



Agenda Report

2725 Judge Fran Jamieson
Way
Viera, FL 32940

Consent

F.1.

4/15/2021

Subject:

Waiver Request, Re: Waiver of wall requirement for Cypress Trust Company (21AD00003)(District 4)

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 6-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 property abuts a residential zoning classification.

The applicant states that the property of the Cypress Trust Bank is the site of the old Petty's Meat Market, and the developer of the recent multi-family development to the north and east is constructing a landscape buffer, and has already installed an enhanced fence along both property lines. The fence is six feet tall and has concrete columns spaced to enhance the appearance and durability.

The applicant claims that the presence of the fence adds to the hardship of constructing a wall along the property lines as it would be in conflict for access and maintenance. The applicant also states that there is an existing dry retention pond along the east property line that has a narrow bank and height, and that the shape and topography of the area would add to the hardship for construction of the wall and potentially have a negative impact on the site drainage. Lastly, the applicant offers that there are existing power lines, and existing pavement within three feet of the north property line that is being maintained and striped for emergency access to the Cypress Trust building.

The Natural Resources Management and Planning and Development Departments concur that the existing enhanced six-foot fence and vegetative buffer being provided on the adjacent property, in lieu of a wall, would allow for reduced impact and preservation of the functionality of the site drainage. The Board's waiver

approval, if granted, would apply specifically to the conditions of site plan application 21AD00003. Any future development, redevelopment, or alteration of the subject property that modifies the aforementioned site plan or reduces the vegetative buffer along the east and north sides of the subject property will void the wall waiver.



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

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April 16, 2021

M E M O R A N D U M

TO: Tad Calkins, Planning and Development Director

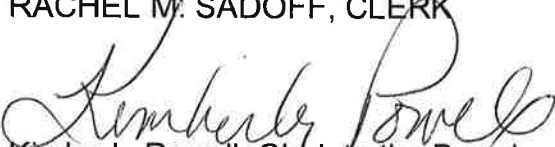
RE: Item F.1., Waiver Request for Waiver of Wall Requirement for Cypress Trust Company (21AD00003)

The Board of County Commissioners, in regular session on April 15, 2021, directed you to review and come back to the Board with legislative intent for granting the waiver requested by Cypress Trust Company (21AD00003) of Section 62-3202(h)(10) requiring 6-foot masonry or solid wall for 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

/ds



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

Wall Waiver

If other, please indicate _____

Tax Parcel Identification:

26	37	19	00	267	
Township	Range	Section	Subdivision	Block/Parcel	Lot

Tax Account Numbers (list all) 2618593 _____

Cypress Trust Company	Cypress Trust Company
Project Name	Property Owner

Site Address:

6115 N Wickham Road Melbourne FL 32940
Street City State Zip Code

CORRESPONDENCE TO BE PROVIDED TO APPLICANT AT THE ADDRESS BELOW:

Dana Kilbourne Cypress Trust Company
Applicant Name Company
6115 N Wickham Road Melbourne FL 32940
Street City State Zip Code
561-820-2938 dana.kilborne@cypresstrust.com
Phone Number Cell Phone Number Fax Number Email Address

ENGINEER/CONTRACTOR (if different from applicant)

Trauger Consulting Engineers, Inc. Erin Trauger
Company Engineer or Project Manager
PO Box 360253 Melbourne FL 32936
Street City State Zip Code
321-652-5316 erin.trauger@gmail.com
Phone Number Cell Phone Number Fax Number Email Address

DESCRIPTION OF WAIVER REQUEST AND CODE SECTION:

Waiver of wall per code Section 62-3202(h)(10) between PIP zoning and RU-2-15


Owner/Applicant Signature Dana Kilbourne
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.
NA

6. Natural disasters.
NA

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

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 property of the Cypress Trust Bank is an existing commercial development as it used to be the old Petty's meat market. It has laid dormant for some time but is under renovation to bring the property back to life. To address this item there are existing conditions that should be considered for this property and along the property lines for which the wall waiver is requested. They are as follows:

- ✓ *The recent multifamily construction project to the north and east of the Cypress Trust property is constructing a Type A buffer and has already installed an enhanced fence along both property lines. The fence is 6' tall and has concrete columns spaced to enhance the appearance and durability. The fence construction adds to the hardship of constructing a wall along these property lines as it would be in conflict for access and maintenance. (see photos)*
- ✓ *There are existing overhead power lines and existing parking pavement that runs within three feet of the property line to the north. This pavement is being maintained and striped out for emergency access around the building. These details would add to the hardship of construction of a wall due to spacing for footers and excavation for installation. (see attached photos).*
- ✓ *There is an existing dry retention pond along the east property line that has a narrow bank and height. The shape and topography of the dry retention pond would add to the hardship for construction of the wall as it could negatively impact the slope, stabilization or volume of the dry retention pond as there is not an open top of bank area for the wall construction (see attached photos).*

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

- ✓ *Granting a waiver of the wall will not be injurious to the adjacent property as they included a fence with landscaping as part of their proposed development which shall remain.*

