another recently adopted land development regulation, that serves a greater public purpose.

The general intent of the code is to allow signage for each business that is architecturally pleasing to the eye, proportional to the structure, and to provide the general public with identification for safe access to the property. In our proposal, we are complying with this intent with a minimum request.

The intent and purpose of the land development regulation, and related land development regulations and Comprehensive Plan provisions, is met or exceeded through an improved or alternate technology or design.

The intent of the code is to allow signage that will advertise the business in question in such a way as to provide the general public with both safe access to the business and proper tenant identification.

The granting of the variance is necessary to protect the public health, safety, or welfare.

The additional signage will allow the general public a chance to identify the property and allow the public safe access to the property.

3. Access to the property is from Dale Mabry Highway, which has 210 feet of right-of-way.
4. The subject property is located in Flood Zone "A," and development within this area is subject to the requirements of the LDC, Article 700, Flood Damage Prevention.
5. The surrounding area is characterized by commercial and residential development.
6. The subject area has been designated ROR (Retail/Office/Residential) and RES-9 (Residential - 9 du/ga) under the Comprehensive Plan.
7. On August 28, 2009, the Development Review Committee denied Variance Petition No. 1971 for an increase in the maximum allowed number of wall signs from one to two to allow a wall sign on the south building elevation not facing a public street for the tenant located on the south end of the subject parcel.
8. On December 16, 2008, Appeal No. DRCA08-01 was granted, and Variance Petition No. 1971 was approved with conditions. The variance granted the tenant on the south building an additional wall sign.
9. Staff has reviewed the proposed request in accordance with the LDC, Article 300, Subsection 316.1.A, and finds the following:
 - a. The strict application of the land development regulation creates an unreasonable or unfair noneconomic hardship or an inordinate burden that was not created by the variance applicant.

Staff finds this variance request is identical to the variance granted on appeal by the Board of County Commissioners for the south end of the subject building. The interconnect to the Wal-Mart Supercenter passes through the north end of the building which is also accessible from Dale Mabry Highway.

- b. The specific application of the land development regulation conflicts with important Goals, Objectives, or Policies of the Comprehensive Plan or with the intent and purpose of another recently adopted land development regulation that serves a greater public purpose.

N/A

- c. The granting of the variance will provide a net economic benefit to the taxpayers of Pasco County and is not in conflict with important Goals, Objectives, and Policies of the Comprehensive Plan.

N/A

- d. The granting of the variance is necessary to achieve an innovative site or building design that furthers the Goals, Objectives, and Policies of the Comprehensive Plan.

N/A

- e. The intent and purpose of the land development regulation, related land development regulations, and Comprehensive Plan provisions are met or exceeded through an improved or alternate technology or design.

N/A

- f. The granting of the variance is necessary to protect the public health, safety, or welfare.

N/A

- g. The variance is necessary to comply with State or Federal law.

N/A

- h. The variance satisfies variance criteria set forth in the specific County land development regulation that is the basis for the variance request.

N/A

- 10. Staff's recommendation and report is based upon a study of the factors outlined above.

STAFF RECOMMENDATION:

Approval with Conditions

CONDITIONS:

- 1. The owners/applicants shall obtain all required permits.
- 2. In addition to complying with the above conditions, no activity shall commence on site until such time as the acknowledgment portion of this document is completed (including notarization) and received by the Zoning and Site Development Department after the final action.

OWNERS'/APPLICANTS' ACKNOWLEDGMENT:

The owners/applicants acknowledge that they have read, understood, and accepted the above-listed conditions of approval. **Do not sign until you receive a copy of this petition with Development Review Committee results.**

(Date)

Printed Name

I hereby certify on this _____ day of _____, _____, A.D., before me personally appeared the owners/applicants, to me known to be the persons described in and who executed the foregoing document and severally acknowledged the execution thereof to be their free act and deed for the uses and purposes therein expressed.

Witness my hand and seal at _____, _____ County, Florida, the day and year aforesaid.

My commission expires:

Notary Public, State of _____ at Large

DEVELOPMENT REVIEW COMMITTEE ACTION: