

PASCO COUNTY, FLORIDA
INTEROFFICE MEMORANDUM

TO: Development Review Committee

DATE: 3/11/10

FILE: ZN10-146

SUBJECT: Class I, Commercial Development
Review - Taco Bell No. 19723,
22744 S.R. 54, Variance Requests
(Project No. IPR97-104)
DRC: 3/18/10, 1:30 p.m., DC
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:	Taco Bell No. 19723 at 22744 S.R. 54
Developer's Name:	C.W. Hays Construction
Location:	22744 S.R. 54, on the south side of S.R. 54, approximately 460 feet west of its intersection with Collier Parkway, Section 31, Township 26 South, Range 19 East.
Parcel ID No.:	31-26-19-0000-00100-0021
Land Use Classification:	COM (Commercial)
Zoning District:	MPUD Master Planned Unit Development
Transportation Corridor:	S.R. 54
Existing Right-of-Way:	125 Feet from Centerline
Required Right-of-Way:	125 Feet from Centerline
Acreage:	.68 Acre, m.o.l.
Number of Units:	1
Type of Unit:	Fast-Food Restaurant
Square Feet:	2,219 Square Feet
Water/Sewage:	Pasco/Pasco
Transportation Impact Fee Zone:	2
Transportation Analysis Zone:	167
Initial Certificate of Capacity:	Yes

DEVELOPER'S REQUEST:

The developer of Taco Bell No. 19723 at 22744 S.R. 54 is requesting variances from the Land Development Code (LDC), Sections 603.9.D.1, Type A buffer, and 603.9.D.4.a.2, Type D buffer (nonlocal right-of-way buffer), to allow the existing buffers to remain at their current, respective widths of five feet on the eastern and western boundaries and nine feet along S.R. 54, as listed below and as further explained herein:

Variances:

1. Section 603.9.D.1, Type A buffer, to reduce the required ten-foot buffer to the existing width of five feet each on the eastern and western boundaries.
2. Section 603.9.D.4.a.2, Type D buffer (nonlocal right-of-way buffer), to allow the required 15-foot buffer to be reduced to nine feet along S.R. 54.

BACKGROUND:

1. On December 22, 1987, the Board of County Commissioners (BCC) approved the Willow Bend MPUD Master Planned Unit Development (Rezoning Petition No. 3772).

2. On February 21, 1989, the BCC approved a nonsubstantial change to the MPUD Master Planned Unit Development, that redesignated some residential, increment boundaries; decreased the number of single-family units; and reworded certain conditions of approval (PL89-296).
3. On May 23, 1989, the BCC approved a nonsubstantial MPUD Master Planned Unit Development change, which amended the project phasing plan, increased density in multifamily Tracts 2-4, and increased commercial acreage from 22.93 to 24 acres, along with other minor changes (PL89-522).
4. On August 22, 1989, the BCC approved PL89-635, a substantial MPUD Master Planned Unit Development change, which increased the number of allowable residential units to 1,118 and increased commercial acreage to 27.4 acres, along with other reconfigurations of development increments (Rezoning Petition No. 4231).
5. On September 23, 1993, the DRC approved a nonsubstantial MPUD Master Planned Unit Development change, which amended the existing Master Development Plan to allow an increase in the number of units planned for Increment B1 from 62 to 68 without changing the total number allowed in the MPUD Master Planned Unit Development. The BCC approval was not necessary for the change, as Condition No. 25 of PL89-635 delegates this authority to the DRC (GM93-473).
6. On October 18, 1994, the BCC approved a nonsubstantial MPUD Master Planned Unit Development change, which amended Condition Nos. 14 and 30 of the Willow Bend Conditions of Approval (GM95-026).
7. On August 23, 1996, the Zoning Administrator approved a revised Master Plan under the authority of the LDC, Section 522. This revision changed the Land Use Summary Table, slightly relocated density within Phases D-2 and D-3, and updated the phasing data (ZN96-112).
8. On January 28, 1997, the BCC approved a nonsubstantial MPUD Master Planned Unit Development change (GM97-182).
9. On September 19, 1997, the former Development Review Division approved a Class I site plan for the Taco Bell Restaurant (DR97-1475).
10. On October 26, 2004, the BCC approved a nonsubstantial MPUD Master Planned Unit Development change, which deleted Condition No. 29 that required the developer to donate 1½ acres of land for a fire station, which allowed the acreage for professional services to change from 1 acre to 2.61 acres. Condition No. 28 clarified that the professional service site would be developed in accordance with the PO-1 Professional Office standards (GM05-075).

