

VARIANCE NO.: _____

DATE: _____

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: Cypress Creek Town Center DRI

2. Project No. (from DRD): _____

3. Name of Owner: Pasco 54, Ltd.; Pasco Ranch, Inc.; and, JG Cypress Creek LLC

Mailing Address: Pasco 54, Ltd. and Pasco Ranch, Inc., 509 Guisando de Avila, Ste. 200, Tampa, FL 33613-5235

and,

JG Cypress Creek LLC, c/o The Richard E. Jacobs Group, 25425 Center Ridge Road, Cleveland, OH 44145-4122

Telephone Number: (813) 963-5856 and (440) 808-7500 Fax Number: _____

E-Mail Address: _____

4. Name of Developer: Same as Above

Mailing Address: See Above

City: See Above State: See Above Zip Code: See Above

Telephone Number: See Above Fax Number: _____

E-Mail Address: _____

5. Name of Agent, if applicable: WilsonMiller, Inc., ATTN: James Ratliff, AICP

Mailing Address: 2205 N. 20th Street

City: Tampa State: FL Zip Code: 33605

Telephone Number: (813) 223-9500 Fax Number: (813) 223-0009

E-Mail Address: jamesratliff@wilsonmiller.com
(Attach completed Agent of Record)

Locational Description: West of Interstate 75, North and South of State Road 56

Parcel Identification Number:

Sections 27 & 34, Township 26 South, Range 19 East, Sub _____, Block _____, Lot _____

Present Zoning District: MPUD

Received

MAY 11 2009

Growth Mgmt. Dept.

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:
The requested variance is from Section 402, Concurrency Management System, of the LDC. More specifically, the variance relates to: 402.3.C.; 402.6.C.(1); and, 402.6.D.

2. Describe the variance requested:
Please see the attached sheet for a description of, and justification for, the variance request.

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

Items #1 through #3, above, were previously submitted as a part of the MPUD Rezoning and DRI ADA.

4. Notarized Agent of Record Letter (if applicable) The notarized Agent of Record Letter is attached.
5. Is this application the result of a Notice of Violation? No. If so, please attach a copy of the notice.
6. Application Fee: \$100 (each variance request). Check #3412 is attached.

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.

**Cypress Creek Town Center DRI (#252)
April 2009 Notice of Proposed Change
Variance Request Narrative**

Request:

The Applicant requests a variance from Section 402 of the Pasco County Land Development Code (LDC). The Applicant is seeking relief from the requirements of 402.3.C., 402.6.C.(1) and 402.6.D. More specifically, the Applicant is requesting to extend the Phase 1 buildout and related dates of the Cypress Creek Town Center DRI without submitting any additional analysis or performing a new Transportation Impact Study. This request, if granted, would also serve in this case to reconcile Chapter 380.06(19)(c), Florida Statutes, whereby the requested time extension is permitted as a matter of right without additional analysis, with Sections 402.3.C., 402.6.C.(1), and 402.6.D. of the Pasco LDC.

Under 402.3.C., a project is subject to additional traffic study review if after the certificate of capacity is issued, the build-out date is changed and it results in an increased impact on arterial and collector transportation facilities. Section 402.6.C.(1) creates an exemption from 402.3.C. for which Cypress Creek Town Center is generally eligible (subject to Section 402.6.D. and provided the project is not in material default of the transportation mitigation conditions of the development order or a related development agreement). Section 402.6.D. would disallow the exemption if the extension of the buildout date was determined to be a material change. It would be a material change, per Section 402.6.D. if the change to the buildout date resulted in an increased impact on an arterial or collector facility. Since the Applicant is proposing to extend the Phase 1 buildout and related dates, and the County could arguably take the position that the mere extension could result in a material change as defined by Section 402.6.D., the Applicant seeks a variance to allow for the extension without having to submit additional analyses or perform a new Transportation Impact Study.

Please note that the Applicant's position is that a variance is not legally necessary since this requested change is exempt from the requirements of Section 402.3.C. based on the exemption provided by Section 402.6.D. The Applicant's position is that the change in buildout and related dates will not result in an increased demand on arterial or collector facilities, and is, therefore, not a material change as defined in Section 402.6.D. However, out of an abundance of caution, and in the event the change in the buildout date was deemed to be a material change, the Applicant is requesting a variance for the reasons set forth below.

Justification:

The granting of a waiver from the requirements of additional transportation impact analysis is the minimum action necessary for the DRC to alleviate the following unique circumstances:

- a) The strict application of the land development regulations cited above creates an unreasonable and/or unfair non-economic hardship, and/or an inordinate burden that was not created by the variance applicant. The Cypress Creek Town Center (CCTC) DRI was not formally approved until April 26, 2005. Subsequent challenges to permits were filed by third parties. These challenges caused substantial delay in the Applicant's ability to complete construction. As a result, almost two-thirds of the Phase 1 development period has passed without the issuance of a single certificate of occupancy. Despite this, the Applicant has honored its Phase 1 mitigation commitments as scheduled. The Applicant received final acceptance of the State Road 54/56 Pipeline Improvements in June of 2009, having spent in excess of \$20 million. Other Phase 1

mitigation facilities will be provided according to agreed upon timelines as specified within the Development Agreement (DA). The Applicant is simply seeking additional time to construct the uses which will utilize the transportation facilities which have already been improved but not yet impacted. Losing the ability to substantially complete construction of these entitled uses, despite the satisfaction of the directly related mitigation commitments, would result in unreasonable and inordinate hardship.

The down turn in the economy, which followed on the heels of the above referenced third party delay, has resulted in an environment which will make it even more difficult to complete construction of the entitled uses in the limited remaining time remaining under the currently approved buildout dates. The extension will allow CCTC to complete construction concurrent with an anticipated economic recovery.

- b) The granting of this 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 Pasco County Comprehensive Plan. CCTC has already constructed the SR 54/56 Pipeline Improvements for Phase 1. The Applicant will continue to mitigate its Phase 1 transportation impacts in accordance with the Development Order (DO) and DA. Allowing the Applicant additional time to construct Phase 1 entitlements without requiring additional transportation analyses will facilitate the buildout of Phase 1, thereby substantially increasing the County's tax base through the collection of ad valorem taxes, sales tax, and other revenues. It was estimated in the Application for Development Approval that, at buildout, CCTC will generate approximately \$1.8 million per year in ad-valorem tax revenue to the County, approximately \$2.8 million per year in state sales tax revenue, approximately \$1.5 million per year in ad-valorem tax revenue to the School District, and approximately \$1.1 million per year in gasoline tax revenues.

Additionally, the creation of a substantial number of jobs available to local taxpayers would be further facilitated. It was estimated in the Application for Development Approval that, at buildout, CCTC will create over 6,100 potential jobs. Losing the ability to substantially complete construction of these entitled uses will result in incomplete project buildout and reduced project revenues.

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: 5-6-09

APPLICANT'S SIGNATURE:  _____ for Pasco 54, Ltd. and Pasco Ranch, Inc.

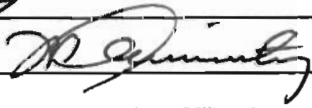
APPLICANT'S REPRESENTATIVE: WilsonMiller, Inc.

ADDRESS: 2205 N. 20th Street

CITY: Tampa STATE: FL ZIP CODE: 33605

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: MAY 5, 2009

APPLICANT'S SIGNATURE:  _____ for JG Cypress Creek c/o The Richard E. Jacobs Group LLC.

APPLICANT'S REPRESENTATIVE: WilsonMiller, Inc.

ADDRESS: 2205 N. 20th Street

CITY: Tampa STATE: FL ZIP CODE: 33605