



The Community Development Director reserves the right to determine whether this application is complete and accurate. An incomplete application will not be processed and will be returned to the applicant. The application shall be reviewed per [Chapter 20 – Zoning Sec. 20-34](#). Applications shall be reviewed for sufficiency (completeness) within thirty (30) calendar days per [FL Statute 166.033](#).

All applicants shall be afforded minimal due process as required by law, including the right to receive notice, be heard, present evidence, cross-examine witnesses, and be represented by a duly authorized representative. Applicants are further advised that a Waiver is quasi-judicial in nature.

Therefore, APPLICANT ACKNOWLEDGES and AGREES, by signing below, that he or she:

- May be sworn-in as a witness in order to provide testimony to the City Commission;
- Shall be subject to cross-examination by party intervenors (if requested); and
- Shall be required to qualify expert witnesses, as appropriate.

Applicants are encouraged to familiarize themselves with [Chapter 2 – Administration Sec. 2-30](#) of the Winter Springs City Code relating to Quasi-Judicial Rules and Procedures of the City Commission. All Waiver recommendations shall be based from the required information/documentation provided, the Winter Springs Code of Ordinances, and the Winter Springs Comprehensive Plan (to the extent applicable).

The City Commission (CC) shall render all final decisions regarding Waivers and may impose reasonable conditions on any approved Waiver to the extent deemed necessary and relevant to ensure compliance with applicable criteria and other applicable provisions of the Winter Springs Code of Ordinances and the Winter Springs Comprehensive Plan. All formal decisions shall be based on competent substantial evidence and the applicable criteria as set forth in Chapter 20, Zoning. Applicants are advised that if, they decide to appeal any decisions made at the meetings or hearings with respect to any matter considered at the meetings or hearings, they will need a record of the proceedings and, for such purposes, they will need to insure that a verbatim record of the proceedings is made, at their cost, which includes the testimony and evidence upon which the appeal is to be based, per [Florida Statute 286.0105](#).

A Waiver which may be granted by the City Commission shall expire two (2) years after the effective date of such approval by the City Commission, unless a building permit based upon and incorporating the Waiver, is issued by the City within said time period. Upon written request of the property owner, the City Commission may extend the expiration date, without public hearing, an additional six (6) months, provided the property owner demonstrates good cause for the extension. In addition, if the aforementioned building permit is timely issued, and the building permit subsequently expires and the subject development project is abandoned or discontinued for a period of six months, the Waiver shall be deemed expired and null and void, per [Chapter 20 – Sec.20-36](#).



**CITY OF WINTER SPRINGS
COMMUNITY DEVELOPMENT DEPARTMENT**

1126 East State Road 434
Winter Springs, Florida 32708
customerservice@winterspringsfl.org
Application – Waiver

REQUIRED INFORMATION

Applicant(s): Ferber Construction Management, LLC; Paul Ferber Date: 07-09-2024
Mailing address: 151 Sawgrass Corners Drive, Suite 202 Ponte Vedra Beach, FL 32082
Email: Wanderson@ferbercompany.com
Phone Number: 407-457-2246

Property Owner(s): _____
Mailing Address: _____
Email: _____
Phone Number: _____

Project Name: QSR - Winter Springs
Property Address: E FL 434 & Tiskawilla Rd Winter Springs, FL 32708
Parcel ID(s): 26-20-30-5AR-0A00-008D; 26-20-30-5AR-0A00-008H; 01-21-30-501-0000-0010
Parcel Size: +/- 5.88 acres
Existing Use: Vacant - general commercial

All waiver requests shall be written in the following format: A waiver is requested from Winter Springs City Code 'X' to allow 'Y' in lieu of 'Z'. After the request, the applicant shall provide a justification for each waiver request.

List Waiver(s)(provide additional sheets if necessary): _____ The proposed Waiver would allow construction of a 5,576 square foot restaurant with two drive-through

lanes (the "Restaurant")1. The Property is located within the Town Center District – Urban Center Zone (T5). Under LDC Section 20-324(6), which provides the General Provisions for the Town Center Code,

"[d]rive-through service windows are only permitted in the rear in and alley accessed locations provided they do not substantially disrupt pedestrian activity or surrounding uses." (the "Drive-Thru Code").

LDC Section 20-34 details the specific criteria that must be met for all waiver requests. In this case, all criteria have been met, as is discussed in more detail below.

Demonstrate that the applicable term or condition clearly creates an illogical, impossible, impractical, or patently unreasonable result related to the proposed property and development?

Considering the Property's location at a major intersection, applying the Drive-Thru Code to the proposed Restaurant would create an illogical, impractical, and unreasonable result. The Property is located along the southern boundary

of the Town Center District at the intersection of SR 434 and Tuskawilla Road. The Property, together with the 0.98 property to the north that is developed as a fueling station, form a wedge-shaped tract

that is bounded at the south by Michael Blake Blvd. Locating the Restaurant's drive-through service window on the side of the Restaurant (shown below) is integral to the internal traffic circulation design of the Project as a whole.

Conversely, locating the drive-through window at the rear of the building—as required by the Drive-Thru Code—would significantly disrupt the Project's internal traffic circulation. As a result, applying the Drive-Thru Code to the Project would create an illogical, impractical, and unreasonable result.



Demonstrate that the proposed development plan is in substantial compliance with Chapter 20 of the City's Code of Ordinances and in compliance with the Comprehensive Plan?

The proposed Project and associated Waiver are in substantial compliance with the City's LDC and Comprehensive Plan. The overall Project design is consistent with the standards set forth within the Town Center Code and, in particular, those applicable within the T5 transect. The proposed Waiver will allow only one drive-through service window within the Project—at the Restaurant. The proposed drive-through window has been designed to accommodate the uses surrounding the Restaurant—both within and outside of the Project—and to avoid disrupting pedestrian activity in and around the Project.

Will the proposed development plan significantly enhance the real property?

The proposed Project will significantly enhance the Property, which is currently undeveloped. The properties to the east, south, and west are developed as residential, with a significant number of multifamily units immediately adjacent to the Property. The surrounding properties would be enhanced by the Project, which proposes complimentary commercial uses within walking distance for nearby City residents. In addition, the Project would enhance the Property as infill development. Policy 1.4.2 of the City's Comprehensive Plan encourages "the efficient use of land with compatible infill and higher density and intensity development within the Town Center and the U.S. 17-92 CRA Corridor." Moreover, the Project is consistent with the Urban Corridor (T5) Transect—the highest intensity transect within the Town Center District. For the foregoing reasons, the Project will significantly enhance the Property and advance the City's policy of encouraging infill development.

Will the proposed development plan serve the public health, safety, and welfare of the City of Winter Springs?

The Project will serve the public health, safety, and welfare of the City by providing infill development within the Town Center District that is designed consistent with the District's standards.

Will the waiver diminish property values in or alter the essential character of the surrounding neighborhood?

The Waiver will not diminish property values in or alter the essential character of the surrounding neighborhood. As infill development, the Project will enhance property values of the surrounding neighborhood. As outlined above, the proposed drive-through window has been designed to accommodate the uses surrounding the Restaurant and to avoid disrupting pedestrian activity in and around the Project. In addition, the Project will include a ten (10) foot landscape buffer between the Restaurant site and SR 434 that will provide visual screening of the drive-through window. The Project's location at the intersection of SR 434 and Tuskawilla Road, coupled with the Restaurant's location at the southwest corner of the Project, ensure that the Waiver will not diminish property values in or alter the essential character of the surrounding neighborhood.

Is the waiver request the minimum waiver that will eliminate or reduce the illogical, impossible, impractical, or patently unreasonable result caused by the applicable term or condition under Chapter 20 – Zoning?

As outlined above, locating the Restaurant's drive-through service window on the side of the Restaurant is integral to the internal traffic circulation design of the Project as a whole. Conversely, locating the drive-through window at the rear of the building—as required by the Drive-Thru Code—would significantly disrupt the Project's internal traffic circulation. As a result, the requested Waiver is the minimum waiver that will prevent an illogical, impractical, and unreasonable result.



Is the proposed development plan compatible and harmonious with the surrounding neighborhood?