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 Cypress Trust property was permitted and constructed as Petty's Meat Market many years ago. At that time the surrounding zoning classification was the same as the Cypress Trust property PIP (Planned Industrial Park) and therefore a wall was not required around the perimeter. During a rezoning action in 2018 (17PZ00109), the property surrounding the existing commercial development was approved to be RU-2-15. This action created a nonconforming situation for the existing property that was not a result of the actions of the existing property owner or applicant. The proposed development does not expand on the footprint of the building but proposes inclusion of a*

teller window, ATM and driveway pavement along the north of the building. The site is existing with the previously mentioned pavement, overhead power lines and existing stormwater retention that conflict with construction of a new wall. These considerations in combination with the condition that there is a very new existing enhanced fenced buffer along the same property lines are unique to this site, not generally applicable to other properties and do not result from the actions of the applicant.

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.

✓ *Approval of the requested waiver is consistent with the intent and purpose of the county zoning regulations, the County land use plan and the requirements of this article.*

PROPERTY LINE PHOTOS



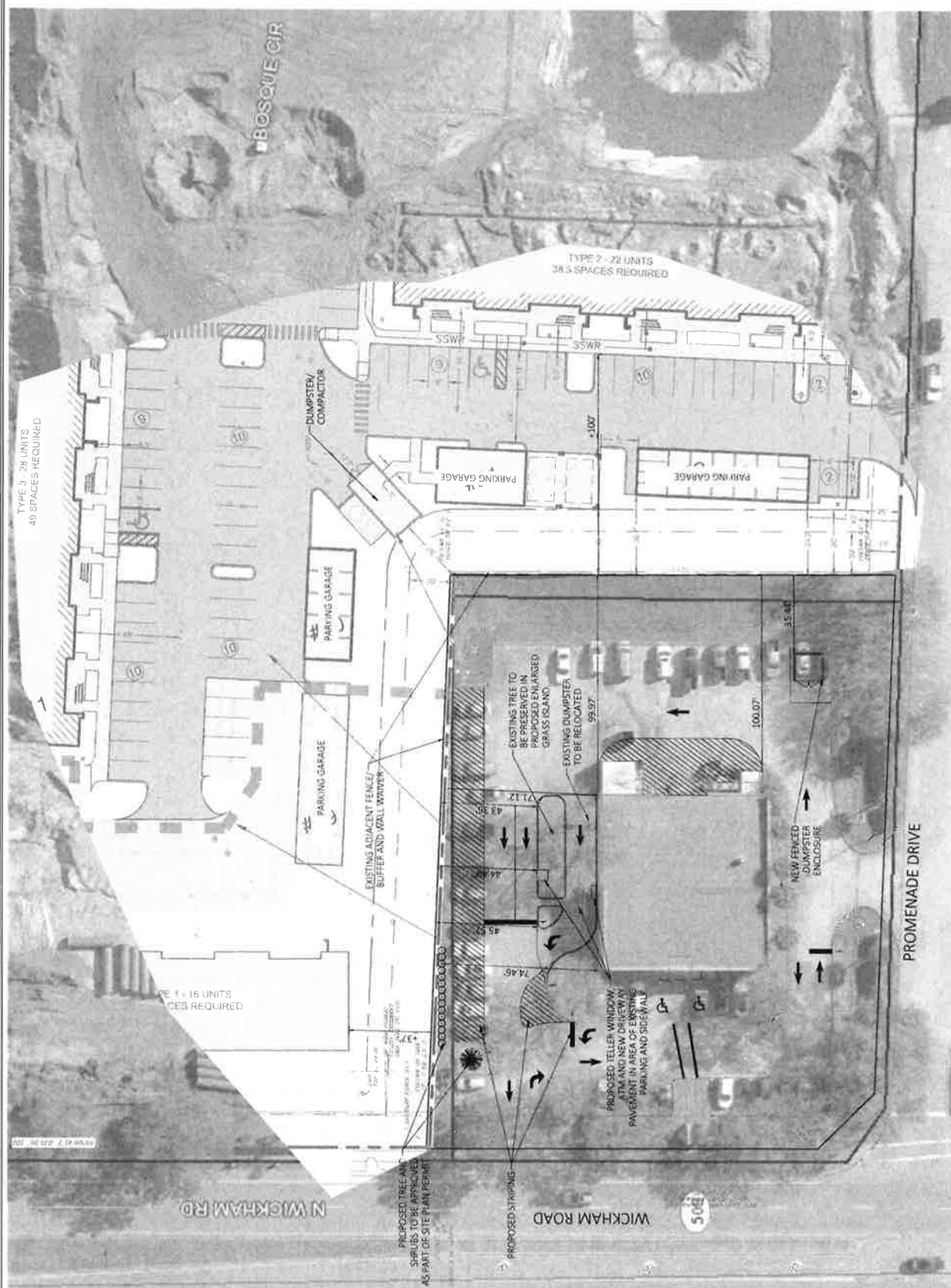
NORTH PROPERTY LINE



FENCE POST AND POWER POLE EXISTING



EAST PROPERTY LINE



Location Map

