



Agenda Report

2725 Judge Fran Jamieson
Way
Viera, FL 32940

Consent

F.4.

2/9/2021

Subject:

Waiver Request, Re: Waiver of Wall Requirement for Hampton Manor of Merritt Island (20SP00032)(District 2)

Fiscal Impact:

None

Dept/Office:

Planning and Development

Requested Action:

The applicant is requesting that the Board of County Commissioners grant a waiver of Section 62-3202(h)(10) which requires a 6-foot masonry or solid wall when commercial developments within BU-1, BU-2, or industrial zoning classifications are adjacent to residential zoning.

Summary Explanation and Background:

Clerk to the Board Instructions:

Section 62-3202(h)(10) stipulates that site plans within BU-1, BU-2, or industrial zoning classifications shall construct a minimum of a six-foot high masonry or solid wall, including, but not limited to, concrete block walls, pre-cast (solid) walls, or foam core/steel support with stucco finish, when the subject property abuts a residential zoning classification.

The applicant asserts that providing a six-foot solid wall will have a detrimental impact on the existing natural vegetation. The applicant is requesting a waiver from the wall requirement in order to preserve more existing large trees along the east property line. In lieu of the wall, the applicant is proposing to install a six-foot high opaque residential-style fence and maintains that the substitution will create a better overall buffer from residentially-zoned properties.

In this case, the subject property abuts one residentially-zoned, vacant property to the east under the same ownership, and three residentially zoned properties with existing single-family residences to the south. The applicant is not requesting a waiver from the wall requirement along the southern property line. The property to the east is preserved wetland that is not expected to be developed in the future. The proposed assisted living facility will be located 169.91 feet west of the eastern property line where the eastern required wall would be located.

The Natural Resources Management and Planning & Development Departments agree that a six-foot fence, in lieu of the required wall, would allow for reduced impact and additional preservation of the wetland and vegetation east of the subject property. The Board's waiver approval, if granted, will apply specifically to the

conditions of Site Plan application 20SP00032. Any future development, redevelopment, or land alteration of the subject property that modifies the aforementioned site plan or further reduces the vegetative buffer on the eastern portion of this site will void the wall waiver.



February 10, 2021

M E M O R A N D U M

TO: Tad Calkins, Planning and Development Director

RE: Item F.4., Waiver Request for Waiver of Wall Requirement for Hampton Manor of Merritt Island (20SP00032)

The Board of County Commissioners, in regular session on February 9, 2021, granted a waiver of Section 62-3202(h)(10) which requires a six-foot masonry or solid wall when commercial developments within BU-1, BU-2, or industrial zoning classifications are adjacent to residential zoning.

Your continued cooperation is always appreciated.

Sincerely,

BOARD OF COUNTY COMMISSIONERS
RACHEL M. SADOFF, CLERK

Kimberly Powell, Clerk to the Board

sm/



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. Fees for Waivers are \$775.00.

| Office Use Only | |
|----------------------------------|-----------------|
| Request Date | Fees |
| Board Date | |
| Original Project Number | Waiver Number |
| Coordinator Initials | Reference Files |
| County Manager/Designee Approval | |

APPLICATION TYPE: ☐ Subdivision Waiver ☒ Site Plan Waiver ☐ Other

If other, please indicate _____

Tax Parcel Identification:

24 36 14 _____
Township Range Section Subdivision Block/Parcel Lot

Tax Account Numbers (list all) 2412222 _____

Hampton Manor of Merritt Island Pioneer Pointe, LLC
Project Name Property Owner

Site Address:

Intersection of Pioneer Rd
and N Courtenay Pkwy
Street
Merritt Island
City
FL
State
32953
Zip Code

CORRESPONDENCE TO BE PROVIDED TO APPLICANT AT THE ADDRESS BELOW:

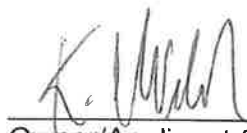
Jake Wise, PE
Applicant Name
2651 W Eau Gallie Blvd;
Suite A;
Street
Melbourne
City
FL
State
32935
Zip Code
321-610-1760
Phone Number
321-427-7455
Cell Phone Number
Fax Number
jwise@cegengineering.com
Email Address

ENGINEER/CONTRACTOR (if different from applicant)

Same as Above
Company
Engineer or Project Manager
Street
City
State
Zip Code
Phone Number
Cell Phone Number
Fax Number
Email Address

DESCRIPTION OF WAIVER REQUEST AND CODE SECTION:

"Wall required where property abuts residential zoning per 63-3202(h)(10): Site plans within BU-1, BU-2, or industrial zoning classifications shall construct a minimum of a six-foot high masonry or solid wall, including, but not limited to, concrete block walls, pre-cast (solid) walls, or foam core/steel support with stucco finish, when the subject property abuts a residential zoning classification."


Owner/Applicant Signature
K.R. Welsh- Pioneer Pointe, LLC
Print Name

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

LAND DEVELOPMENT APPLICATION DOCUMENT SUBMITTAL REQUIREMENTS

Waivers for Site Plans or Subdivisions require an application, waiver criteria (listed below), an 8 ½-inch x 11 inch vicinity map, and a fee of \$775.00.

WAIVER CRITERIA FOR SUBDIVISIONS AN 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.

See attached.

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

See attached.

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.

See attached.

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.

See attached.

5. Delays attributed to state or federal permits.

See attached.

6. Natural disasters.

See attached.

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

SUMMARY OF WAIVER REQUEST

Per 63-3202(h)(10) of the Brevard County code our portion of the project currently proposed for site plan approval requires a minimum six-foot high masonry or solid wall when the property abuts a residential zoning classification. We are requesting a waiver from this requirement in order to preserve more existing large trees along the boundary to create a better overall buffer and instead install a six-foot high opaque residential style fence to save more existing mature trees.

The regulation is as follows:

- *"Wall required where property abuts residential zoning per 63-3202(h)(10): Site plans within BU-1, BU-2, or industrial zoning classifications shall construct a minimum of a six-foot high masonry or solid wall, including, but not limited to, concrete block walls, pre-cast (solid) walls, or foam core/steel support with stucco finish, when the subject property abuts a residential zoning classification."*

Construction of a wall requires footings that will be dug much deeper into the ground impacting the ability to preserve existing trees. It requires the complete removal of more trees typically versus a fence as the wall has a larger footer and less flexibility to work around existing trees. They can impact the root system negatively causing them to die over time and potentially becoming a nuisance and danger by falling. In our experience, more of a concern comes with pine trees, and the site has pine trees we are proposing to preserve.

A six-foot tall opaque fence has much more flexibility to be installed around trees and not impact their root systems like a wall. The combined tree preservation with an attractive residential style fence creates an improved buffer, rather than clear cutting to install a wall and possibly plant smaller trees spaced equally creating the potential for large visual gaps along the boundary. As shown on the included waiver exhibit, the pond banks have been maneuvered around the boundary trees to further maximize preservation.

In addition, while this code is written for BU-1, BU-2 or industrial zonings, which typically have more intense commercial or industrial uses and allow for multiple story buildings, the proposed development is a single story assisted living facility (ALF). Many municipalities consider an ALF to be a residential use. In Brevard County it is still considered a commercial use, but it is in a residential setting with immaculately maintained amenities in order to be attractive to the families of the loved ones the facility cares for. In fact, a large, dense buffer is preferred to mutually benefit the ALF residents and any residential neighbors. The site has been designed with the solid waste collection far from the canopy covered drop-off/pick-up, parking buffered by the building, and points of ingress and egress to the site from the northwest corner or western boundaries of the property away from the residential to minimize any disturbances.



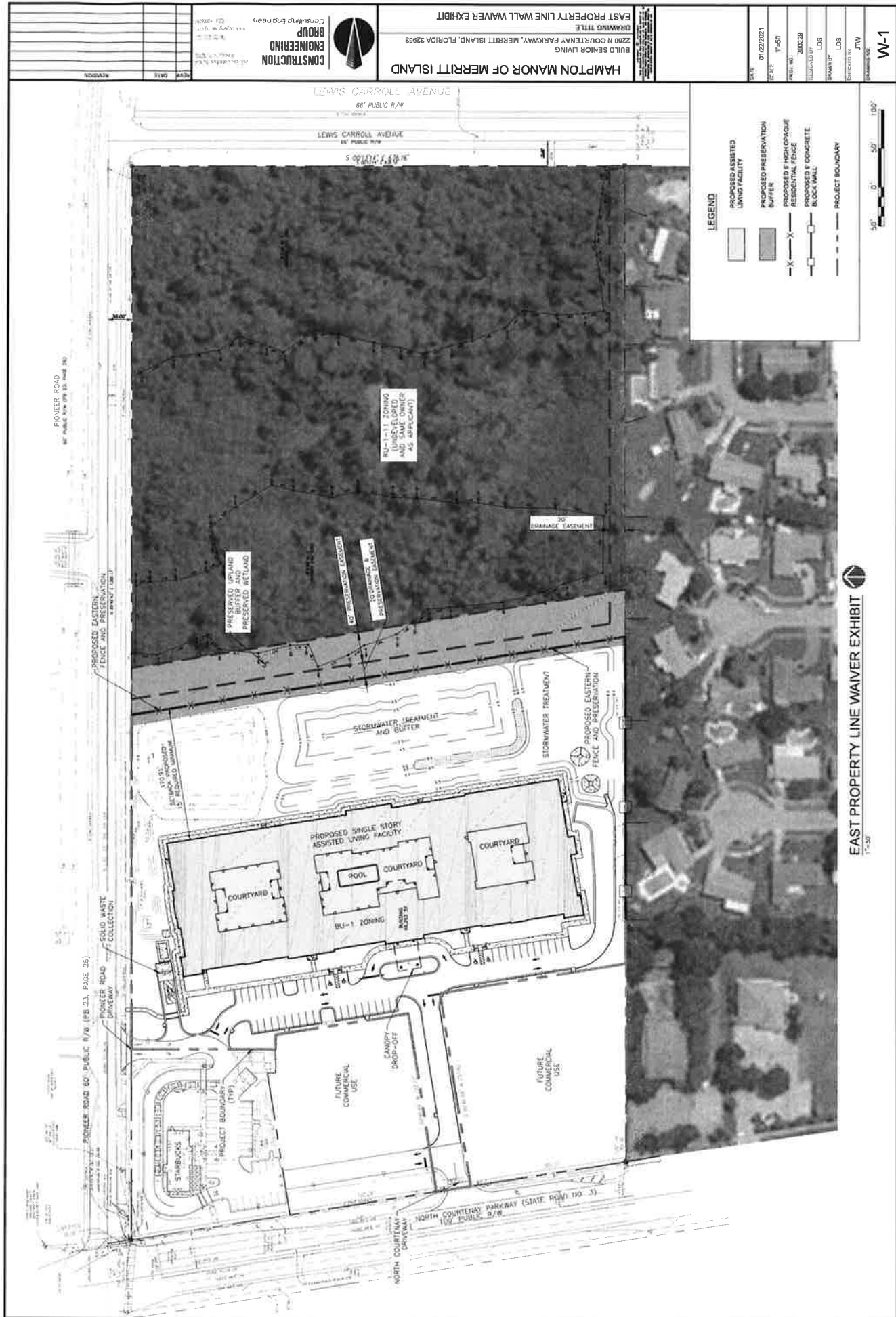
The residentially zoned properties adjacent to the east are undeveloped and owned by the applicant. The project proposes to preserve, in perpetuity, the healthy native canopy within the first 60' east of the property line of the proposed development in a 20' drainage easement and a 40' preservation easement for a total of 60' of tree preservation. The proposed preservation easement spans the entire length of the eastern boundary so any future residential development would be buffered by the proposed 6' high opaque fence, 60' of mature trees and the existing wetland, that varies in width between 75' to 225'. There are no plans at all by the applicant to develop the residentially zoned property to the east at this time.

WAIVER JUSTIFICATION

The following justifications follow the same numbering and order on the application for a waiver justification:

1. The particular physical conditions specific to this applicant and project along the east property line for the proposed waiver are unique for the following reasons:
 - Both sides of the zoning line (property line) where the fence is proposed are owned by the same entity, the applicant.
 - The project utilizes existing canopy 60' east of the eastern property line to meet canopy preservation requirements. This existing canopy, accompanied by a fence, will create a beautiful natural buffer between the ALF and future development of the parcel to the east. However, the installation of a wall could be detrimental to the root system of the existing trees in which the project proposes to preserve.
 - There is no proposed development to the east at this time.
2. The granting of the waiver will not be injurious to adjacent property it will be a benefit to both the proposed project and the adjacent properties.
3. The conditions of the zoning/property lines are not caused by the applicant, would not apply generally to other properties, and are unique to this waiver request.
4. The waiver is consistent with the intent and purpose of the county zoning regulations, the county land use plan, and the requirements of the article being requested for the waiver. In fact, it is an improvement to the code requirement to preserve more mature large trees and install a fence rather than clearing to install a wall.
5. There are no delays attributed to state or federal permits, this is not applicable.
6. There are no natural disasters related to this request, this is not applicable.





LEGEND

- PROPOSED ASSISTED LIVING FACILITY
- PROPOSED PRESERVATION BUFFER
- PROPOSED 5' HIGH OPAQUE RESIDENTIAL FENCE
- PROPOSED 6' CONCRETE BLOCK WALL
- PROJECT BOUNDARY



EAST PROPERTY LINE WAIVER EXHIBIT

1"=50'

HAMPTON MANOR OF MERRITT ISLAND
 BUILD SENIOR LIVING
 2280 N. COURTEWAY PARKWAY, MERRITT ISLAND, FLORIDA 32953
 DEDICATED TITLE

EAST PROPERTY LINE WAIVER EXHIBIT



CONSTRUCTION ENGINEERING GROUP
 Consulting Engineers
 200 S. COLLEGE BLVD.
 SUITE 200
 MERRITT ISLAND, FL 32953
 (407) 955-1100
 www.cegroup.com

| NO. | DATE | REVISION |
|-----|------|----------|
| | | |
| | | |
| | | |
| | | |
| | | |

W-1

CHECKED BY: JTW

DESIGNED BY: LJS

DATE: 01/22/2021

SCALE: 1"=50'

PROJECT NO: 200229

DATE: 01/22/2021