The design of the proposed Project is consistent with the standards set forth within the Town Center Code and, in particular, those applicable within the T5 transect. Moreover, the proposed drive-through window has been designed to accommodate the

uses surrounding the Restaurant and to avoid disrupting pedestrian activity in and around the Project. For the foregoing reasons, the proposed Project is compatible and harmonious with the surrounding neighborhood.

List all witnesses that the applicant intends to present to the City Commission to provide testimony:
None other than applicant and applicant's authorized agents.

Describe with specificity any evidence which the applicant intends to present to the City Commission, including oral factual testimony, maps, photographs, records or reports and/or expert testimony:

Applicant intends to present oral factual testimony, citations to the City's LDC and Comprehensive Plan, and project submittal documents.

Attach all documentary evidence which the applicant intends to present to the city commission to the back of this application. The Applicant has a continuing duty to update the list of witnesses, description of evidence, and documentary evidence throughout the application process. Additional witnesses or evidence will not be admitted at the city commission hearing if not submitted at least seven (7) days prior to such hearing.



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REQUIRED DOCUMENTATION

- A complete Application and Fee
- A general description of the relief sought under this division
- A brief explanation, with applicable supporting competent substantial evidence and documents, as to why the application satisfies the relevant criteria set forth in this division
- A Legal Description accompanied by a certified survey or the portion of the map maintained by the Seminole County Property Appraiser reflecting the boundaries of the subject property (To scale).
- An Excel mailing list with the names and addresses of each property owner within 500 ft. of each property line, along with the HOA Associations within 1/2 mile of each property line.
- For all new commercial development and new residential subdivisions of ten (10) or more lots or existing commercial buildings being altered by 50 percent or greater of the original floor plan or seating capacity and requiring a modified site plan, or development agreements process under section 20-28.1 of the City Code, or as otherwise deemed applicable by the city to relevantly and competently examine an application for compliance with the city code and the affect and impact the proposed use will have on neighborhood and surrounding properties, applicants shall be required to submit with the following additional information referenced in [Chapter 20 – Zoning Sec.20.29 Applications \(7\) – \(11\)](#).



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CITY LIMITED RIGHT OF ENTRY: By submitting this Application you hereby grant temporary right of entry for City Officials to enter upon the subject property for purposes of evaluating this Application and posting on the subject property.

APPLICANT'S AUTHORIZATION: I desire to make Application for a Waiver for the aforementioned project and have read and agree to the terms contained herein. In addition, if the Applicant is a corporate entity, the undersigned hereby represents and warrants that he/she is authorized to act on behalf of, and bind, the corporate entity.

Applicant Name (Print): Kyle Morel (Authorized Agent)

Applicant Signature: Kyle Morel Date: 7/9/24

Business Name: Fember Construction Management, LLC

Address: 151 SANGRASS CORNER DRIVE SUITE 202 Parcel ID: 26-20-30-SAR-0A00-008D;

Ponte Vedra Beach, FL 32082 26-20-30-SAR-0A00-008H;

STATE OF FL COUNTY OF Hillsborough

01-21-34-501-0000-0010 Date 7/9/24

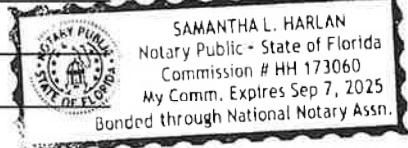
The foregoing instrument was acknowledged before me this 9th day of July, 2024, by
Kyle Morel who is personally known to me or who has produced
as identification and who did/did not take an oath.

Date: 7/9/24

(seal):

Notary Public Signature: SAMANTHA L. HARLAN

My Commission Expires: 9/7/25



Note: The Property Owner shall sign and have their signature notarized below if the
Applicant is not the owner of the subject property.

Property Owner's Name (Print): _____

Property Owner Signature: _____ Date _____

STATE OF _____ COUNTY OF _____

The foregoing instrument was acknowledged before me this _____ day of _____, 20____, by
_____ who is personally known to me or who has produced
as identification and who did/did not take an oath.

Date: _____ (seal):

Notary Public Signature: _____

My Commission expires: _____