

PASCO COUNTY, FLORIDA  
INTEROFFICE MEMORANDUM

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TO: Development Review Committee

DATE: 3/25/10

FILE: ZN10-162

SUBJECT: Class II, Commercial Development Review - Village Market at Wesley Chapel Variance Requests (Project No. DPR87-70)  
DRC: 4/1/10, 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

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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:	Village Market at Wesley Chapel
Developer's Name:	Christopher S. McNeal
Location:	5351 S.R. 581 (Bruce B. Downs Boulevard), Section 07, Township 26 South, Range 20 East.
Parcel ID No.:	07-26-20-0000-00300-0030
Land Use Classification:	MU (Mixed Use)
Zoning District:	C-2 General Commercial
Transportation Corridors:	S.R. 54 (Wesley Chapel Boulevard) and S.R. 581 (Bruce B. Downs Boulevard)
Existing Rights-of-Way:	125 Feet from Centerline (S.R. 54) and 100 Feet from Centerline
Required Rights-of-Way:	125 Feet from Centerline (S.R. 54) and 100 Feet from Centerline
Acreage:	14.2 Acres, m.o.l.
Number of Units:	4
Type of Units:	Shopping Center with Retail, Offices, and Restaurants
Square Feet:	115,975 Square Feet
Water/Sewage:	Pasco/Pasco
Transportation Impact Fee Zone:	3
Transportation Analysis Zone:	178
Initial Certificate of Capacity:	Yes

DEVELOPER'S REQUEST:

The developer of Village Market at Wesley Chapel is requesting variances from the Land Development Code (LDC) as listed below and as further explained herein:

Variances:

1. Section 603, Landscaping and Irrigation
  - a. Section 603.7, Building Perimeter Landscaping
  - b. Section 603.9, Landscaping, Buffering, and Screening
    - (1) Subsection 603.9.D.1, Type A Buffer
    - (2) Subsection 603.9.D.4, Type D Buffer

c. Section 603.12, Water Management Systems

- (1) Subsection 603.12.B.1, Retention ponds shall not exceed 50 percent of any required landscape buffer.

BACKGROUND:

1. On December 1, 1984, the Board of County Commissioners (BCC) approved rezoning the subject parcel from an A-R Agricultural-Residential District to a C-2 General Commercial District with conditions (Rezoning Petition No. 2718).
2. On April 23, 1987, the DRC approved the preliminary plan for Village Market at Wesley Chapel, consisting of 107,400 square feet of retail stores, food markets, restaurants, and offices with conditions (DPR87-70).
3. On July 23, 1987, the DRC approved the construction plan for the Village Market at Wesley Chapel with conditions (DPR87-70).
4. On September 22, 1987, the BCC approved a Conditional Use Permit to allow the sale of alcoholic beverages for off-premises consumption from a liquor store (CU87-31).
5. On January 17, 1989, the BCC approved a Conditional Use Permit to allow the sale of alcoholic beverages (CU89-03).
6. On July 27, 1995, the DRC continued a variance to the General Land Development Standards, Article 600, Section 601, Signs, Subsection 601.17, Outdoor Advertising Signs (Billboards), to the September 28, 1995, meeting. On September 28, 1995, the DRC withdrew the variance request at the behest of the applicant.
7. On September 19, 1995, the BCC approved a Conditional Use Permit to allow the sale of alcoholic beverages in a restaurant (CU95-19).
8. On January 23, 2002, the BCC approved a Conditional Use Permit to allow the sale of alcoholic beverages in a restaurant (CU02-03).
9. On December 19, 2002, the DRC approved the Village Market at Wesley Chapel, Phase 3, simultaneous preliminary/construction site plan, consisting of 8,575 square feet of retail and office buildings (2PR03-001).
10. On February 24, 2004, the BCC approved a Conditional Use Permit to allow the sale of alcoholic beverages in a restaurant (CU04-05).
11. On March 24, 2009, the BCC filed Notice of Lis Pendens with the Sixth Judicial Circuit Court to condemn and acquire property by eminent domain proceedings for the subject parcel, and others, in connection with the widening of S.R. 54. Pursuant to LDC Section 105.3.A, "Reconstruction of existing parking areas or reconstruction of replacement parking areas upon the same site shall not be required to comply with the provisions of off-street parking, loading, and unloading regulations and landscaping and buffering of the county land development code, as amended", and therefore landscaping requirements along S.R. 54 will be waived.