FINDINGS OF FACT:

1. Presently, the subject site contains a 2,219-square-foot, fast-food restaurant that is undergoing remodeling. The value of the remodeling will exceed 25 percent of the depreciated value of the building; therefore, the Permits and Development Information Services Department invoked the LDC, Section 603.9.C.2, to require buffers and vehicle use area landscaping to be brought to current code.
2. The subject property is located in Flood Zones "A" and "C." Development is subject to the requirements of the LDC, Article 700, Flood Damage Prevention.

- 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:	S.R. 54	Type D Buffer 15 Feet
South:	MPUD Master Planned Unit Development	Type A Buffer 10 Feet
East:	MPUD Master Planned Unit Development	Type A Buffer 10 Feet
West:	MPUD Master Planned Unit Development	Type A Buffer 10 Feet

- 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.
- The variance requests for the above-subject project were prepared for C.W. Hays Construction by WilsonMiller Design and consist of four sheets dated August 20 2008; the sheets were last revised on December 28, 2009. The plans were originally received by the Zoning and Site Development Department on December 1, 2009, and final revisions were received on December 30, 2009.
- Access to the property is from S.R. 54, a Florida Department of Transportation (FDOT) maintained road, which has 250 feet of right-of-way with 145 feet of pavement, and has been designated a six-lane, arterial facility on Map 7-22, 2025 Future Number of Lanes, and Map 7-24, 2025 Future Roadway Functional Classification, of the Comprehensive Plan.
- 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.
- 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

- Subsection 603.9.D.1, Buffer Types, Type A buffer, which, if approved, would relieve the applicant/developer of providing the required ten-foot buffer and would allow reduction of the buffer width to the existing five feet.

Relief is being sought pursuant to the LDC, Sections 316.1.A.2 and 6, as the purpose for the variances which read as follows:

Sections 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."

Sections 316.1.A.6: "The granting of the variance is necessary to protect the public health, safety, or welfare."

The applicant states:

"Western Boundary:

"Reason(s) for variance: LDC 316.1.A.2

"LDC 603.9.D.1 requires a 10' buffer zone along this boundary. Existing parking encroaches 5'-0" into the 10' that is required, leaving an existing 5'-0" space for a buffer zone. Per LDC 615.B.5, 23 parking spaces are required. Removing parking along this boundary would reduce the number of parking spaces to 22 (LDC 316.1.A.2). Maintaining the parking and reducing the access drive width would result in an access drive with a width of 18' for two way traffic. Per LDC 618.10.C, the required driveway width at this location is 24 feet (LDC 316.1.A.2).

"We request that the buffer area requirement be reduced to 5'-0" along this boundary. The enclosed landscaping plan (L1.0) shows the new landscaping to be added as well as the existing. With the new and existing landscaping, the required plants/trees along this boundary are met.

"Eastern Boundary:

"Reason(s) for variance: LDC 316.1.A.6 LDC 603.9.D.1 requires a 10' buffer zone along this boundary. The drive thru lane runs parrallel [sic] to this boundary and encroaches 5' into the required 10' buffer area. A reduction of the drive thru lane width in order to meet this requirement, would result in a lane width of 8'. Taco Bell has established a minimum drive thru lane width of 12'. Furthermore, for Emergency Services, according to NFPA standards, requires a minimum of 10' width for a drive thru lane in order to allow passage of emergency vehicles (LDC 316.1.A.6)."

Staff has reviewed the applicant's requests and recommends approval with conditions since the limitations imposed by the existing parking lot and drive-through traffic circulation, that just meet the parking and access management code sections, precludes strict adherence to the landscaping code.

