



Agenda Report

2725 Judge Fran Jamieson
Way
Viera, FL 32940

New Business - Development and Environmental Services Group

J.2.

4/7/2026

Subject:

Appeal Request Re: Appeal to Denied Sidewalk Waiver for the Green Leaf residential subdivision in West Melbourne (26WV00001) (21RW01206) (District 5)

Fiscal Impact:

Indeterminate

Dept/Office:

Planning and Development/ Land Development

Requested Action:

Pursuant to Brevard County Code of Ordinances Section 62-3207(b) and subsequent to staff's denial of sidewalk waiver 26WV00001, Greenleaf Estates, LLC, is appealing staff's denial to the Board of County Commissioners. The applicant seeks the Board's approval to waive installation of a sidewalk along the frontage of the Green Leaf Subdivision, which is adjacent to Carriage Gate Drive. Granting approval to this sidewalk waiver (26WV00001) would allow approximately 1,800 feet of sidewalk installation to be postponed in accordance with the attached sidewalk assessment agreement.

Summary Explanation and Background:

On January 14, 2026, the applicant, Greenleaf Estates, LLC, submitted a waiver application to postpone the requirement to construct a sidewalk along the abutting Carriage Gate Dr. street frontage. The waiver is related to the Green Leaf Subdivision currently being developed within the jurisdiction of the City of West Melbourne. Carriage Gate Dr., a County-maintained road, is a roadway adjacent to the subdivision.

Sec. 62-2956(b)(2), Brevard County Code of Ordinances, requires that the developer "provide sidewalks adjacent to roadways abutting their project" but provides that "in areas where it can be demonstrated by the applicant that there is no current or future need for sidewalks in the immediate area, the sidewalk requirement may be administratively waived, provided that a sidewalk assessment agreement is entered into by the property owner." This Section further allows for an appeal process in the case of an administrative denial of a requested waiver.

On February 23, 2026, the waiver was evaluated by county staff based on the criteria of Section 62-2956(b)(2) and administratively denied due to failure to meet the sidewalk waiver criteria.

The Space Coast Transportation Planning Organization recommended the sidewalk waiver not be granted due to pedestrian infrastructure improvement recommendations outlined in the Minton Road Feasibility Study, as well as site proximity to transit stops, and daycare/assisted living facilities.

Brevard County Public Works Engineering stated they do not support waivers to sidewalks that are to be built by the development abutting the right-of-way. They found the waiver application did not demonstrate an undue hardship, and that granting this waiver does not serve as a public benefit. This waiver request is for a new residential development where there is sidewalk connectivity approximately 200-feet from the development to Minton Road, and there are schools within 0.5 miles.

The City of West Melbourne opined that the sidewalk should be required along the Carriage Gate Dr. street frontage.

Pursuant to Section 62-2956, Brevard County Code of Ordinances, (see also Section 62-3207(a)), the Planning and Development Department determined that the waiver could not be administratively approved for the reasons stated above; in particular, its proximity to a school as well as commercial sites within walking distance that are otherwise accessible by sidewalk, and because the residents of the 55-unit Green Leaf Subdivision as well as those of existing development would benefit from the sidewalk. As such a waiver can only be granted administratively "where it can be demonstrated by the applicant that there is no current or future need for sidewalks in the immediate area," the waiver was denied.

The applicant's stated justification for granting the waiver included: "The proposed sidewalk would create hardship due to the limited room between the edge of the roadway pavement and the ROW line. The limited room does not adequately provide space to allow the drainage system to remain . . . No other properties will be affected. The southern terminus is 200 ft. from the recent sidewalk. The northern most terminus stops in the middle of nowhere . . . The approved plans have no engineering details and note the sidewalk to be constructed by others . . . The waiver request is consistent with county zoning regulations."

If the appeal is granted by the Board, the applicant would enter into the sidewalk assessment agreement with the County for the subject property that is under Right-of-way Permit 21RW01206. In turn, the construction of the sidewalk would be delayed until the County, in its' sole discretion, determines sidewalks are necessary on the property. The County reserves its right to exercise its' authority regarding future special assessments under Florida law and County Code in lieu of installing the sidewalk at this time.

It should be noted that Board approval of this appeal only applies to the sidewalk installation and does not relieve the developer/owner from designing the sidewalk (unless otherwise directed by the Board), including obtaining all other necessary jurisdictional permits, nor does it justify postponing the construction of other infrastructure improvements.

Clerk to the Board Instructions:



Kimberly Powell, Clerk to the Board, 400 South Street • P.O. Box 999, Titusville, Florida 32781-0999

Telephone: (321) 637-2001
Fax: (321) 264-6972
Kimberly.Powell@brevardclerk.us

April 8, 2026

MEMORANDUM

TO: Billy Prasad, Planning and Development Director

RE: Item J.2., Appeal to Denied Sidewalk Waiver for the Green Leaf Residential Subdivision in West Melbourne (26WV00001) (21RW01206)

The Board of County Commissioners, in regular session on April 7, 2026, approved the sidewalk waiver (26WV00001) for Green Leaf Residential Subdivision in West Melbourne for the installation of a sidewalk along the frontage of the Green Leaf Subdivision, adjacent to Carriage Gate Drive.