FINDINGS OF FACT:

1. Presently, the subject site contains an approximate 115,975-square-foot shopping center with retail, restaurants, and offices. Presently the owner/applicant has been renovating said shopping center.
2. Pursuant to the LDC, Section 603.9.C.2, "When an existing structure is redeveloped, remodeled, or renovated by more than twenty-five (25) percent of the Property Appraiser's value of the existing structure," the development shall be brought into compliance.
3. On April 1, 2009, the former Development Review Division (DRD) informed the owner that the site met the threshold pursuant to the LDC, Section 603.9.C.2, "When an existing structure is redeveloped, remodeled, or renovated by more than twenty-five (25) percent of the Property Appraiser's appraised value of the existing structure," the development shall be brought into compliance.

4. On April 27, 2009, the former DRD informed the developer that the permit for the Bounce U tenant build-out would be issued with the understanding that prior to Certificate of Occupancy, the developer would install all required landscaping or obtain variances.
5. The subject property is located in Flood Zone "C." Development is subject to the requirements of the LDC, Article 700, Flood Damage Prevention.
6. The surrounding zoning is as follows and, for reference purposes, the buffer requirements for the abutting properties are also provided:

	<u>Zoning Districts</u>	<u>Types/Buffer Requirements</u>
North:	Wesley Chapel Boulevard (S.R. 54); General Commercial	Type D Buffer 15 Feet
South:	Eagleston Boulevard; General Commercial	Type A Buffer 10 Feet
East:	Bruce B. Downs Boulevard (S.R. 581); General Commercial and Agricultural Residential	Type D Buffer 15 Feet
West:	MPUD Master Planned Unit Development (Commercial Use)	Type A Buffer 10 Feet

7. 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.
8. The variance requests for the above-subject project were prepared for Christopher S. McNeal by McNeal Engineering and consist of ten sheets dated November 19, 2009; the sheets were last revised on February 12, 2010. The plans were originally received by the Zoning and Site Development Department on November 19, 2009, and final revisions were received on February 16, 2010.
9. Access to the property is from Bruce B. Downs Boulevard (S.R. 581) and Wesley Chapel Boulevard (S.R. 54), both are Florida Department of Transportation maintained roads, which have 200 feet of right-of-way with 85 feet (variable) of pavement, and have been designated six-lane, arterial facilities on Maps 7-22 and 7-24 (respectively), 2025 Future Number of Lanes, and Map 7-24, 2025 Future Roadway Functional Classification, of the Comprehensive Plan.
10. On June 27, 2006, the BCC adopted the Corridor Preservation Tables in the Transportation Element of the Comprehensive Plan necessitating the preservation of right-of-way along certain roadways.
11. The proposed request is consistent with the Pasco County applicable provisions of the Comprehensive Plan as conditioned.

VARIANCE REQUESTS:

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

1. Section 603, Landscaping and Irrigation
  - a. Subsection 603.7, Building Perimeter Landscaping, which, if approved, would relieve the applicant/developer of providing landscaping equal to ten percent of the square footage around 50 percent of the perimeter in landscape beds at least five feet wide.

Relief is being sought pursuant to the LDC, Section 316.1.A.1 and 2, as the purpose for the variance which reads as follows:

Section 316.1.A.1:

"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."

Section 316.1.A.2:

"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 applicant states:

"The applicant is requesting that the required foundation landscaping (i.e., 7,985 sf.) be permitted to be installed in a few locations near and within the parking lot as an alternative to the foundation landscaping requirements contained in Section 603 of the Land Development Code. As mentioned previously, the center was constructed in 1988 and there are no irrigation lines or extra sidewalk widths provided that would facilitate the installation of the foundation landscaping. In lieu of this, the applicant is proposing to provide landscaped areas along the northern side of the building where the roadway buffer was eliminated by the taking for CR 54, in an area by the southern end of the in-line buildings which helps to block the visibility of the truck lanes behind the buildings and provides a buffer from Seven Oaks, and in an area behind the in-line buildings where it will be visible to cars exiting 1-75 [sic]. In addition, the applicant is providing oversized planting areas in portions of the parking lot, primarily along the main entrances and drive aisles. With the closure of the existing main entrance drive in front of the in-line buildings, the planting areas in the parking lot approaches to the building will do more to provide landscaping and visual appeal for the overall center than the provision of a few potted plants in front of the stores. These areas are shown on the attached site plan and will contain a total minimum landscaped area of 7,985 s.f. The applicant is seeking a variance to permit the alternative foundation landscaping as shown on the site plan.

"The applicant's request for variances in part stems from Section 105.3 and its citation in the Supplemental Agreement that is part of the eminent domain settlement for this parcel.

"The Supplemental Agreement specifically states that, 'Reconstruction of the existing parking areas or reconstruction of replacement parking areas upon the same site shall not be required to comply with the provisions of off-street parking, loading and unloading and landscaping and buffering of the county land development code, as amended.'

"Additionally, the requested variances regarding the landscaping between the freestanding southernmost building and the adjacent in-line stores and the existing buffer along Eagleston were the result of the creation of a voluntary shared access agreement with three private land owners which enhanced public safety by eliminating conflict points along SR 581 and helping to meet warrants for the signalization of the new intersection.

"The eminent domain action that affected the site results in a widening of SR 54, which the County committed to under their CIP Element in the comprehensive plan."

Staff has reviewed the applicant's request and recommends approval, provided that the developer installs landscaping in the areas outlined and as shown on the site plan.

- b. Subsections 603.9.D.1, Type A Buffer, and 603.9.D.4, Type D Buffer, which, if approved, would relieve the applicant/developer of providing the required widths and plantings in Type A and D buffers.

Relief is being sought pursuant to the LDC, Section 316.1.A.1 and 2, as the purpose for the variances which read as follows:

Section 316.1.A.1:

"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."

Section 316.1.A.2:

"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 applicant states:

"Periphery landscape buffers along SR 581 and Eagleston Drive, Section 603, LDC. There are existing buffers along SR 581 and Eagleston Drive abutting the site. The overall site was developed in 1988 and met code at that time. Approximately 5 years ago, the owner of the center agreed to share a centralized access onto SR 581 with Toyota and Seven Oaks. Eagleston Drive was created and some green space was provided between the new road and the existing buildings in the Village Market. The amount of the green space was constrained by the location of existing buildings in the center. Given the location of the existing buildings, parking and circulation through the site, modification of the widths of these buffers would create circulation issues in the site and impact both developed and approved outparcel pads in the center.

"The applicant is requesting that these buffer widths remain as is, which is consistent with the attached site plan. The SR 581 existing buffer is approximately 4 %-5 feet wide and the existing Eagleston Drive buffer is approximately 3 feet wide. The strict interpretation of the code would require a 20 foot buffer along SR 581 (Type D plantings) and a Type A buffer along Eagleston Drive adjacent to the site. The applicant is willing to install hedges within the existing buffers along SR 581 and Eagleston Drive in order to enhance the existing landscaping.

"Additionally, it should be noted that the northern portion of SR 581 adjacent to the site was included in the eminent domain action and is, therefore, exempt from the buffering provisions as per the Settlement Agreement for the CR 54 taking.

"Landscaping between uses, Section 603, the site contains three existing freestanding and two undeveloped outparcels as shown on the site plan. The southernmost freestanding building is adjacent to the entrance off Eagleston Drive. This entrance was retrofitted into the center as a result of a shared access agreement with Toyota and Seven Oaks. There is insufficient room between that building and the in-line stores to provide the buffer required by code. It is not possible to provide the buffers between adjacent uses for the Waffle House and Burger King as well, since both of these uses are in existence and predate the requirement for landscaping.

"Existing landscaping between and around the uses will be maintained, the two undeveloped outparcels are shown with the required buffers where feasible. The northernmost of these outparcels can provide a minimum of a 5 foot buffer on the north and east sides and 10 foot around the south and west sides. The southernmost outparcel can provide a minimum of a 5 foot buffer on the south and east sides and 10 feet on the north and west sides. Dimensions to the east are constrained by parking and the existing perimeter roadway buffer. The applicant is requesting a variance to allow the buffering around the existing outparcels to remain as is. A variance is also being requested to allow the combination of some of the buffer with the foundation landscaping on the outparcels, but will maintain a minimum of 5 feet of landscaping along the perimeter of the two undeveloped outparcel pads.

"Shade Trees in SR 581 and Eagleston Drive Buffers Section 603, LDC, the applicant is seeking a variance for the required tree plantings for the buffers along SR 581 and Eagleston Drive. If the above noted request for a variance to the buffer widths is granted (Variance Request 2), then it will not be possible to install the required trees in the existing buffer. The applicant is proposing the installation of a hedge within both the SR 581 and Eagleston Dr. buffer yards.