2. Subsection 603.9.D.4.a.2, Type D buffer (nonlocal, right-of-way buffer), which, if approved, would relieve the applicant/developer of providing the required 15-foot buffer.

Relief is being sought pursuant to the LDC, Sections 316.1.A.2, 5, and 6, as the purpose for the variances which read as follows:

Sections 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."

Sections 316.1.A.5: "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."

Sections 316.1.A.6: "The granting of the variance is necessary to protect the public health, safety, or welfare."

The applicant states:

"LDC Section 603.9.D.4.a(2) requires a buffer width of 15' along this boundary, which is parallel with State Rd. 54. Existing parking encroaches 6'-0" into the 15' that is required, leaving an existing 9'-0" space for a buffer zone. Per LDC 615.B.5, 23 parking spaces are required. Removing the parking spaces along this boundary, plus the space removed to meet LDC section 603.6.I (required landscape island) would reduce the number of parking spaces to 22 (LDC 316.1.A.2). If the parking spaces were maintained and the buffer zone increased to 15' as required, the adjacent drive aisle (2-way) would be reduced to 19'-0". The existing drive aisle is currently at 25' wide and moving the parking away from the property line would cause a loss of needed vehicular use area. Per LDC 618.10.C, the required driveway width at this location is 24 feet (LDC 316.1.A.2). It would also cause a potentially unsafe condition, considering the width of the driveway continues across adjacent properties. A sudden change in driveway width could potentially be unsafe to drivers (LDC 316.1.A.6).

"We request that the buffer area requirement be reduced to 9'-0" along the Northern Boundary. The enclosed landscape plan (L1.0) will show that we are proposing to plant seven (7) trees along this boundary, to meet the requirements of 603.9.D, along with shrubs and groundcover. There will be one gap in the 30' o.c. requirement (LDC 603.9.D.4.b) due to the handicapped access ramp to the public sidewalk as required by Federal ADA guidelines. A berm cannot be installed along this boundary due to the reduced width, but considering there is an existing increase in elevation of approximately 18-24 inches from the public sidewalk to the property line, with the added landscaping (See Sheet L1.0), we believe the intent of the code will be satisfied (LDC 316.1.A.5)."

Staff has reviewed the applicant's request and recommends approval with conditions since the limitations imposed by the existing parking lot and drive-through traffic circulation, that just meet the parking and access management code sections, precludes strict adherence to the landscaping code.

RECOMMENDATION:

The Zoning and Site Development Department recommends approval of the variance requests from the LDC, Sections 603.9.D.1 and 4, with the following conditions:

General

1. The owner/developer acknowledges that approval of the variance(s) and/or alternative standards request(s) as stated is based upon representation as set forth in the preliminary plan/preliminary site plan submittal dated December 28, 2009, and received by Pasco County on December 30, 2009. In the event that the preliminary plan/preliminary site plan is deemed void and/or approval is withdrawn, then the variance(s) and/or alternative standards request(s) shall be considered void and all future development shall thereafter comply with all regulations currently in effect and shall be reviewed and approved as provided therein. Preliminary plan/preliminary site plan approval is contingent upon approval of variance application(s).
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.
3. Landscaping materials shall be installed as required by the LDC, Section 603.9.D.4, Type D buffer (nonlocal right-of-way buffer). The tree species planted shall be sustainable and appropriately sized at maturity for use within the limited buffer width.
4. Landscaping materials shall be installed as required by the LDC, Section 603.9.D.1, Type A buffer. The tree species planted shall be sustainable and appropriately sized at maturity for use with the limited buffer width.

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 request approvals. This action is based on the office review of the plans, supporting documentation, and certifications of the Engineer of Record.

APPLICANT'S ACKNOWLEDGMENT:

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

Date

C.W. HAYS CONSTRUCTION

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 Plans With and Without Variance
3. Variance Application

DMZ/PSS/ecm/drc031810/tacobellzn10146

DEVELOPMENT REVIEW COMMITTEE ACTION: