

NASSAU COUNTY, FLORIDA
Application for Appeal of the Planning
and Zoning Board Decision or
Conditional Use and Variance Board Decision
Land Development Code, Section 5.06

Part 1 **General Information and Aggrieved Party Status**

Site Plan Name and Application # Tyler Plaza West, CU 2023-017

Property Owner	
Name:	<u>Miller Tyler West, LLC</u>
Registered Agent:*	<u>Sodl & Ingram PLLC, Attn: Elizabeth Moore</u>
Address:	<u>1617 San Marco Boulevard, Jacksonville, FL 32207</u>
Telephone #:	<u>(904) 479-6425</u>
Fax #:	<u>(904) 347-2738</u>
E-Mail Address:	<u>beth.moore@si-law.com</u>
*For purposes of these proceedings, Sodl & Ingram PLLC will act as the authorized agent.	

Appellant	
Name:	<u>Miller Tyler West, LLC</u>
Registered Agent:*	<u>Sodl & Ingram PLLC, Attn: Elizabeth Moore</u>
Address:	<u>1617 San Marco Boulevard, Jacksonville, FL 32207</u>
Telephone #:	<u>(904) 479-6425</u>
Fax #:	<u>(904) 347-2738</u>
E-Mail Address:	<u>beth.moore@si-law.com</u>
*For purposes of these proceedings, Sodl & Ingram PLLC will act as the authorized agent.	

Substantial Interest of Appellant:

The Appellant is the property owner for the application that is the subject of this appeal.

- Add additional sheets as necessary.

Part II **Decision being Appealed**

Date of Preliminary Binding Site Plan Approval: _____

Date of Site Engineering Plan Approval: _____

*Date of Application Denial: November 16, 2023

Part III **Basis of Appeal**

Decision or portion of decision, being appealed: Please see attached sheets.

- Add additional sheets as necessary

Code Sections allegedly applied in error: Please see attached sheets.

- Add additional sheets as necessary

Expected outcome if Code Sections were applied as described above:
Please see attached sheets.

- Add additional sheets as necessary

Part IV **Signature**

Appellant:

MILLER TYLER WEST, LLC, a Utah limited liability company

By: CAMCAM MANAGEMENT, LLC, an Alaska limited liability company, its Manager

By: 

Name: Alan Miller

Its: Authorized Member

Date: 12/18/23

- If appellant is not the Property Owner, attach Owner's Authorization Sheet

Part III **Basis of Appeal**

Decision or portion of decision, being appealed: Please see attached sheets.

- Add additional sheets as necessary

Code Sections allegedly applied in error: Please see attached sheets.

- Add additional sheets as necessary

Expected outcome if Code Sections were applied as described above:
Please see attached sheets.

- Add additional sheets as necessary

Part IV **Signature**

Appellant:

TYLER PLAZA WEST, L.L.C., a Florida limited liability company

By: **ERGISI MANAGER, LLC**, a Florida limited liability company, its Manager

By: Charles D. Smith

Name: Charles D. Smith

Its: Authorized Signatory

Date: 12/18/23

- If appellant is not the Property Owner, attach Owner's Authorization Sheet

Part III **Basis of Appeal**

Decision or portion of decision, being appealed: Please see attached sheets.

- Add additional sheets as necessary

Code Sections allegedly applied in error: Please see attached sheets.

- Add additional sheets as necessary

Expected outcome if Code Sections were applied as described above:
Please see attached sheets.

- Add additional sheets as necessary

Part IV **Signature**

Appellant:

MNSTT-4, LLC, a Florida limited liability company

By: Charles D. Smith

Name: Charles D. Smith

Its: Authorized Signatory

Date: 12/18/23

- If appellant is not the Property Owner, attach Owner's Authorization Sheet

Appeal of the Conditional Use and Variance Board Decision

Tyler Plaza West, CU2023-017

[attached pages]

Part II. Decision being Appealed

On November 16, 2023, the Conditional Use and Variance Board ("Board") heard application CU2023-017 (the "Application") seeking to allow for the sale of on-site or off-site consumption of beer and wine in the Commercial, General (CG) zoning district.

The Board denied the Application, and that denial is being appealed.

Part III. Basis of Appeal

Decision or portion of decision being appealed:

The denial of the Application is being appealed.

Code Sections allegedly applied in error:

The Board improperly found that the conditional use requested was not consistent with the review criteria in Section 5.04 of the Land Development Code ("LDC").

Under quasi-judicial procedures, the applicant had the burden of demonstrating, through competent and substantial evidence, that their application was consistent with Section 5.04(a) through (k) of the LDC. Those opposed must also demonstrate through competent and substantial evidence that the application does not meet those requirements. General objections, without specific evidence, does not constitute competent and substantial evidence. As a quasi-judicial hearing, large numbers of individuals for or against an item is not considered.

Here, the staff report correctly evaluated the criteria in Section 5.04(a) through (k) of the LDC, found the Application consistent with those criteria, and recommended approval of the Application.

During public comment, several individuals spoke out in opposition. Their testimony did not, however, constitute competent and substantial evidence; but, even if it did, such testimony did not establish that the application did not meet the criteria.

Specifically:

- Several individuals raised concerns about traffic, and mostly about the intersection of Meadowfield Bluffs Road and State Road 200. As the County Attorney reminded the Board during a break in the testimony, the relevant criteria are for the conditional use requested (sale of beer and wine), and not as to the traffic or as to the development as a whole. Moreover, when a Board member later stated that she wanted to hear more about traffic, the County

Attorney again reminded the Board that traffic is not one of the criteria. Such general objections and speculation about traffic related to the development overall are simply not relevant to the requested use (sale of beer and wine). Traffic issues are reviewed at the appropriate time during the development process.

- Some individuals also voiced concerns about the potential location of a daycare on the site in proximity to the sale of beer and wine. These concerns are also irrelevant. As County Planner Joshua MacBeth stated, this Application is exempt from the applicable distance regulations pursuant to Chapter 4, Section 4-3(1) of the Nassau County Code of Ordinances. That provision states that vendors located in unincorporated areas of the County (like this site) “shall be exempt from the generally applicable distance regulations which state that the sale of alcoholic or intoxicating beverages shall not be permitted within one thousand (1,000) feet in distance measured from building to building at their closest points to any established school or church.”
- Finally, other individuals spoke about wetlands and flooding. Similar to the traffic concerns, any wetlands or flooding issues are irrelevant to the conditional use requested (sale of beer and wine). Any wetlands impacts or stormwater management facilities are regulated by the St. Johns River Water Management District, and are considered by the County at the appropriate time during the development process.

During the public comment period, the Board did not question any of the individuals providing testimony. Moreover, when the Board deliberated, they did not discuss their findings or provide any reason why the testimony of the general public constituted competent and substantial evidence to rebut the findings in the staff report. Instead, they held private conversations that were not on the record, and denied the Application without any Board discussion.

As noted by Mr. MacBeth, the property has been zoned appropriately and it was already in the fourth stage of DRC review as of the hearing date. Since the hearing, the site engineering plans have been approved. The public comments received during the hearing were general objections and speculation about the development as a whole, and not tailored to the conditional use (sale of beer and wine). Those comments that did relate to the sale of beer and wine were focused on its proximity to a proposed daycare—which is irrelevant because of the exemption explained above.

Appellant respectfully requests that the Application be approved, as recommended by Staff.

Expected outcome if Code Sections were applied as described above:

If criteria in Section 5.04 of the LDC were followed, the Application would have been approved.

OWNER'S AUTHORIZATION FOR AGENT

SODL & INGRAM, PLLC is hereby authorized TO ACT ON
BEHALF OF MILLER TYLER WEST, LLC, the
owner(s) of those lands described within the attached application, and as described in the
attached deeds or other such proof of ownership as may be required, in applying to Nassau
County, Florida, for an application related to Development Permit or other action pursuant to a:

- | | |
|--|---|
| <input type="checkbox"/> Rezoning/Modification | <input type="checkbox"/> Conditional Use |
| <input type="checkbox"/> Variance | <input type="checkbox"/> Preliminary Biding Site Plan |
| <input checked="" type="checkbox"/> Appeal | <input type="checkbox"/> Final Engineering Plan |
| <input type="checkbox"/> Concurrency | <input type="checkbox"/> Plat |

BY:

[Signature]
Signature of Owner

Alan Miller, Authorized Member of CAMCAM MANAGEMENT, LLC, an
Alaska limited liability company, the Manager of MILLER TYLER WEST,
LLC, a Utah limited liability company

Signature of Owner

Alan Miller

Print Name 904-567-8351 alanmiller@gmail.com

Telephone Number

STATE OF FLORIDA

County of Nassau

Signed and sworn before me on this 18th day of December, 2023

By Alan Miller, the Authorized Member for CAMCAM MANAGEMENT, LLC, by means of physical presence
the Manager of MILLER TYLER WEST, LLC

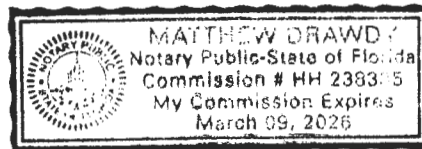
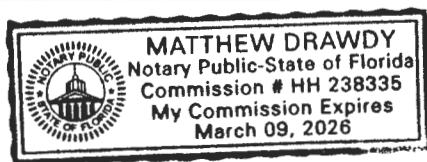
Identification verified Personally known

Oath Sworn X Yes No

Notary Signature

[Signature]

My Commission Expires: 3/9/2026



OWNER'S AUTHORIZATION FOR AGENT

SODL & INGRAM, PLLC is hereby authorized TO ACT ON
BEHALF OF TYLER PLAZA WEST, L.L.C., the
owner(s) of those lands described within the attached application, and as described in the
attached deeds or other such proof of ownership as may be required, in applying to Nassau
County, Florida, for an application related to Development Permit or other action pursuant to a:

- | | |
|--|---|
| <input type="checkbox"/> Rezoning/Modification | <input type="checkbox"/> Conditional Use |
| <input type="checkbox"/> Variance | <input type="checkbox"/> Preliminary Biding Site Plan |
| <input checked="" type="checkbox"/> Appeal | <input type="checkbox"/> Final Engineering Plan |
| <input type="checkbox"/> Concurrency | <input type="checkbox"/> Plat |

BY:

Charles D. Smith
Signature of Owner

Charles D. Smith, Authorized Signatory for ERGISI MANAGER, LLC, a
Florida limited liability company, the Manager of TYLER PLAZA WEST,
L.L.C., a Florida limited liability company

Signature of Owner

Charles D. Smith

Print Name 904-567-8351 doug.smith@crossregions.com

Telephone Number

STATE OF FLORIDA

County of Duval

Signed and sworn before me on this 18th day of December, 2023

By Charles D. Smith, the Authorized Signatory for ERGISI MANAGER, LLC, the Manager of TYLER PLAZA WEST, L.L.C. by means of physical presence

Identification verified Personally known

Oath Sworn X Yes No

Notary Signature

[Signature]

My Commission Expires:

Sep 4 2025



OWNER'S AUTHORIZATION FOR AGENT

SODL & INGRAM, PLLC is hereby authorized TO ACT ON
BEHALF OF MNSTT-4, LLC, the
owner(s) of those lands described within the attached application, and as described in the
attached deeds or other such proof of ownership as may be required, in applying to Nassau
County, Florida, for an application related to Development Permit or other action pursuant to a:

- | | |
|--|---|
| <input type="checkbox"/> Rezoning/Modification | <input type="checkbox"/> Conditional Use |
| <input type="checkbox"/> Variance | <input type="checkbox"/> Preliminary Biding Site Plan |
| <input checked="" type="checkbox"/> Appeal | <input type="checkbox"/> Final Engineering Plan |
| <input type="checkbox"/> Concurrency | <input type="checkbox"/> Plat |

BY:

Charles D. Smith
Signature of Owner

Charles D. Smith, Authorized Signatory for MNSTT-4, LLC, a Florida
limited liability company

Signature of Owner

Charles D. Smith

Print Name 904-567-8351 doug.smith@crossregions.com

Telephone Number

STATE OF FLORIDA

County of Duval

Signed and sworn before me on this 18th day of December, 20 23

By Charles D. Smith, the Authorized Signatory for MNSTT-4, LLC by means of physical presence

Identification verified Personally known

Oath Sworn X Yes No

Notary Signature

My Commission Expires: Sep 4 2025