"Additionally, the requested variances regarding the landscaping between the freestanding southernmost building and the adjacent in-line stores and the existing buffer along Eagleston were the result of the creation of a voluntary shared access agreement with three private land owners which enhanced public safety by eliminating conflict points along SR 581 and helping to meet warrants for the signalization of the new intersection.

"The eminent domain action that affected the site results in a widening of SR 54, which the County committed to under their CIP Element in the comprehensive plan."

Staff has reviewed the applicant's requests and recommends approval of the variances with conditions. The site is constrained by existing buildings and a parking area. In particular, there is insufficient space between out-parcels and on the southern boundary to install the full ten-foot width of Type A buffers. The landscaping plan shows that the parking area and out-parcels will be landscaped such that, while not as wide as ten feet, the buildings would be screened reasonably well. Aerial photographs show that the eastern boundary, in the area of the Type D buffer along S.R. 581, contains a number of trees. Aerial photographs and the survey also support the applicant's contention that the trees could not be placed along Eagleston Drive in the Type A buffer next to the pavement. There is insufficient space to allow sustainable growth of the trees; however, it appears that there is space to allow trees of an appropriate species along the southern edge of the stormwater pond, which is along the western end of the southern Type A buffer. Staff recommends that the granting of the variance be contingent upon providing landscaping as outlined in the applicant's proposal and adding a row of appropriately sized trees, 60 feet on center, between the pond and Eagleston Drive along the entire southern property line from the utility boxes and service area westward.

- c. Subsection 603.12.B.1, Water Management Systems, which, if approved, would relieve the applicant/developer of providing buffers and screening around the existing pond on the western portion of the site and reducing the extent of the pond to less than 50 percent of the buffers.

Relief is being sought pursuant to the LDC, Sections 316.1.A.1 and 2, as the purpose for the alternative standards which reads as follows:

Section 316.1.A.1:

"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."

Section 316.1.A.2:

"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 applicant states:

"Water Management System and Required Plantings within Required Buffer, Section 603, LDC. The site was initially developed in the 1980's and met code at the time of construction. The existing stormwater pond for the shopping center is located along the western property boundary of the parcel and handles the drainage from the shopping center and the adjacent gas station site. Due to the length and width of the pond, the amount of pond within the western property buffer exceeds 50 percent within the required Type A buffer along the western property boundary. Additionally, the buffer yard cannot be planted with the required landscaping since the yard is primarily pond. There is an adjacent easement parcel to the west that contains landscaping and provides some buffering of the pond from 1-75 [sic] to the west. There is no additional development between 1-75 [sic] and the pond that requires buffering. In order to address this without a variance, the entire stormwater pond would have to be modified and moved to the east, which interferes with the truck service drive located behind the stores. Also, one of the variances requested would permit the applicant to relocate some of the required foundation landscaping to an area

behind or next to the end caps of the stores which would provide some buffering to the west. Additionally, no site work is planned for the western portion of the center, which is behind the stores and contains the truck service road and the pond. The applicant's request is to allow the buffer to remain as it exists.

"The applicant's request for variances in part stems from Section 105.3 and its citation in the Supplemental Agreement that is part of the eminent domain settlement for this parcel.

"The Supplemental Agreement specifically states that, 'Reconstruction of the existing parking areas or reconstruction of replacement parking areas upon the same site shall not be required to comply with the provisions of off-street parking, loading and unloading and landscaping and buffering of the county land development code, as amended.'

"Additionally, the requested variances regarding the landscaping between the freestanding southernmost building and the adjacent in-line stores and the existing buffer along Eagleston were the result of the creation of a voluntary shared access agreement with three private land owners which enhanced public safety by eliminating conflict points along SR 581 and helping to meet warrants for the signalization of the new intersection.

"The eminent domain action that affected the site results in a widening of SR 54, which the County committed to under their CIP Element in the comprehensive plan."

Staff has reviewed the applicant's request and recommends approval of the variance with conditions since the existing pond cannot be moved and a wooded area buffers the western end. However, some space along the southern property line to install appropriately sized trees exists and could be used for a reduced-width, Type A buffer.

**RECOMMENDATION:**

The Zoning and Site Development Department recommends approval of the variance requests from the LDC, Section 603, Subsections 603.7, 603.9.D.1, 603.9.D.4, and 603.12.B.1, with the following conditions:

**General**

1. The developer acknowledges that any provisions of Pasco County ordinances and any rezoning conditions of approval not specifically waived shall be in full force and effect, including all impact fee ordinances.
2. The applicant is hereby notified that the effective date of this development approval shall be the date of the final County action; however, 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.



