

**PASCO COUNTY**  
**DEVELOPMENT REVIEW DIVISION**  
**VARIANCE APPLICATION AND REVIEW**  
**SECTION 316, VARIANCE REQUESTS,**  
**LAND DEVELOPMENT CODE**

A variance is a granting of relief from the requirements of the Pasco County Land Development Code.

**VARIANCE REVIEW**

The Development Review Committee may grant a variance from the terms of the Land Development Code when such variance will not be contrary to the public interest; where, owing to special conditions, a literal enforcement of the provisions of the Land Development Code would result in unnecessary hardship; or where improved or alternative technology would meet or exceed the development and construction standards set forth in the Land Development Code. Such variance shall not be granted if it has the effect of nullifying the intent and purpose of the Land Development Code. Furthermore, such variance shall not be granted by the Development Review Committee unless and until:

1. A written application for a variance is submitted, demonstrating compliance with one or more of the following:
  - a. That special conditions and circumstances exist which are peculiar to the land, structures, or required subdivision improvements involved, and which are not applicable to other lands, structures, or required improvements.
  - b. That a literal interpretation of the provisions of Land Development Code would deprive the applicant or rights commonly enjoyed by other properties with similar conditions.
  - c. That the actions of the applicant did not cause the special conditions and circumstances which necessitate the variance.
  - d. That the granting of the variance required will not confer on the applicant any special privilege that is denied by the Land Development Code to other lands, structures, or required improvements under similar conditions.
  - e. Through improved or alternative technology, the development and construction standards set forth in the Land Development Code are met or exceeded.
2. The Development Review Committee finds that the requirements of the Land Development Code have been met based upon the substantial competent evidence presented at a public hearing.
3. The Development Review Committee further finds that the reasons set forth in the application justify the granting of the variance that would make possible the reasonable use of the land, buildings, or other improvements.
4. The Development Review Committee finds that the granting of the variance would be in harmony with the general standards, purpose, and intent of the Land Development Code and will not be injurious to the surrounding territory, or otherwise be detrimental to the public welfare.
5. The Development Review Committee finds that the granting of the variance would not violate the goals, objectives and policies of the Comprehensive Plan.

VARIANCE NO.: VAC 09-452

DATE: 9/22/08

PASCO COUNTY

APPLICATION FOR VARIANCE  
DEVELOPMENT REVIEW COMMITTEE

VARIANCE BOARD

The undersigned owner(s) of the following legally described property have formally requested consideration of a variance in accordance with the provisions of the Florida Statutes and the Pasco County LDC, Section 316.

It shall be the responsibility of the petitioner, or her/his legal agent of record, to provide all information required below or any other information which is reasonable and relevant to the formulation of a recommendation to the adjustment being considered. **No application for review shall be deemed complete until all required information is provided.**

1. Project Name: Hillcrest Preserve - Commercial
2. Project No. (from DRD): \_\_\_\_\_
3. Name of Owner: Hillcrest Property LLP  
Mailing Address: 3626 Madaca Lane  
City: Tampa State: FL Zip Code: 33618  
Telephone Number: (813) 223-3888 Fax Number: (813) 228-6422  
E-Mail Address: biffc@bsbfir.com
4. Name of Developer: Hillcrest Property LLP  
Mailing Address: 3626 Madaca Lane  
City: Tampa State: FL Zip Code: 33618  
Telephone Number: (813) 223-3888 Fax Number: (813) 228-6422  
E-Mail Address: \_\_\_\_\_
5. Name of Agent, if applicable: Brickleyer Smolker & Boltes, P.A.  
Mailing Address: 500 E. Kennedy Blvd., Ste. 200  
City: Tampa State: FL Zip Code: 33602  
Telephone Number: (813) 223-3888 Fax Number: (813) 228-6422  
E-Mail Address: biffc@bsbfir.com  
(Attach completed Agent of Record)

Locational Description: NW corner of S.R. 52 and the proposed Old Pasco Road Extension

Parcel Identification Number:

Section 07, Township 25 South, Range 20 East, Sub 0000, Block 00100, Lot 0030 &0040

Present Zoning District: MPUD

RECEIVED  
2009-027  
SEP 22 2008  
PP VAR  
PASCO COUNTY  
DEVELOPMENT REVIEW

Received

**REASONS FOR REQUEST FOR VARIANCE:**

Using a separate application for each request, please answer the following. If additional space is needed, attach extra pages to the application.

1. State the specific section of the LDC for which the variance is requested:

Section 402.6

2. Describe the variance requested:

See attached.

3. Demonstrate compliance with one or more of the following:

- a. The strict application of the land development regulation creates an unreasonable or unfair non-economic hardship, or an inordinate burden that was not created by the variance applicant.
- b. 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.
- 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.
- 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.
- e. 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.
- f. The granting of the variance is necessary to protect the public health, safety or welfare.
- g. The variance is necessary to comply with State or Federal law.
- h. The variance satisfies variance criteria set forth in the specific County land development regulation that is the basis for the variance request.

4. All variance applications that affect site conditions shall be accompanied by site plans depicting the site conditions with the granting of the variance and without the granting of the variance. Conceptual site plans may be allowed if approved by the Division Engineer (DRD) or Development Director.

**ADDITIONAL ITEMS REQUIRED FOR VARIANCE:**

1. Two signed and sealed legal descriptions and sketches to be supplied at time of application.
2. Copy of Warranty Deed
3. Copy of Last Year's Tax Bill
4. Notarized Agent of Record Letter (if applicable)
5. Is this application the result of a Notice of Violation? NO If so, please attach a copy of the notice.
6. Application Fee: \$800.00 (each variance request).

I certify that all the above statements and the statements contained in any papers or plans submitted herewith are true to the best of my knowledge and belief.

Received

SEP 29 2008

Growth Mgmt. Dept.

## Reasons for Request for Variance

1. The specific code section we seek to vary to continue the expiration date of the certificate of level of service compliance are found in Section 402.6 Subsections C(2) and D. Specifically, we wish to extend the certificate of level of service without further traffic studies by two years (through December 31, 2010) and through the variance process to section 402.6
2. This variance is being requested to extend the Project's certificate of level of service compliance for concurrency and build out date through December 31, 2010, without requiring a new traffic study or finding that such extension constitutes a material change. This change is sought to make up for impacts of delay and uncertainty described herein has caused the Project .

The Project has been impacted by the decision to take all right of way for the expansion of S. R. 52 from the north side of the centerline, an additional 140 feet. The commercial portion of the MPUD was approved for 179,685 square feet in its zoning approval. When the Project was designed and submitted for preliminary plan approval in 2006, the size and configuration of the parcel fit the proposed grocery anchored shopping center with additional retail area and outparcels, for which there was a contract purchaser.

In the course of preliminary plan review when the PD&E study for the expansion of S. R. 52 was completed (February 2007) it was determined in the study to take all of the needed right of way for the widening of SR 52 along our project boundaries would be taken from the north side of the current alignment, requiring the loss of a significant portion of the site and the contract for the shopping center which would no longer fit on the parcel when the right of way projected to be needed was dropped from the plans. This right of way request led to meetings with the county which resulted in an agreement to resume consideration of the project plans without including the area sought for right of way. The redesign reduced the size of the project to 76,068 square feet once the Project was required to be redesigned to show no development in the area proposed for expansion, making its size unmarketable for a grocery anchored shopping center.

Preliminary plan approval for the reduced Project, together with the initial certificate of transportation capacity was received on August 23, 2007. The Project received construction plans approval on June 9, 2008, however, the certificate of concurrency is set to expire December 31, 2008.

The actions which caused the hardship which necessitate the variance were completely out of the Applicant's control. The determination of the roadway alignment caused the Applicant to lose the pending sales contract and completely redesign and downsize the Project.

3. a. A strict application of the LDC creates an unreasonable and unfair non-economic hardship and an inordinate burden that was not created by the Applicant. Special conditions and circumstances exist regarding the commercial portion of this Property in that after design and while under contract for purchase and development, the PD&E study for the expansion of S. R. 52 showed a disproportionate right of way need on the north side of the centerline which affected the southern 140 feet of the Property. This caused a

reduction in buildable land by 27%, the termination of the contract, the reduction of the Project square footage as well as the delay in obtaining construction plan approval. Delays caused by the failure of FDOT to clearly identify its land needs have further hindered the Applicant's ability to reach closure on the efforts it has undertaken for early acquisition of the portion of the property needed for widening of SR 52. Efforts have been made to cooperate on this acquisition by reworking the site plan that was under review when advised of the PD&E study requiring disproportionate taking needed for the expansion of SR 52. The Applicant cooperated with both the County and the FDOT by reworking its development plans to try and meet the requirements for widening, however, these delays have placed an unfair hardship on the Applicant by casting an air of uncertainty over the amount and location of retail development that could be placed on the Project, despite efforts of the Applicant to cooperate on the disproportionate taking of the Project.

- b. The specific application of the concurrency limits would terminate our concurrency certificate on December 31, 2008, conflicting with important policies within the comprehensive plan and failing to acknowledge the delay caused by determination of the expansion alignment of S. R. 52, which was determined after preliminary plans were under review.
- c. The granting of the variance provides a net economic benefit to the taxpayers of Pasco County through the willingness of the Applicant to work with the County and FDOT on early acquisition of the needed right of way to avoid the potential costs of litigation and is not in conflict with any important Goals, Objectives or Policies of the Comprehensive Plan.
- e. The intent and purpose of the land development regulation has been met through an alternate design which has reduced the square footage of the Project. Construction plans have now been approved for 76,068 square feet, considerably less than the MPUD approved entitlement of 179,685. This drastic reduction by the Applicant should result in the Applicant not being required to perform additional traffic analysis to demonstrate compliance with concurrency by the requested extension date of December 31, 2010. Such reduction in impact should more than offset growth (if any) in background for the additional year sought. The delay experienced due to the complete redesign and reduction of the Project requires extension of the certificate of level of service compliance by one year. The reduction of the Project is reflected in a reduction of traffic impacts as shown Exhibit "A".
- f. To the extent that requiring this added right of way in the configuration required is a legitimate act of the police powers of government, the granting of this Applicant's variance caused by this requirement should be viewed as necessary to protect the public health, safety or welfare.

I consent to the entry in or upon the premises described in this application by any authorized official of Pasco County for the purpose of posting, maintaining, and removing such notices as may be required by law.

DATE: 9/18/08

APPLICANT'S SIGNATURE: *Beff Craine*

APPLICANT'S REPRESENTATIVE: *Beff Craine*

ADDRESS: 500 E. Kennedy Blvd., Ste. 200

CITY: Tampa STATE: FL ZIP CODE: 33602

## AGENT OF RECORD LETTER

TO THE PASCO COUNTY DEVELOPMENT REVIEW DIVISION AND/OR THE DEVELOPMENT REVIEW COMMITTEE:

I, GEORGE B. KARPAY, hereby designate and appoint Bricklemeyer Smolker & Bolves, P.A. as my Agent of Record for the purposes of representing me during the Development Review Process and/or hearing processes with regard to: (Project Name and No.) Hillcrest Preserve - Commercial. My Agent of Record is hereby vested with authority to make any representations, agreements, or promises that are necessary or desirable in conjunction with the review process. My Agent of Record is also authorized to accept or reject any conditions imposed by any reviewing board or entity.

DATE: Aug 22, 2008

George B. Karpay

APPLICANT/OWNER (PRINT)

George B. Karpay

APPLICANT/OWNER'S SIGNATURE

General Partner

APPLICANT/OWNER'S TITLE

Bricklemeyer Smolker & Bolves, P. A. Biff Craine  
APPLICANT'S REPRESENTATIVE (PRINT)

George B. Karpay  
APPLICANT/REPRESENTATIVE'S SIGNATURE

500 E. Kennedy Blvd., Suite 200  
ADDRESS

Tampa, FL 33602  
CITY, STATE, ZIP CODE

TELEPHONE NUMBER

STATE OF FLORIDA

COUNTY OF Wellsborough

I HEREBY CERTIFY that on this day personally appeared before me this (date), by

George B. Karpay  
(name of person acknowledging),

(name of Corporation acknowledging) who is personally known to me or who has produced SONYA CHARLEBOIS (type of identification) as identification.

WITNESS my hand and official seal in the County and State last aforesaid this 22 day of Aug 2008.

NOTARY PUBLIC STATE OF FLORIDA  
  
Sonya Charlebois  
Commission # DD494026  
My commission Expires:   
Expires: NOV. 28, 2009  
Bonded thru Atlantic Bonding Co., Inc.

Sonya Charlebois  
NOTARY PUBLIC  
State of Florida at Large

NOTE: If an Agent of Record is to be designated, all property owners of the subject property must sign this form.