Your continued cooperation is always appreciated.

Sincerely,

BOARD OF COUNTY COMMISSIONERS
RACHEL M. SADOFF, CLERK

Kimberly Powell
Kimberly Powell, Clerk to the Board



BOARD OF COUNTY COMMISSIONERS

Planning and Development
 Planning and Zoning
 2725 Judge Fran Jamieson Way
 Building A, Room 114
 Viera, Florida 32940
 (321) 633-2070 Phone

LAND DEVELOPMENT WAIVER APPLICATION

This form should be used for all waiver requests or appeals associated with the Code of Ordinances, Section 62, as it relates to Subdivisions, Minor Subdivisions, and Site Plans.

Application Type:

☐ Subdivision Waiver

☐ Site Plan Waiver

☒ Other

Appeal

If other, please indicate

Tax Account Numbers:

2802668

Tax Account 1

Tax Account 2

Project Information and Site Address:

Greenleaf Subdivision

Project Name

Greenleaf Estates, LLC.

Property Owner

516 Delannoy Ave

Street

Cocoa

City

FL

State

32922

Zip Code

Applicant Information:

David W. Bassford, P.E.

Applicant Name

MBV Engineering, Inc.

Company

1250 W. Eau Gallie
Bvd. Ste #

Street

Melbourne

City

FL

State

32935

Zip Code

321-253-1510

Primary Phone

Secondary Phone

david@mbveng.com

Email Address

Engineer/Contractor (if different from applicant):

Same as applicant

 Engineer or Project Manager Company

 Street City State Zip Code

 Primary Phone Secondary Phone Email Address

Description of Waiver Request and Code Section:

Request appeal for denial of sidewalk waiver in the
 fronting ROW. Brevard County ROW Permit # 21RW0120p.

If you wish to appeal any decision made by County staff on the waiver, you may request that the Board of County Commissioners make a determination. The Board's decision approving or disapproving the waiver or interpretation is final.



 Owner/Applicant Signature

Jim Swann

 Print Name

Land Development Application Document Submittal Requirements

Waivers for Site Plans or Subdivisions require an application, waiver criteria (listed below), and 8 ½-inch x 11 inch vicinity map.

Waiver Criteria for Subdivisions and Site Plans

For a waiver to be considered and approved by staff, your request must comply with all of the following criteria. Please explain, in detail, how your request meets the following conditions.

1. The particular physical conditions, shape, or topography of the specific property involved causes an undue hardship to the applicant if the strict letter of the code is carried out.

The proposed sidewalk would create hardship due to the limited room between the edge of the roadway pavement and the Row line. The limited room does not adequately provide space to allow the drainage system to remain.

2. The granting of the waiver will not be injurious to the other adjacent property.

No other properties will be affected. The southern terminus is 200' from the recent sidewalk. The northern terminus stops in the middle of nowhere. * See Exhibit A attachment.

3. The conditions, upon which a request for waivers are based, are particular to the property for which the waiver is sought and are not generally applicable to other property and do not result from actions of the applicant.

The approved plans have no engineering details and note the sidewalk to be constructed by others.

4. The waiver is consistent with the intent and purpose of the county zoning regulations, the county land use plan, and the requirements of this article.

This waiver request is consistent with County Zoning Regulations.

5. Delays attributed to state or federal permits.

N/A

6. Natural disasters.

N/A

7. County development engineer and affected agencies concur that an undue hardship was placed on the applicant. (To be filled out by County staff)

Office Use Only

Request Date	Fees	Board Date
Original Project Number	Waiver Number	
Coordinator Initials	Reference Files	
County Manager/Designee Approval		

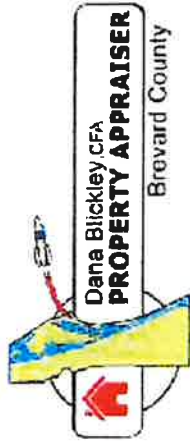


Exhibit "A"



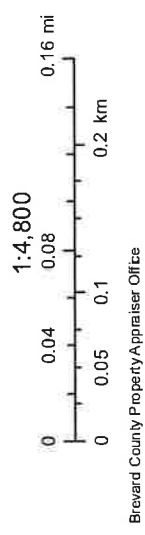


Dana Blickley CFA
PROPERTY APPRAISER
Brevard County

Exhibit "A"



ArcGIS Web Map



- County ROW/Non-Maintained
- County ROW (Under Maintenance Bond)
- Future Landuse
- Zoning
- Zoning Actions
- Zoning Easements

- Sidewalk Waivers
- Roadway
- County



BOARD OF COUNTY COMMISSIONERS

Planning and Development

2725 Judge Fran Jamieson Way
Building A, Room 114
Viera, Florida 32940
321-633-2070

SIDEWALK ASSESSMENT AGREEMENT

Plan Name

Site Address

City

State

Zip Code

Plan Number

Agreement for Frontage Date

THIS SIDEWALK ASSESSMENT AGREEMENT ("Agreement") made and entered into

this _____ day of _____, 20____ by and between

_____, hereinafter referred to as "OWNER", and the

Board of County Commissioners of Brevard County, hereinafter referred to as "COUNTY".

WITNESSETH:

WHEREAS, the OWNER owns the real property and improvements thereon situated in Brevard County, Florida legally described as follows:

SEE EXHIBIT "A"

WHEREAS, sidewalk construction by the OWNER is required for the site plan/subdivision submitted by the OWNER pursuant to Chapter 62 of the Brevard County Code of Ordinances as well as the County Comprehensive Plan, but is not practical at this time; and

WHEREAS, the OWNER has demonstrated to the COUNTY that there is no current need for sidewalks in the immediate area; and

WHEREAS, the OWNER has agreed to participate in the future construction of sidewalks to the extent of their pro-rata share and has also waived any right to object to a future assessment for the said sidewalks; and

WHEREAS, the OWNER has requested a waiver of sidewalk requirement at this time pursuant to Chapter 62, Article VII, Division 4; and

WHEREAS, the parties hereto are desirous of placing their agreement in writing.

NOW, THEREFORE, for and in consideration of One Dollar (\$1.00) and other good and valuable considerations, the receipt whereof which is hereby acknowledged, the OWNER agrees as follows:

- 1) The above recitals are true and correct and by this reference are hereby incorporated into and made an integral part of this Agreement.
- 2) The OWNER shall pay his pro-rata share for sidewalk improvements, according to Chapter 98 of the Brevard County Code of Ordinances, and as may be amended from time to time, or any other applicable ordinance or law.
- 3) The OWNER hereby agrees that should the County in its sole discretion determine sidewalks are necessary on the property described in Exhibit "A", and if the COUNTY elects under the provisions of Chapter 170 of the Florida Statutes or Chapter 98, Code of Ordinances of Brevard County, Florida, to initiate a program of special assessments for sidewalk installation against all the private property adjacent to the property described in Exhibit "A", the OWNER hereby affirmatively consents to the application of the special assessment procedures in accordance with the provisions of Chapter 170, Florida Statutes, or Chapter 98 Code of Ordinances of Brevard County, Florida, to their property in lieu of installing sidewalks at this time.
- 4) The OWNER agrees to provide to the COUNTY any easements necessary to construct and maintain sidewalks should the COUNTY choose to initiate a program of special assessments for sidewalk installation at a future date.
- 5) The OWNER however, reserves the right to apply to the Equalization Board under the provisions of Section 170.08, Florida Statutes, to request any adjustment and equalization of any assessment which would be applied against their property. The procedures of Chapter 98, Code of Ordinances of Brevard County, Florida, if applicable, may also be used by OWNER to request a modification of the amount of the assessment.
- 6) This Agreement and its covenants, terms, and conditions shall be binding upon and inure to the benefit of the successors and assigns of the parties hereto and shall run with the lands described in Exhibit "A".
- 7) In the performance of this Agreement, the OWNER shall keep books, records, and account of all activities, related to the agreement, in compliance with generally accepted

accounting procedures. Books, records and accounts related to the performance of this agreement shall be open to inspection during regular business hours by an authorized representative of the Office and shall be retained by the OWNER for a period of three years after termination of this agreement. All records, books and accounts related to the performance of this agreement shall be subject to the applicable provisions of the Florida Public Records Act, Chapter 119, Florida Statutes.

- 8) No reports, data, programs or other materials produced, in whole or in part for the benefit and use of the County, under this agreement shall be subject to copyright by OWNER in the United States or any other country.

IN WITNESS WHEREOF, the parties hereto have set their hands and seals the day and year first above written.

BOARD OF COUNTY COMMISSIONERS
BREVARD COUNTY, FLORIDA

Signature of Witness

Planning & Development Department, Director

Approved on _____

STATE OF FLORIDA

COUNTY OF BREVARD

The foregoing instrument was acknowledged before me, by _____ physical presence or

_____ online notarization, this _____ day of _____, 20_____

by _____ who is personally

known to me or has produced _____ as identification and who did (did not) take an oath.

Date My Commission Expires

Signature of Notary Public

Printed Name of Notary Public

Signed, Sealed and Delivered in presence of

Signature of Witness

Signature of Owner

Signature of Witness

STATE OF FLORIDA
COUNTY OF BREVARD

The foregoing instrument was acknowledged before me this ____ day of

_____, 20____ by _____ who is personally
known to me or has produced _____ as identification and who did
(did not) take an oath.

Date My Commission Expires

Signature of Notary Public

Printed Name of Notary Public

EXHIBIT "A"

Township_____ South, Range_____ East, Section_____

Further description as follows: