

PASCO COUNTY, FLORIDA
INTEROFFICE MEMORANDUM

TO: Development Review Committee

DATE: 1/20/10

FILE: ZN10-089

SUBJECT: Class II, Commercial Development Review - Sonny's Real Pit Bar-B-Q - Wesley Chapel Variance Requests (Project No. IPR97-080)
DRC: 1/28/10, 1:30 p.m., NPR
Recommendation: Approval with Conditions

FROM: Debra M. Zampetti
Zoning/Code Compliance Administrator

REFERENCES: Land Development Code, Section 306, Development Review Procedures; Comm. Dist. 2

It is recommended that the data herein presented be given formal consideration by the Development Review Committee (DRC).

Commission District:	The Honorable Pat Mulieri, Ed.D.
Project Name:	Sonny's Real Pit Bar-B-Q - Wesley Chapel
Developer's Names:	A & M Bar-B-Q, Inc.
Location:	On the east side of Bruce B. Downs Boulevard and south of Wesley Chapel Boulevard, Section 07, Township 26 South, Range 20 East.
Parcel ID No.:	07-26-20-0000-00200-0040
Land Use Classification:	MU (Mixed Use)
Zoning District:	C-2 General Commercial
Acreage:	1.18 Acres, m.o.l.
Number of Units:	1
Type of Unit:	Restaurant
Square Feet:	5,746 Square Feet
Water/Sewage:	Pasco/Pasco
Transportation Impact Fee Zone:	3
Transportation Analysis Zone:	285

DEVELOPER'S REQUEST:

The developers of Sonny's Real Pit Bar-B-Q - Wesley Chapel is requesting variances from the Land Development Code (LDC) as listed below and as further explained herein:

1. Variances:
 - a. Section 603.6, Minimum Interior Landscaping Required for Vehicular Use Areas
 - (1) Subsection 603.6.D
 - (2) Subsection 603.3.I
 - b. Section 603.9, Landscape Buffering and Screening
 - (1) Subsection 603.9.D.1, Type A Buffer
 - (2) Subsection 603.9.D.4.c, Type D Buffer

BACKGROUND:

1. On September 18, 1997, the DRC approved the construction site plan request for the Sonny's Real Pit Bar-B-Q (DR97-1445).

2. On August 18, 1989, the Board of County Commissioners approved a conditional use for the sale of alcoholic beverages (Petition No. CU98-28).

FINDINGS OF FACT:

1. Presently, the subject site contains a Sonny's Real Pit Bar-B-Q restaurant.
2. The subject property is located in Flood Zone "X." Development is subject to the requirements of the LDC, Article 700, Flood Damage Prevention.
3. The surrounding zoning is as follows and, for reference purposes, the buffer requirements for the abutting properties is also provided:

	<u>Zoning Districts</u>	<u>Types/Buffer Requirements</u>
North:	C-2 General Commercial	Type A Buffer 10 Feet
South:	C-2 General Commercial	Type A Buffer 10 Feet
East:	C-2 General Commercial	Type A Buffer 10 Feet
West:	Bruce B. Downs Boulevard	Type D Buffer 15 Feet

4. The variance requests have been reviewed by the Zoning and Site Development Department, and it has been determined that the proposed use is consistent with the above-referenced zoning district's permitted uses.
5. The variance requests for the above-subject project were prepared for A & M Bar-B-Q, Inc., by Landon, Moree & Associates, Inc., and consist of two sheets dated August 12, 2009. The plans were originally received by the Zoning and Site Development Department on October 21, 2009.
6. Access to the property is from Bruce B. Downs Boulevard, a Florida Department of Transportation maintained road, which has 200 feet of right-of-way.
7. The proposed request is consistent with the Pasco County applicable provisions of the Comprehensive Plan as conditioned.

VARIANCE REQUESTS:

The applicant/developer has requested specific variances from the following provisions of the LDC to be considered:

Section 603, Landscaping and Irrigation

1. Subsection 603.6.D, Minimum Interior Landscaping Required for Vehicular Use Areas, which, if approved, would relieve the applicant/developer from providing ten percent of the on-site, vehicular-use area to be devoted to landscaping and reduce it to eight percent.

Relief is being sought pursuant to the LDC, Sections 316.1.A(1) and (5), as the purpose for the variances which read as follows:

"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."

"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 alternated technology or design."

The applicant states:

"As illustrated on the attached drawing, the building perimeter landscaped areas far exceed the requirements set forth in the LDC. It is requested that the required percentage of vehicular use area devoted to landscaping be reduced from ten percent to eight percent given the excess amount of building perimeter landscape areas."

Staff has reviewed the applicant's request and recommends approval of the variance request to reduce the vehicular-use area devoted to landscaping from ten percent to eight percent. The applicant has illustrated on his drawing that the building perimeter, landscaped areas are meeting the intent of the LDC. Further, this is an existing site which the applicant is trying to retrofit landscaping.

2. Subsection 603.3.I, which, if approved, would relieve the applicant/developer from the requirement of providing no more than eight spaces without a landscape island.

Relief is being sought pursuant to the LDC, Sections 316.1.A(1) and (5), as the purpose for the variances which read as follows:

"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."

"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 alternated technology or design."

The applicant states:

"The current number of parking spaces (80) is less than the Sonny's BBQ franchise requirements of 102 spaces. Adding landscaped islands would result in the loss of four more spaces, causing a possible breach of the franchise requirements and ultimately the forfeit of the franchise. We are still providing all required perimeter landscaping."

Staff has reviewed the applicant's request and recommends approval of the variance from the requirement of providing no more than eight spaces without a landscape island. The applicant is providing the perimeter landscaping buffers and, also on the site, there are oak trees with expansive canopies.

Section 603.9, Buffering and Screening

1. Subsection 603.9.D.1, Type A Buffer, which, if approved, would relieve the applicant from providing a ten-foot-wide buffer and be reducing the buffer to five feet wide along the north, east, and south property lines.

Relief is being sought pursuant to the LDC, Sections 316.1.A(1), as the purpose for the variances which read as follows:

"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."

The applicant states:

"Complying with the buffer width requirements will create an unreasonable hardship on the property. The requested buffer width will encroach into the existing parking lot, resulting in the loss of 41 parking spaces, rendering the site unsuitable for the parking demand."

Staff has reviewed the applicant's request and recommends approval of the variance request to reduce the width of the Type A buffer from ten feet to five feet along the north, east, and south property lines. Further, this is an existing site which the applicant is trying to retrofit landscaping.

2. Subsection 603.9.D.4, Type D Buffer, which, if approved, would allow the applicant to reduce the required 15-foot buffer to 6 feet and to eliminate the 18-inch berm requirement.

Relief is being sought pursuant to the LDC, Sections 316.1.A(1), as the purpose for the variances which read as follows:

"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."

The applicant states:

"The west property line is required to have a Type 'D' buffer, which is specified as a 15 foot width. We request a variance for the buffer to be **6 feet in width**. The requested buffer width will encroach into the existing parking lot, resulting in the loss of 12 parking spaces, rendering the site unsuitable for the parking demand. The new landscaping required will still be installed in the existing buffer (see drawing). Due to the width constraints of this buffer (existing six-foot width), it is impossible to construct the berm as specified AND install the required landscaping. In order to install both the berm and the landscaping, it would be required to encroach into the existing parking lot, resulting in the loss of 12 parking spots. It is requested that we are exempt from installing the berm in order to install the other landscaping required for a Type 'D' buffer. The new landscaping required will still be installed in the existing buffer (see drawing)."

Staff has reviewed the applicant's request and recommends approval of the variance for a reduction in the buffer width and the elimination of the berm with the following condition:

All required plantings shall be installed and maintained within the six-foot buffer area.

RECOMMENDATION:

The Zoning and Site Development Department recommends approval of the variance requests with the following conditions:

1. The applicant/developer will not be required to provide a landscape island for every eight parking spaces.
2. In lieu of the required ten-foot buffer, the applicant/developer shall provide a five-foot buffer along the north, east, and south project area.
3. An 18-inch berm shall not be required at the vehicular-use area abutting S.R. 54; however, the applicant developer shall install all required plantings within the six-foot buffer abutting Bruce B. Downs and the shrubs shall be installed and maintained at a height of 36 inches.
4. The developer acknowledges that an appeal may be filed against the decision of the DRC within 30 days of the date of this approval. Any development that takes place within the 30-day appeal deadline shall not establish vested rights with respect to construction of the project.

The DRC's approval of these variance requests constitutes a finding by the DRC that the variance requests, as conditioned, are consistent with those Goals, Objectives, and Policies of the Comprehensive Plan and those provisions of the LDC that are applicable to variance requests approvals. This action is based on the office review of the plans, supporting documentation, and certifications of the Engineer of Record.

DEVELOPER'S ACKNOWLEDGMENT:

The developer acknowledges that it has read, understood, and accepted the above-listed conditions of approval.

_____ Date

_____ A & M BAR-B-Q, INC.

STATE OF FLORIDA
COUNTY OF _____

_____ Title

The foregoing instrument was acknowledged before me this _____ (date),
by _____ (name of corporation
acknowledging) a _____ (State or
place of incorporation) corporation, on behalf of the corporation. He/she is personally known to me or
who has produced _____ (type of identification) as identification.

Seal:

_____ NOTARY

ATTACHMENTS:

1. Location Map
2. Site Plan
3. Variance Exhibits

DMZ/BET/ecm/drc012810/sonyszn10089

DEVELOPMENT REVIEW COMMITTEE ACTION: