



# Agenda Item Cover Sheet

Meeting Date January 12, 2021

Consent Section

Regular Section

Public Hearing

**Subject:** Approve a resolution providing for the rendition of the denial of application MM 19-1169, an application for major modification to Planned Development zoning (Planned Development (77-0292), for property within the Office Commercial 20 (OC-20) Future Land Use designation. The Board of County Commissioners voted to deny this application during the October 13, 2020 BOCC Land Use Meeting

**Department Name:** County Attorney's Office

**Contact Person:** Johanna M. Lundgren

**Contact Phone:** 272-5670

**Recommended Board Motion:**

Adopt a resolution providing for the rendition of the denial of application MM 19-1169, an application which requested a major modification to Planned Development zoning (Planned Development (77-0292), for property within the Office Commercial 20 (OC-20) Future Land Use designation.

**Background:**

Sec. 10.03.04 (G) of the Land Development Code (LDC) provides for the process for Board of County Commissioners consideration of rezonings and major modifications to Planned Development zoning designations. This section states that "the Board shall consider the record of the hearing before the Land Use Hearing Officer, any additional evidence and oral argument introduced pursuant to the terms herein and shall approve or deny the application by resolution. The resolution shall include a statement of compliance or all points of noncompliance with the Comprehensive Plan, if different from the conclusions of the Land Use Hearing Officer, and shall give specific reasons for any decision contrary to his recommendation. A resolution approving an application shall specify any conditions which are required as part of the Board's approval."

In accordance with Sec. 10.03.04 of the LDC, the Board of County Commissioners conducted a public meeting and considered application MM 19-1169 during the October 13, 2020 Board of County Commissioners Land Use Meeting. The Board conducted its review of this application in accordance with the Land Development Code, and voted to deny the application. The Board is requested to adopt the attached resolution providing for the rendition of the Board's denial of application MM 19-1169.

**List Attachments:**

Resolution providing for denial of MM 19-1169, with the following exhibits: (1) Zoning Hearing Master Recommendation, (2) Development Services Department denial letter (3) Minutes of October 13, 2020 Land Use Meeting

**RESOLUTION # \_\_\_\_\_**

**MAJOR MODIFICATION PETITION # MM 19-1169**

Upon motion by Commissioner Hagan, seconded by Commissioner Kemp, the following application for a major modification to Planned Development zoning was denied by a 7-0 vote, with the individual commissioners voting as follows:

Murman	yes
Hagan	yes
Miller	yes
White	yes
Smith	yes
Kemp	yes
Overman	yes

WHEREAS, on the 25th day of July, 2020, Bricklemyer Law Group submitted a major modification petition requesting a change in the PD (77-0292) (Planned Development (77-0292)) zoning classification for the parcel of land described in said petition; and,

WHEREAS, the Zoning Hearing Master on August 4, 2020, held a duly noticed public hearing on said major modification petition for PD (77-0292) (Planned Development (77-0292)) zoning and heard and considered testimony and documents received thereon; and,

WHEREAS, the Zoning Hearing Master filed with the Board of County Commissioners of Hillsborough County a recommendation of approval of said major modification petition; and,

WHEREAS, said recommendation of approval contained findings of fact and conclusions of law relating to consistency with the Comprehensive Plan and compatibility with adjoining land uses and zoning classifications, a copy of which recommendation is attached hereto as Exhibit 1 and incorporated herein by reference; and,

WHEREAS, the public notice requirements contained in the Land Development Code of Hillsborough County have been satisfied; and,

WHEREAS, the Board of County Commissioners of Hillsborough County has received and considered the report and recommendation of the Hillsborough County Administration; and,

WHEREAS, the Board of County Commissioners of Hillsborough County has received and considered the report and recommendation of the Zoning Hearing Master; and,

WHEREAS, the Board of County Commissioners of Hillsborough County has on October 13, 2020, held a duly noticed public meeting on the petition for major modification to PD (77-0292) (Planned Development (77-0292)) zoning and has heard and considered the evidence received thereon.

NOW THEREFORE BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF HILLSBOROUGH COUNTY, FLORIDA:

I. FINDINGS

A. The Board of County Commissioners of Hillsborough County is authorized and empowered to consider the petition for major modification to PD (77-0292) (Planned Development (77-0292)) zoning filed by Bricklemyer Law Group.

B. The Board of County Commissioners of Hillsborough County finds that this application is inconsistent with the policies and objectives of the Conservation and Aquifer Recharge Element of the Future of Hillsborough Comprehensive Plan, including but not limited to the following specific policies regarding the protection of wetlands:

1. Policy 4.1, which provides that: “The County shall, through the land use planning and development review processes, and in cooperation with the Environmental Protection Commission, continue to conserve and protect wetlands from detrimental physical and hydrological alteration.”
2. Policy 4.12, which provides that: “Priority shall be given to avoiding the disturbance of wetlands in the County and to encourage their use only for purposes which are compatible with their natural functions and environmental benefits.”
3. Policy 4.14, which provides that: “The development review process, part of a comprehensive program for the protection of wetlands, shall make every effort to maintain natural undisturbed wetlands by way of a sequential review process that first evaluates all means of avoiding wetland impacts in regard to a particular project; if necessary, secondly, evaluates and requires measures to minimize wetland impacts; and if necessary, thirdly, evaluates and requires the mitigation of wetland impacts.”

C. The Board of County Commissioners of Hillsborough County further finds that the proximity of the proposed expansion of intense commercial uses to the single-family residential properties located to the west of the application site is inconsistent with policies of the Future Land Use Element of the Future of Hillsborough Comprehensive Plan regarding compatibility, including but not limited to Policy 1.4 of the Future Land Use Element:

“Compatibility is defined as the characteristics of different uses or activities or design which allow them to be located near or adjacent to each other in harmony. Some elements affecting compatibility include the following: height, scale, mass and bulk of structures, pedestrian or vehicular traffic, circulation, access and parking impacts, landscaping, lighting, noise, odor and architecture. Compatibility does not mean “the same as.” Rather, it refers to the sensitivity of development proposals in maintaining the character of existing development.”

D. For the foregoing reasons, the Board of County Commissioners of

Hillsborough County having considered the report and recommendation of the Hillsborough County Administration, the recommendation of the Zoning Hearing Master, and evidence and testimony from both the applicant and persons from the surrounding neighborhood, finds that the uses permitted in the major modification to PD (77-0292) (Planned Development (77-0292)) zoning classification are not compatible with the existing land uses present in the area surrounding the subject property.

E. For the foregoing reasons, the Board of County Commissioners of Hillsborough County having considered the report of the Hillsborough County Administration, the recommendation of the Zoning Hearing Master, and evidence and testimony from both the applicant and persons from the surrounding neighborhood, finds that the major modification to PD (77-0292) (Planned Development (77-0292)) classification is not compatible with the zoning districts applicable to the lands surrounding the subject property.

F. For the foregoing reasons, the Board of County Commissioners of Hillsborough County having considered the report and recommendation of the Hillsborough County Administration, the record of the hearing before the Zoning Hearing Master, the Zoning Hearing Master recommendation, and evidence and testimony from both the applicant and persons from the surrounding neighborhood, finds that the major modification of the subject property would not be consistent with the goals, policies and objectives contained in the Comprehensive Plan enacted by the Board of County Commissioners of Hillsborough County pursuant to the authority contained in Chapter 75-390, Laws of Florida (1975), as amended, and Part II of Chapter 163, Florida Statutes, entitled, "Community Planning Act".

II. CONCLUSIONS

The Board of County Commissioners of Hillsborough County hereby denies the petition for the major modification of the PD (77-0292) (Planned Development (77-0292)) zoning filed by Bricklemyer Law Group.

III. EFFECTIVE DATE

This resolution shall take effect upon vote of the Board of County Commissioners of Hillsborough County in regards to the application.

STATE OF FLORIDA     )  
  )  
COUNTY OF HILLSBOROUGH)

I, CINDY STUART, Clerk of the Circuit Court and Ex Officio Clerk to the Board of County Commissioners of Hillsborough County, Florida, do hereby certify that the above and foregoing is a true and correct copy of the resolution adopted by the Board of County Commissioners of Hillsborough County, Florida at its regular meeting of \_\_\_\_\_ as the same appears of record in Minute Book \_\_\_\_\_ of the Public Records of Hillsborough County, Florida.

WITNESS, my hand and official seal this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

CINDY STUART, CLERK

BY: \_\_\_\_\_  
Deputy Clerk

APPROVED BY COUNTY ATTORNEY

BY \_\_\_\_\_

Approved As To Form And  
Legal Sufficiency

**COUNTY OF HILLSBOROUGH  
RECOMMENDATION OF THE LAND USE HEARING OFFICER**

**APPLICATION NUMBER:** MM 19-1169

**DATE OF HEARING:** August 4, 2020

**APPLICANT:** Bricklemyer Law Group

**PETITION REQUEST:** The applicant is seeking a Major Modification to a Planned Development (PD 77-0292) in order to reduce the square footage and to add commercial uses to the non-residential portion of the PD.

**LOCATION:** 13856 N. Dale Mabry Hwy.

**SIZE OF PROPERTY:** 4.84 Acres±

**EXISTING ZONING:** PD (77-0292)

**FUTURE LAND USE:** OC-20

**SERVICE AREA:** Urban

**COMMUNITY PLAN:** Greater Carrollwood Northdale

# APPLICATION REVIEW SUMMARY AND RECOMMENDATION

## DEVELOPMENT REVIEW STAFF REPORT

### 1.0 Summary

#### 1.1 Project Narrative

The applicant is seeking a major modification to a Planned Development (PD 77-0292) in order to reduce the square footage. Additionally, the applicant proposes to add commercial uses to the non-residential portion of the PD. The site is located on the west side of N. Dale Mabry Hwy, approximately 350 ft. south of Executive Center Dr. in Tampa. The Future Land Use classification is Office Commercial -20.

No new access points are being proposed.

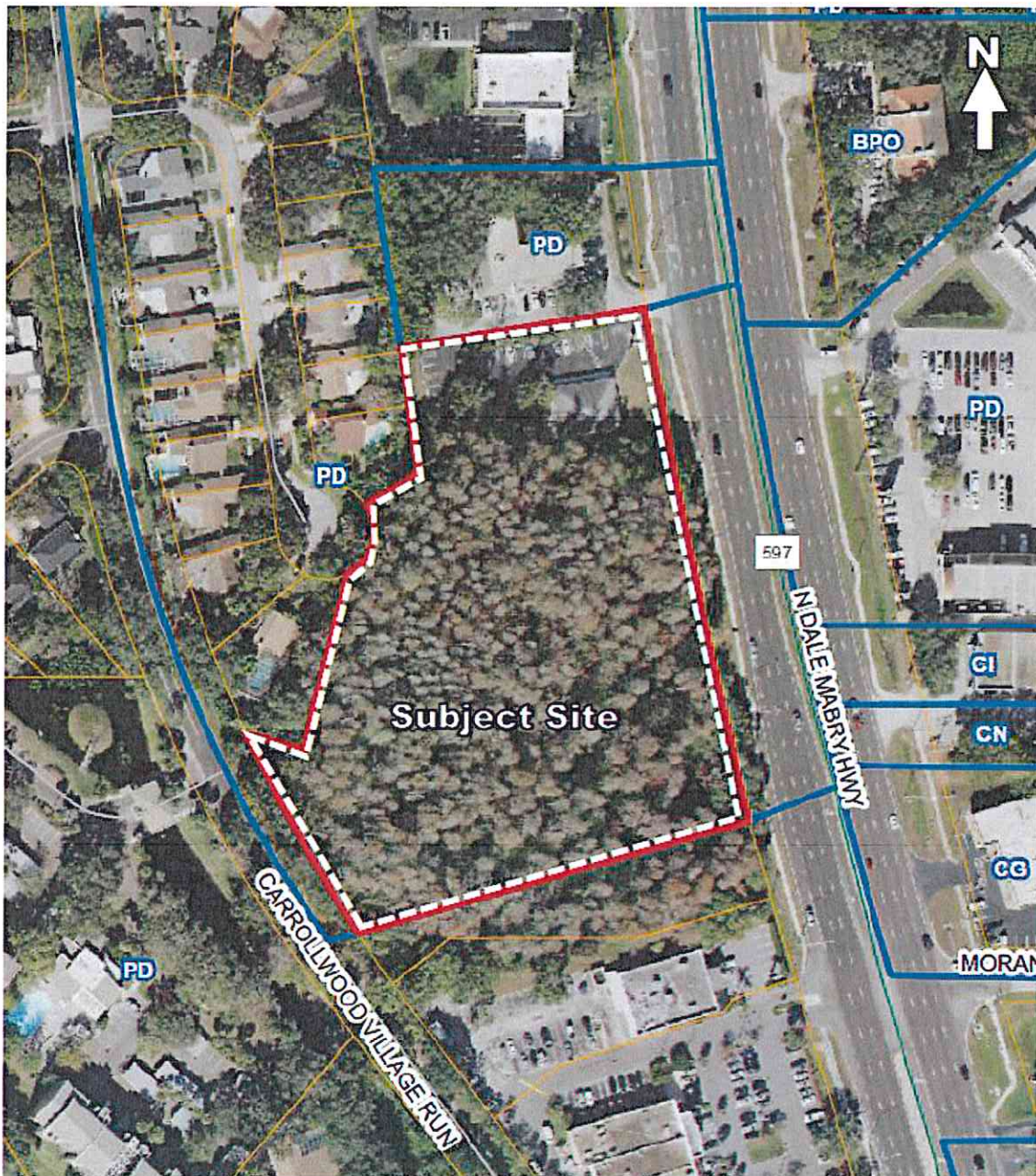


Figure 1 – Subject Site

The PD consists of a residential area and an office portion. This Major Modification would only affect the office portion of the PD, along N. Dale Mabry Hwy. The residential portion is located northwest of the PD.

The specific proposed changes are:

Conditions	Current	Proposed
Uses	No Retail/commercial Use Approved	7,000 sq. ft. Commercial General (CG) Uses w/ restrictions
Intensity (Space)	Max of 6,000 Sq. Ft. for a Bank and 30,000 Sq. Ft. of Business Professional Office (BPO) uses (TOTAL: 36,000 sq. ft.)	Max of 6,000 Sq. Ft. for a Bank; Max of 7,000 Sq. Ft. of Medical office uses; and Max 7,000 Sq. Ft. of Commercial General uses (TOTAL: 20,000 sq. ft.)
Building Setback	40 feet from N. Dale Mabry Hwy	8 feet from N. Dale Mabry Hwy

The parcel today is mostly covered with wetlands. A medical office facility (3,154 sq. ft. Med Express) exists today on the remaining uplands. The applicant intends to expand medical uses over existing wetland areas, therefore, the project would impact wetlands in order to create an additional 0.5-acre of uplands. The added upland acreage would allow the existing office use (Med Express) to be enlarged, and Commercial General (CG) uses to be introduced.

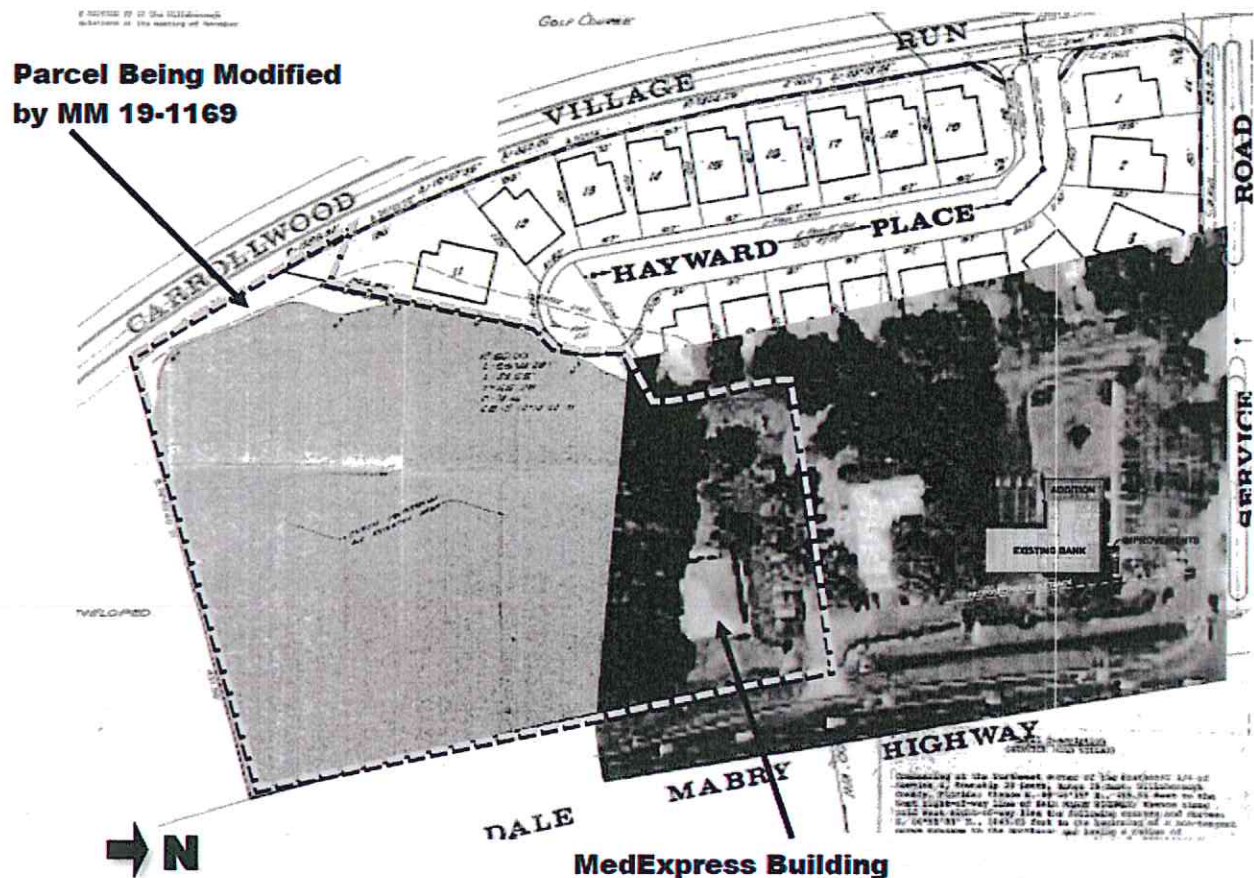


Figure 2 - Current PD Plan



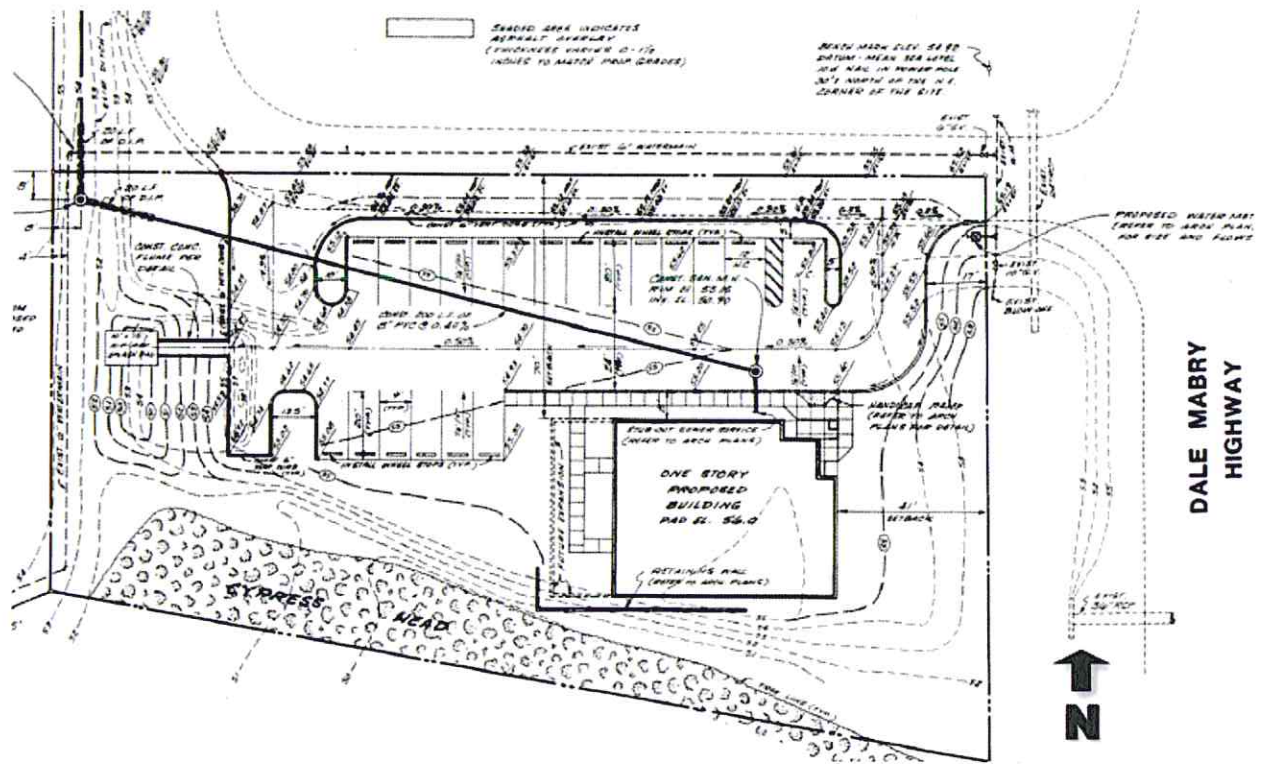


Figure 3 - Med Express Site Development Plan - November 1982

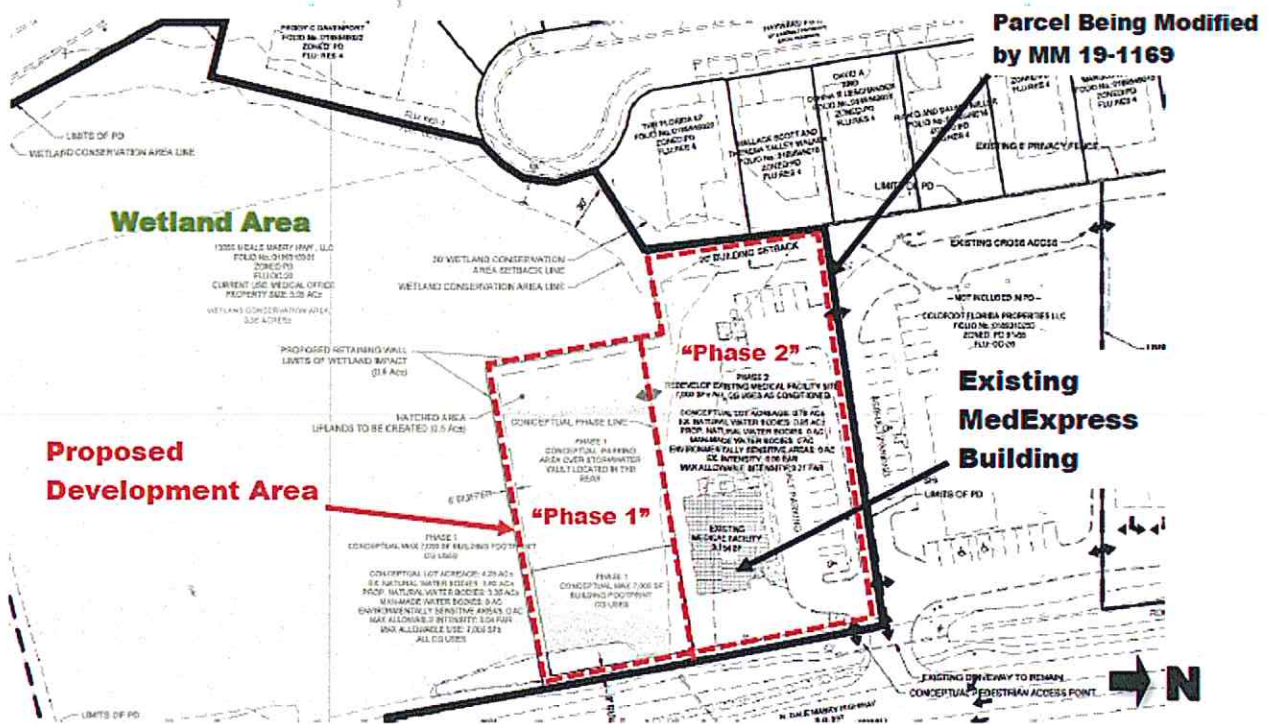


Figure 4 - Proposed PD Plan



Figure 5 - Proposed Phases over Aerial

The applicant is requesting to amend Condition #1 to eliminate the approved 30,000 sq. ft of BPO uses (office). The southern portion of the development area (Phase 1) will be limited to 7,000 sq. ft. of medical office uses, while Phase 2 will add another 7,000 sq. ft. of CG uses\*. The total amount of non-residential space would be 20,000 sq. ft.:

	7,000 sq. ft. of medical office uses
+	7,000 sq. ft. of CG Uses
	6,000 sq. ft. of bank (existing)
= 20,000 sq. ft. of Non-Residential uses	

\* Per the LDC Section 2.02.02 Table of Allowable Uses, office professional uses permitted under the BPO district are also allowed in CG.

The commercial general (CG) uses proposed on the Phase 2 area are being restricted with prohibitions for certain uses, including Restaurants with Drive-up facilities and gas stations.

Per the submitted site plan, the proposed building footprint is being placed at 8 feet from the parcel line along N. Dale Mabry Hwy. The applicant is requesting to reduce the building’s front setback for this project from 40 to 8 feet in order to place the building closer to the road with the parking areas behind

the structure. The original PD did not specify a minimum front setback from N Dale Mabry Hwy, however, a major modification in 2011 to expand the bank building on the northern end of the PD included the minimum 40-foot front setback to recognize the built bank structure's footprint.

Cross access is being maintained to the adjacent PD to the north and internally within the subject PD.

Adjacent zoning and uses are:

LOCATION	ZONING	USE / APPROVED FOR
North	PD 91-0055	Office Building
South	PD 74-0004	Wetlands/Commercial-office/ Residential uses
East	PD 81-0218	Commercial-office/ Shopping Center
West	PD 74-0004 PD 77-0292	Wetlands/Commercial-office/ Residential uses Residential single-family detached

### 1.2 Compliance Overview with Land Development Code and Technical Manuals

The applicant has not requested any variations to Land Development Code (LDC) Parts 6.05.00 (Parking and Loading), 6.06.00 (Landscaping/Buffering) or 6.07.00 (Fences/Walls).

### 1.3 Evaluation of Existing and Planned Public Facilities

#### *Water Utilities*

This site is located within the Hillsborough County Urban Service Area, therefore the subject property should be served by Hillsborough County Water and Wastewater Service. This comment sheet does not guarantee water or wastewater service or a point of connection. Developer is responsible for submitting a utility service request at the time of development plan review and will be responsible for any on-site improvements as well as possible off-site improvements.

#### *Transportation*

Dale Mabry Hwy S.R 597 is a six-lane divided state arterial roadway characterized by +/- 12-foot pavement is in good condition. Dale Mabry Hwy lies within a +/- 198-foot wide right-of-way. There are sidewalks, paved shoulder or curb and gutter along Dale Mabry Hwy in the vicinity of the proposed project. There are no bicycle facilities. Dale Mabry Hwy is not on the Hillsborough County Corridor Preservation Plan; no ROW is needed to be preserved.

Executive Center Drive is a 2-lane undivided local roadway characterized by +/- 12-foot pavement is in good condition. Executive Center Drive lies within a +/- 65-foot wide right-of-way. There are no sidewalks, paved shoulder, bicycle lanes or curb and gutter along Executive Center Drive in the vicinity of the proposed project. Executive Center Drive is not on the Hillsborough County Corridor Preservation Plan; no ROW is needed to be preserved.

The applicant submitted a Section 6.04.02.B Administrative Variance request from Section 6.04.03.L of the LDC, to eliminate required substandard roadway improvements on Executive Center Drive. The County Engineer reviewed the roadway Administrative Variance request and found it approvable on March 2<sup>nd</sup>, 2020. Upon approval by the Board of County Commissioners of this rezoning, the County Engineer will execute the Administrative Variance.

### 1.4 Natural Resources/Environmental Issues

The Environmental Protection Commission (EPC) has reviewed the application and offers no objections, subject to conditions. The applicant met with EPC staff and received a conceptual authorization for the wetland area impact. EPC found that this project, as submitted, is conceptually justified to move forward through the zoning review process, as long as proposed conditions by the EPC are included. The Planned Development provides for specific conditions and controls on the proposed project, therefore,

the EPC approval of the PD site plan depicting a stem/retention wall and a reduced setback (6 feet from the new wetland line) addresses the required setback against wetlands. The proposed retaining wall and vaulted stormwater accomplishes the intended function of the setback and minimizes wetland fill impacts. Natural Resources staff also reviewed the request and does not object, with conditions. Per Natural Resources comments, a minimum setback or other suitable measure (i.e. retaining wall acceptable to EPC) must be maintained around these areas, which shall be designated on all future plan submittals and where land alterations are restricted.

EPC and Natural Resources will still need to review the project at site development review for final approvals.

#### **Agency Comments**

- Conservation and Environmental Lands Management - No Comments

#### **1.5 Comprehensive Plan Consistency**

Planning Commission staff finds the proposed modification **consistent** with the Future of Hillsborough Comprehensive Plan.

#### **1.6 Compatibility**

Staff finds no land use compatibility issues with the proposed modification to the approved Planned Development. Nearby parcels along N Dale Mabry Hwy are zoned and approved for office and commercial uses with no restrictions. The square footage currently approved in the subject PD for office uses is being reduced from 30,000 sq. ft. to effectively up to 14,000 sq. ft. The use restrictions on the site would mitigate negative impacts to the adjacent residential parcels to the west, and wetland areas would still be maintained, as shown on the proposed PD plan, screening the subject site from the single-family homes. The proposed building foot print is being placed furthest from the residential neighborhood as well.

The reduced setback along the east, adjacent to N Dale Mabry Hwy, would allow placement of buildings closer to the road and further away from residential areas to the west; therefore, impacts to the single-family homes would be lower.

Staff received letters in opposition from concerns nearby residents, specifically from the adjacent neighborhood to the west (Hayward Place). The HOA has also submitted letters in opposition. Residents have been opposing to the wetland reduction directly to the EPC and through our department. The residents have expressed opposition with the removal of wetland/conservation areas to be replaced with upland for the development of office uses. In addition, residents oppose to the introduction of a wide range of commercial uses in the subject parcel and the traffic impacts. Hundreds of signatures were submitted to Development Services and the EPC opposing to the removal of the wetlands and the proposed major modification.

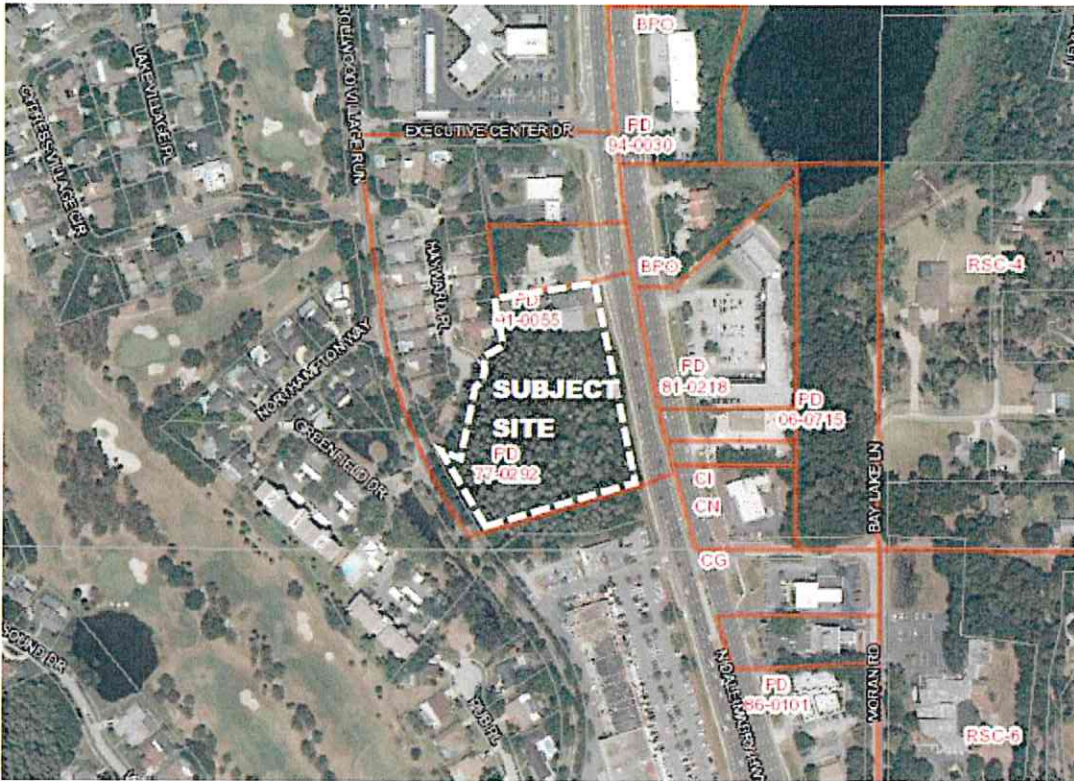


Figure 6 – Nearby Zoning Districts

The applicant has modified the request from their original petition. Square footage for commercial uses have been limited to 7,000 sq. ft. and a number of more intense uses will be restricted in addition to the ones proposed by the applicant. Development of Phase I, where wetland impacts are shown, will be limited to no more than 7,000 sq. ft. of Medical office uses. Total development of the PD for nonresidential uses is being reduced from 36,000 to 20,000 sq. ft. The EPC has provided comments in regards to the zoning plan and has provided conditions for the proposed changes. Per the EPC, the proposed medical use is consistent with the “Med Express” expansion conceptually approved by the wetland mitigation plan.



Figure 7 – Surrounding Development Pattern

No waivers from buffer and screening requirements are being requested with this major modification. The required 20-foot wide, Type B screening (vegetation and fence) will be maintained along the west, adjacent to residential development. Cross access will be provided to adjacent non-residential parcels

to the north.

Transportation staff has indicated that development of the project would increase the peak hour trips in the afternoon, but reduce the trips in the morning peak hours.

Staff recognizes the opposition presented by area residents, however, the request to add 7,000 sq. ft. of commercial uses with restrictions is consistent with other existing nearby non-residential uses along N. Dale Mabry Hwy, a major commercial corridor in the area. The restrictions imposed to the commercial uses would prevent more intensive uses from the site and reduce impacts to nearby residential uses. The expansion of the medical uses is still less. The EPC has evaluated the request and approves the proposed site plan, as submitted, with conditions, to move forward with the re-zoning process. Additionally, a conceptual wetland mitigation authorization has been issued by the EPC and further reviews by the EPC and Natural Resources will still be required during the site development review process to ensure compliance with the conditions and all other requirements of the Land Development Code.

Based on the above considerations, Staff recommends approval of the request, with conditions.

### **1.8 Exhibits**

Exhibit 1: Zoning Map

Exhibit 2: Future Land Use Map

Exhibit 3: Current Certified Plan for PD 77-0292 (11-0771)

Exhibit 4: Proposed Site Plan

### **2.0 Recommendation**

Staff recommends approval, subject to conditions based on the general site plan submitted ~~August 16, 2011~~ January 2, 2020.

## **SUMMARY OF HEARING<sup>1</sup>**

THIS CAUSE came on for hearing before the Hillsborough County Land Use Hearing Officer on August 4, 2020. Mr. Brian Grady of the Hillsborough County Development Services Department introduced the Petition.

Clayton Bricklemeyer, 601 N. Ashley Drive, Suite 700, Tampa, Florida 33603, provided presentation on behalf of the applicant. He displayed a site map and testified that the subject property is located along North Dale Mabry, between Fletcher Avenue and Handy Road. The request is to reduce the overall square footage and to allow for a small portion of the wetland to be developed in order to build a new medical office building while the existing medical office building is to be redeveloped into some kind of restricted commercial; there is a list of restricted commercial uses with restrictions and additions. The Dickeys have owned the property since the 80s and the doctors opened a walk-in clinic there. There is an existing Med Express on the site and the idea is to build a new prototype store. It was the genesis of this request so that it would be able to get built while the existing store is operating. Hence, one store closes one day and reopens the next day at the new site. Mr. Bricklemeyer displayed the original plan used to start the process in September 2017, depicting the drainage pond and two large structures. This plan was taken to EPC initially, knowing that it would be the critical path, but wanting to make sure that when coming in for rezoning, they had something EPC would be okay with. The EPC was not okay with that and so the plan was revised to the current site plan. The impact to the wetland has been

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<sup>1</sup> The summary of testimony is intended only to summarize pertinent points of testimony received. For a thorough understanding of testimony the reader is referred to the verbatim transcript made part of the hearing record.

significantly reduced and the buffering against the residential remains as it has been. There is still an enormous amount of buffering from their back to the Hayward Place residence. The reason for the reduced impact results in a great expense for the stormwater system. There is also a very expensive retaining wall to assure a hard line on that wetland and protect the remainder. EPC has granted conceptual approval based on that. Mr. Bricklemeyer stated that that a conceptual approval letter is in an evidence binder he would submit into the record. He explained that right before they were supposed to appear in front of the Zoning Hearing Officer in January, they found out that there was a neighbor in opposition. They decided to continue and had an open house with a pretty good attendance. The outcome was four issues, and he would bring up his experts to deal with stormwater, traffic, and wetland, while he would address the fourth one, the redevelopment of the QSR.

Trent Stevenson, 505 East Jackson Street, Suite 200, Tampa, Florida 33602, testified that they had looked at the stormwater for the project. The first item was regarding localized flooding and what kind of flood plain encroachment they had. Mr. Stevenson displayed an exhibit and indicated the floodplain encroachments. They pulled the county model to determine what amount of flood plain compensation would be required.

The Hearing Officer asked if the northerly boundary of the floodplain is going through the existing clinic building. Mr. Stevenson replied that it does not. He proceeded to clarify the location and extents of the floodplain area on the site plan and followed by the flood plain map and then pointed out that it is half an acre in area, while the calculations are roughly a quarter acre. The quarter acre-feet in compensation would be provided via stormwater vault. From a water quality standpoint, they would adhere to the county and floodplain criteria.

The Hearing Officer asked where flood plain compensation would occur. Mr. Stevenson replied that it would occur in the stormwater vault located in the parking lot for the proposed building of Phase 1.

Steve Henry with Lincks & Associates, 5023 West Laurel Street, Tampa, Florida 33607, testified that with the project they conducted a detailed traffic analysis to look at the access. The access is the existing right-in, right-out on Dale Mabry, and then it also collects on Executive Center Drive, which they have analyzed. Both of those will operate at Acceptable Levels of Service with the addition of project traffic.

The Hearing Officer asked if that would address concerns by those in opposition. Mr. Henry replied that he thought part of it was that when they first met there was a fast-food option and concern for the amount of traffic that would generate. However, the applicant has scaled it down. Fast food is no longer an option, so they looked at the worst-case scenario, and it still operates at an acceptable Level of Service.

Aric Larson with Terracon Consultants, 2953 Wellington Circle, Tallahassee, Florida 32305, testified that they had received a conceptual approval by EPC on October 3<sup>rd</sup>, 2019 that was for the impact of 0.5 acres of wetland. That approval was obtained through a lengthy process with EPC. They initiated that coordination back in September of 2017, so over the course of the next year and a half, they were able to obtain that approval. One of the main reasons they were able to do that was by reducing the wetland impact acreage from 2.42 acres down to 0.5 acres; a significant reduction of the wetland impact. One of the conditions of that conceptual approval is that the applicant provides compensatory mitigation for what is referred to as 0.3 functional units. Those functional units are determined through the unified mitigation assessment method process. So the applicant will have to provide that mitigation in some type of form to make up for that. At this point they do not have a mitigation plan, but they intend on establishing that mitigation plan through future permitting with the Water Management District and the Army Corps of Engineers if applicable. Since they do not have a plan settled at this point, some of the things that may go into that plan would be the purchase of mitigation credits from a

mitigation bank in combination with potential on-site mitigation, which could take the form of reduction or removal of invasive plant species as one option. Those are some of the things that they will look into when they establish the mitigation plan. The purpose of the mitigation plan according to the state mitigation rule is that there is no net loss of wetland function within the watershed basin that the project is within. So all that mitigation that they do has to be within the particular basin that they are working with. The second primary condition of their conceptual approval is that a conservation easement must be dedicated to EPC for the remaining portions of the wetlands that are not disturbed; and this will protect the wetland in perpetuity. That is a fairly standard condition. Mr. Larson confirmed that the applicant intends to do that. What was talked about in the open house, was that the applicant may be willing to actually dedicate that conservation easement to the HOA if it is allowed by EPC. So that is another option that is on the table. Another point is the fact that the stormwater system that was redesigned to reduce the wetland impact is designed in a way to meet the state water quality standards, and in doing so, compared with the previous method of stormwater runoff on the site, it would vastly improve the water quality of the stormwater that is entering the wetland. So that will be another benefit that they will see through the redesign of the plan that the applicant has done so far. The treatment method would be through the vaulted stormwater system. Mr. Larson stated that he would have to defer to the experts on how that actually works, but as it is right now, there is untreated stormwater that essentially just sheet-flows into the wetland with no treatment.

Clayton Bricklemyer continued with his presentation and stated when they had the open house the issue they heard the most was about the capacity was the QSR, which they eliminated. The team had a meeting after and decided that that was fine just being a good neighbor and making that concession. He thought it would probably be a really good site for that, but they agreed that they would eliminate that as a use. Mr. Bricklemyer stated that he wanted to clarify what Aric Larson said regarding the conservation easement, 80 some percent of that wetland area, and the applicant is very willing. He has had conversations with the HOA attorney to deed, as they had some neighbors who were concerned about the possibility that the applicant would reverse the conservation easement at some point in the future, which would not happen; but the applicant is happy to deed that out and make the HOA feel secure in the knowledge that that it would remain.

Mr. Bricklemyer summarized that the subject site is located in the Urban Service Area. It is in the urban community activity center in North Dale Mabry and the request is compatible. Development Services staff and Planning Commission both support the request. The applicant has made many concessions to be a good neighbor and that has led to the recommendation of approval from everyone. Mr. Bricklemyer pointed out that he has the evidence binder, the old plan and the new plan, as well as about 50 letters of support from residents and people who work in the area, along with the resumes for his experts that he would be submitting into the record.

Israel Monsanto with Development Services provided a summary of his previously submitted staff report. Upon completion, the Hearing Officer asked on which side of West Dale Mabry the subject site is located. Mr. Monsanto replied that it is the west side and he would update his staff report accordingly.

The Hearing Officer asked Mr. Monsanto to confirm that in terms of intensity, that the request reduces an allowable 36,000 square feet down to 20,000 square feet. Mr. Monsanto confirmed this to be correct.

Yeneka Mills with the Planning Commission staff testified that the subject property is located within the Office Commercial-20 Future Land Use classification, the Urban Service Area, and within the limits of the Greater Carrollwood Northdale Community Plan. The applicant is requesting approval for a Major Modification to PD 77-0292. The applicant is requesting a medical office building at a maximum 7,000



square feet within the southern portion of the site, a maximum of 7,000 square feet of Commercial General uses in the northern portion of the site with restrictions and a 6,000 square foot bank, which is existing.

The North Dale Mabry Corridor is designated as Office Commercial-20 (OC-20) on the Future Land Use Map. The intent of this plan category is to be urban in intensity and density. The Comprehensive Plan encourages development that is integrated with the adjacent land uses through mitigation of adverse impacts to the surrounding area. Residential single-family is located to the west of the proposed site. To mitigate impacts the applicant has agreed to restrictions of specific uses, additionally the wetlands that are located within the southwestern portion of the site will act as a natural screening to the residential. The proposed use would complement the surrounding land uses and is therefore consistent with Objective 16, Policy 16.1, Policy 16.2 and 16.3 of the Future Land Use Element.

The site is within the limits Carrollwood Northdale Community Plan. The Carrollwood Northdale Community Plan encourages the protection of environmental resources. This case has been reviewed by the Environmental Protection Commission. The EPC has determined a resubmittal is not necessary for the site plan's current configuration. If the site plan changes, EPC staff will need to review the zoning again. EPC's comments also state that the site plan depicts wetland impacts that have been conceptually authorized by the Executive Director of the EPC.

Based upon the above considerations, Planning Commission staff found the proposed modification consistent with the Future of Hillsborough Comprehensive Plan for Unincorporated Hillsborough County, subject to the conditions proposed by the Development Services Department.

The Zoning Hearing Master then asked for audience members in support of the request. There were none.

The Zoning Hearing Master then asked for audience members in opposition to the request.

John Perella, residing at 13925 Hayward Place, Tampa, Florida 33618, testified in opposition to the request. He stated that the opposition group has been submitting objection letters to Hillsborough County since August of 2019 and has been aware of the project since well before that. Ten people are present to support the opposition and if it were not for the pandemic, it would be at least 100. The homeowners and residents of Hayward Place have significant objections to the Major Modification and the resulting project plan by the property owner, and their opinion should carry considerable weight. The residents moved into this neighborhood believing they were part of a mixed-use development with commercial uses limited to BPO and that the 4.2-acre wetland and natural habitat upon which the Hillsborough County drainage easement is located would protect the area from development. Changing the zoning from PD to Commercial General<sup>2</sup> would affect their quality of life, subject them to excessive noise, odors, light, during extended hours of operation, significantly increase traffic, negative health and safety impacts, and reduce property values. There is no need for this development to occur.

Mr. Perella stated that there is an overabundance of commercial retail space in the North Dale Mabry corridor. Currently there are at least five unoccupied stand alone buildings with frontage along North Dale Mabry Highway in the immediate vicinity of all of the available buildings except one which happens to be directly across the street that has been unoccupied for at least two years. With so many unoccupied commercial buildings along North Dale Mabry corridor it absolutely calls into question the

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<sup>2</sup> At the outset, this rezoning request is not a change from Planned Development to Commercial General. Instead, the applicant has requested a modification of an existing Planned Development that overall reduces the currently allowed 36,000 SF of Bank and BPO uses to 20,000 SF of Bank, Medical Office and Commercial General uses that are restricted significantly.

need for the destruction of old cypress trees for the development of yet another commercial space; it is wasteful, shortsighted at best.

Mr. Perella indicated that in addition to the opposition by the Hayward Place homeowners, there is also significant opposition by the community at large. To date opposition to this proposal includes 777 hard copy signature petitions and 2,491 electronic signatures via change.org. On their Facebook site, approximately 30 individuals had taken the time to submit letters to Hillsborough County. Carrollwood Village Phase 1 and Greenfield Mid-Rise's Homeowners Associations have both submitted letters in opposition. Hillsborough County staff has given little to no consideration to their objections. For example, Planning Commission staff report fundamentally misrepresents the essence of the Greater Carrollwood Northdale Community Plan, denying the clear intent of the redevelopment overlay areas. Consequently, the community sees staff's interpretation effectively eliminates the value and meaning of specific nodes. Additionally, staff's statement in the report claiming the proposed development would not act as an expansion of commercial uses is disingenuous. The entire purpose of the proposed development is to introduce a new nonresidential development into the undeveloped and currently protected wetland<sup>3</sup>. If the site zoning is changed to Commercial General, this would permit new uses in addition to the current use of the site, which absolutely represents an expansion of commercial uses. Also, the Development Services staff report claims that the Major Modifications would reduce the square footage of the Planned Development, which is factually incorrect. PD 91-0055 effectively removed 20,000 square feet of BPO from this PD. Therefore, the Major Modification is actually an increase of 4,000 square feet to the PD rather than a decrease. Finally, EPC staff inadequately considered the applicant's impact; the proposal failed to consider reasonable use per the EPC's own guidance.

Mr. Perella pointed out that they could only find one criteria that they actually met. These are all cases of Hillsborough County staff putting the proposed development in an unduly favorable light effectively minimizing the neighborhood's concerns and presenting the ZHM an incomplete picture. This favorable treatment by Hillsborough County staff is unearned. Dickey's consultants have misled EPC and Development Services staff on several occasions. These misleading statements include claiming there was a sidewalk where there was not, as well as about the intent of the development and the number of similar urgent care facilities in the vicinity of the site. Also statements claiming nearby homeowners and homeowner associations were not in opposition to the project, and suspicious omissions from the wetland survey. By allowing developers to provide misleading and inaccurate statements, with impunity, Hillsborough County staff is only encouraging more of this egregious behavior. These misstatements should disqualify this applicant from any further consideration by Hillsborough County. Mr. Perella stated that we would be submitting some hard copies of documents that they had submitted and a new document as well.

Bruce Shepherd, 14516 Nettle Creek Road, Tampa, Florida 33624, also testified in opposition to the request. He stated that he has been a resident of Carrollwood Village for 40 years and he is someone who would be impacted by the proposed Dickey properties. He pointed out that he is not appearing as a member of the Hayward Place Homeowners Association or as a representative of Carrollwood Village, but speaking as an individual. But with all due respect to the applicant in reference to the so-called open house, he could assure that this is a huge opposition by the residents in the area who are very upset. This project physically lies at a critical location between a green space residentially developed area and Dale Mabry Boulevard and there would be adverse quality of life impact such as air and noise pollution, traffic congestion, drainage problems, no matter how many boxes you check or how you parse

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<sup>3</sup> Non-residential development is currently approved in excess of the applicant's request and a Conceptual Approval for wetland impact has been separately obtained.

it, through flood plain maps or traffic surveys, or so-called mitigation. Yes, it is small parcel, but parcels add up and you get death by a thousand cuts. As a physician he has a problem with the proposal and that there is the need for more urgent care capacity. There is no need. There is not a need for access. As a physician who has practiced in the area for 40 years, delivering babies from down Dale Mabry to Carrollwood Village at the hospital, he knows the medical facilities in this area pretty well. If you ask Siri, you will get 15 locations within four miles; even CVS has five-minute clinics in the area, two of which are five minutes away. Even Publix and other chains are moving into this market and now they all understand that telehealth is right around the corner. If you have a real emergency, you do not want urgent care, especially not hopscotch emergent care. You have the ADVENT Hospital on Dale Mabry a mile away from the proposed project where true emergency care can be obtained. Mr. Shepherd stated that in his view the Dickey property has not demonstrated the need for the project, specifically the need for more urgent care capacity which, as a physician, he thinks he can speak to although he certainly agrees with the other aspects that have been brought up.

Peggy Davenport-Bryan, 13902 Hayward Place, Tampa, Florida 33618, also expressed her strong opposition. She testified that in the site development plan for the neighborhood, which was approved in 1977, the area adjacent to her property was the cypress preservation area. It was never to be built on, but was to remain as a protected area, a lush green expanse providing a barrier to the sounds of Dale Mabry Highway. In the area bordering the street was a bank, a medical office, and a golf shop, none of which resulted in a large amount of traffic. As things are presently, she is able to stand in her front yard and driveway and not experience the noise from Dale Mabry traffic, which is less than a block away. Hayward Place is buffered from Dale Mabry Highway by a beautiful stand of trees and plants, one of the last wetlands left in the area. Her neighborhood street is quiet and peaceful, a very pleasant place to live. The changes proposed by Dickey Properties would, if approved, negatively impact their lives as a result of noise pollution associated with increased traffic as well as the loss of the forest, hacking away the buffer she has had for the 25 years she has lived on Hayward Place and would greatly impact the quality of life and property values for her and her family as well as her neighbors. The house is on the east side of the street backing up to the driveway and would suffer the most increase in traffic. The houses have essentially zero lot lines in their backyard. This would mean that the bedroom areas of those houses would experience the increase in traffic noise and pollution from the vehicles, as well as odors from the planned restaurant. All of the changes mean a decrease in their quality of life, and a decrease in their property values. Ms. Davenport-Bryan indicated that another issue is the impact the changes have on the wildlife living in the beautiful cypress zoned wetland. There are a number of different species that make their homes in the wetlands, all of which will be displaced if the area is changed. Presently she can sit in her yard and watch the cypress trees swaying in the breeze. They hear owls hooting and responding if they hoot back. As the wetlands are replaced with more buildings and concrete, the air quality and peacefulness will change the footprint of Carrollwood Village forever. Majestic 200-year-old cypress trees will disappear not being replaced within their lifetime or the lifetimes of their children or grandchildren. She strongly requests that the zoning request not be granted.

Clayton Bricklemeyer provided the rebuttal testimony for the applicant. He stated that the applicant and his team take some exception to the dishonesty comments and he would take one for example. Some of them are irrelevant, and a lot of this is irrelevant and he is sure the Hearing Officer would realize including actually that first, the need question is not a rezoning inquiry. Mr. Bricklemeyer pointed out that the need for urgent care in this area is not the purview of a rezoning. It is a need for SWFWMD and EPC, the need to impact the wetland and the people in opposition are tying that together and that is fine. Obviously, this is a passionate group of people, and the applicant and his team made a lot of concessions and have not made any headway. This is a group of people who do not want anything to change, and the applicant is trying his best to accommodate as much as he can. Mr. Bricklemeyer stated

that the quality of care or urgent care is not something he is here to debate.

Regarding the HOA opposition, there was no HOA opposition until right before he had his ZHM hearing, which is why he stopped it. The statement he made was when he thought he did not have opposition. Not beforehand. He does understand he has opposition obviously, but there is a little bit of confusion with the process that has led to understanding. He and the applicant's team were making changes and being charged with dishonesty after they repaired something someone pointed out they were unhappy with. Mr. Bricklemyer displayed an exhibit and explained that it is the change.org petition and he would place it into the record. The characterization on display is that Dickey Properties wants to tear down the cypress wetlands along Carrollwood Village Run, which is to the west of the site to put up a new parking lot, medical building and fast-food restaurant. If you look at the opposition, which is voluminous, you will see signatures from 2018, signatures from New Port Richey, and a lot of crazy stuff. Mr. Bricklemyer stated that he himself would probably oppose the project if it were for this. However, the project he is proposing saves the wetland. The wetland is not protected now. There is a drainage easement the applicant has to make sure he offsets the drainage for, which is being done. This buffer is very significant. The trees that are blowing in the breeze will still be there. It is only a tiny portion of it where the trees would go away. The volume of opposition has dropped tremendously since the fast-food went away. Mr. Bricklemyer reiterated that he is not taking anything away from it. He would promote to the Hearing Officer that the applicant is saving the wetland by doing it. This conservation easement saves the wetland from some future that would be uncertain. Mr. Henry would address traffic very briefly and then he would come back to answer any relevant questions.

The Hearing Officer pointed out that the staff report discussed 36,000 down to 20,000 SF reduction, and he had heard a comment that it is actually an increase. Mr. Bricklemyer responded that he was hoping that the Development Services staff would be taking that up. The currently approved zoning is from 2011 and the back of the staff report shows exactly the numbers that are recited in it. He had done his due diligence and pulled the currently approved zoning and that is how he has derived a reduction.

The Hearing Officer pointed out the bottom line is that Mr. Bricklemyer believes the current zoning includes 36,000 square feet of nonresidential use. Mr. Bricklemyer confirmed that and stated that they are not even close to touching the OC-20 FAR and he would have Mr. Henry come through with his traffic information.

Steve Henry with Lincks & Associates also provided rebuttal testimony. He stated that one of the things brought up was the significant increase in traffic. So as indicated in the staff report, in his analysis, shows that there is actually a reduction in the A.M. peak hour traffic.

The Hearing Officer asked which is critical on Dale Mabry; A.M. or P.M.. Mr. Henry replied that they are both about the same. There is not a huge difference in the traffic on Dale Mabry. In the P.M. there is about a 47 vehicles increase in the project traffic, which is less than 1% of capacity of Dale Mabry Highway. Hence, it is an insignificant impact on Dale Mabry Highway, or on Executive Center Drive. Mr. Bricklemyer indicated it was the worst-case scenario and he agreed with him; that is the absolute worst-case scenario. There is a bucket of uses, and the applicant does not have a user for the redevelopment and that slight increase is attributable to looking at the worst-case scenario in the traffic. Mr. Henry stated that they would be open for questions.

The hearing was then concluded.

## **EVIDENCE SUBMITTED**

The following evidence was submitted at the hearing:

### **Clayton Bricklemyer**

1. Applicant's Presentation Packet

### **Israel Monsanto**

2. Revised Staff Report

### **John Perella**

3. Opposition's Presentation Packet

## **PREFACE**

All matters that precede the Summary of Hearing section of this Recommendation are hereby incorporated into and shall constitute a part of the ensuing Findings of Fact and Conclusions of Law.

## **FINDINGS OF FACT**

1. The subject Planned Development lies within the Office Commercial-20 (OC-20) Future Land Use category within the Urban Service Area. It falls within the boundary of the Greater Carrollwood/Northdale Community Plan.
2. The overall PD consists of 10.59 acres of which 3.95 ± acres are wetlands.
3. The site is currently approved for a Mixed-Use Planned Development with a maximum of 6,000 square feet bank, 19 single-family residential units and 30,000 square feet of Business Professional Office uses. This request will result in a reduction of 10,000 square feet of non-residential uses.
4. Along the North Dale Mabry Corridor is designated as Office Commercial-20 Future Land Use designation. Off of the corridor is designated Residential-4. The Residential-4 portion of the overall PD (77-0292) is not being altered.
5. The applicant is requesting approval of a Major Modification to an approved Planned Development (PD 77-0292) to allow the reduction of non-residential entitlements from 30,000 square feet to 20,000 square feet for the development of a Medical Office Building at a maximum of 7,000 square feet within the southern portion of the site and a maximum of 7,000 square feet of Restricted Commercial General uses in the northern portion as well as a 6,000 square foot existing bank.
6. The North Dale Mabry Corridor is designated as Office Commercial-20 (OC-20) on the Future Land Use Map. The intent of this plan category is to be urban in intensity and density. The proposed Major Modification complements the surrounding land uses well and is consistent with the intent of the OC-20 Future Land Use category.
7. The proposed use would complement the surrounding land uses and is therefore consistent with Objective 16, Policy 16.1, Policy 16.2 and 16.3 of the Future Land Use Element (FLUE) of the Future of Hillsborough Comprehensive Plan for Unincorporated Hillsborough County. The proposed modification is also consistent with Policy 16.5 of the FLUE, which calls for higher intensity development along arterials and collector roadways.
8. The site is within the limits of the Carrollwood Northdale Community Plan. The Carrollwood Northdale Community Plan encourages the protection of environmental resources. This case has been reviewed by the Environmental Protection Commission. The EPC has determined a resubmittal

is not necessary for the site plan's current configuration. If the site plan changes, EPC staff will need to review the zoning again. EPC's comments also state that the site plan depicts wetland impacts that have been conceptually authorized by the Executive Director of the EPC. Evidence of this approval has been provided by the applicant.

9. The applicant will provide floodplain mitigation as well as stormwater treatment for improved water quality where there is none currently.
10. The Future Land Use Element recognizes the North Dale Mabry Corridor as an activity center. Additionally, the site is currently developed with non-residential uses and there is not an introduction of new non-residential in another location. Accordingly, this request would not result in an expansion of commercial uses.
11. Access to the site is planned to be provided via access driveways connection Dale Mabry Hwy (right in /Right out only) and Executive Center Drive.
12. Due to the trip distribution presented in the transportation analysis, no turn lane thresholds are met to warrant turn lanes on Dale Mabry Hwy and Executive Center Drive.
13. The applicant submitted a Section 6.04.02.B Administrative Variance request from Section 6.04.03.L of the LDC, to eliminate required substandard roadway improvements on Executive Center Drive. The County Engineer reviewed the roadway Administrative Variance request and found it approvable on March 2<sup>nd</sup>, 2020. Upon approval by the Board of County Commissioners of this rezoning, the County Engineer will execute the Administrative Variance.
14. Transportation review staff of Hillsborough County has reviewed the project and have no objection. They have indicated that development of the project would increase the peak hour trips in the afternoon but reduce the trips in the morning peak hours.
15. No waivers from buffer and screening requirements are being requested with this major modification. The required 20-foot wide, Type B screening (vegetation and fence) will be maintained along the west, adjacent to residential development. Cross access will be provided to adjacent non-residential parcels to the north.
16. Overall, the subject request will result in development that is comparable and compatible with the development pattern in the surrounding area.

#### **FINDINGS OF COMPLIANCE/NON-COMPLIANCE WITH COMPREHENSIVE PLAN**

The Major Modification request is **CONSISTENT** with the Future of Hillsborough Comprehensive Plan subject to conditions proposed by the Development Services Department.

#### **CONCLUSIONS OF LAW**

Based on the Findings of Fact cited above, there is competent substantial evidence to demonstrate that the requested Major Modification is in conformance with the PD requirements of the Land Development Code and with applicable zoning and established principles of zoning law.

#### **SUMMARY**

The applicant is requesting approval of a Major Modification to an approved Planned Development (PD 77-0292) to allow the reduction of non-residential entitlements from 30,000 square feet to 20,000 square feet for the development of a Medical Office Building at a maximum of 7,000 square feet within the southern portion of the site and a maximum of 7,000 square feet of Restricted Commercial General uses in the northern portion as well as a 6,000 square foot existing bank.


While there were many letters provided in support of the request, many signatures and a significant attendance of residents were in opposition. Much of the opposition included objection to wetland impacts that have already been conceptually approved by the EPC. Evidence of such was provided by the applicant and is cited in the staff reports. The applicant will provide floodplain mitigation as well as stormwater treatment for improved water quality where there is none currently.

Similarly, concerns were expressed with respect to traffic and noise pollution. However, the applicant has submitted a transportation analysis and no adverse impacts were noted. Transportation staff has no objection. Further, a substantial buffer and screen remains between proposed development and homes to the northwest. The 7,000 sf of proposed CG uses have been restricted from allowance of the more intense uses otherwise provided for in the CG district.

Overall, the subject request will result in development that is comparable and compatible with the development pattern in the surrounding area.

### **RECOMMENDATION**

Based on the foregoing, this recommendation is for **APPROVAL** of the requested Major Modification to a Planned Development subject to recommended conditions of approval as prepared by the staff of the Development Services Department.

  
James A. Scarola  
Land Use Hearing Officer

8/25/20  
Date



**Hillsborough  
County Florida**

**DEVELOPMENT SERVICES**

PO Box 1110 Tampa, FL 33601-1110

November 3, 2020

**BOARD OF COUNTY  
COMMISSIONERS**

Ken Hagan  
Pat Kemp  
Lesley "Les" Miller, Jr.  
Sandra L. Murman  
Kimberly Overman  
Mariella Smith  
Stacy R. White

**COUNTY ADMINISTRATOR**

Bonnie M. Wise

**COUNTY ATTORNEY**

Christine M. Beck

**INTERNAL AUDITOR**

Peggy Caskey

**Reference: MM 19-1169  
Brickleyer Law Group  
13856 N. Dale Mabry Hwy./18931.0001**

**DEPUTY COUNTY ADMINISTRATOR  
DEVELOPMENT & INFRASTRUCTURE**

Lucia E. Garsys

K. Clayton Brickleyer  
Brickleyer Law Group, PL  
601 N. Ashley Dr., Ste. 700  
Tampa, FL 33602

Dear Applicant:

At the regularly scheduled public meeting on October 13, 2020, the Board of County Commissioners **denied** your request for a Major Modification to PD 77-0292. Please keep this letter for your records.

If you have any questions regarding this, please feel free to contact Brian Grady at 813-276-8343 or GradyB@HCFLGov.net.

Sincerely,

Joseph Moreda, AICP,  
Zoning Administrator

JM/ml



TUESDAY, OCTOBER 13, 2020

F.4. Application Number: RZ-STD 20-0736  
 Applicant: TNR, LLC  
 Location: 2422 Welcome Rd.  
 Folio Number: 093905.0000  
 Acreage: 3.37 acres, more or less  
 Comp Plan: RES-1  
 Service Area: Rural  
 Community Plan: Southshore  
 Existing Zoning: AR  
 Request: Rezone to AS-1  
RECOMMENDATION:  
 ZHM: Approvable  
 Development Services: Approval  
 PC: Consistent with Plan

► Mr. Moreda reviewed the item. ► Mr. Steve Allison, applicant representative, explained the item. ► **Commissioner Smith moved approval, seconded by Commissioner White.** Upon roll call vote, ► **the motion carried six to zero.** (Commissioner Hagan was out of the room.)

REGULAR AGENDA - 9:00 A.M. TIME CERTAIN

G.1. Application Number: MM 19-1169  
 Applicant: BRICKLEMYER LAW GROUP  
 Location: 13856 N.Dale Mabry Hwy.  
 Folio Number: 018931.0001  
 Acreage: 4.84 acres, more or less  
 Comp Plan: OC-20  
 Service Area: Urban  
 Community Plan: Greater Carrollwood Northdale  
 Existing Zoning: PD (77-0292)  
 Request: Major Modification to a Planned Development  
RECOMMENDATION:  
 ZHM: Approval  
 Development Services: Approvable, subject to conditions  
 PC: Consistent with Plan  
 ORAL ARGUMENT

► Messrs. Moreda and Israel Monsanto, Development Services, introduced the item. ► Chairman Miller sought a motion to open for oral argument.

TUESDAY, OCTOBER 13, 2020

**Commissioner Smith so moved, seconded by Commissioner White.** Upon roll call vote, ► **the motion carried seven to zero.** ► Attorney Clayton Brickleyer and Mr. Jason Dickey, applicant representatives, gave a presentation. ► Messrs. Jason Levy, Mark Miller, and ► Ed O'Carroll favored the item. ► Dr. Bruce Shephard, ► Ms. Peggy Davenport, and Mr. John Perella opposed the request. ► Attorney Brickleyer and Messrs. Aaron Larson and Steven Henry, applicant representatives, gave rebuttal. ► Ms. Lienhard and Attorney Lundgren reviewed PC/ZHM recommendations.

Following comments on commercial uses and wetlands impacts, ► **Commissioner Hagan moved to deny, seconded by Commissioner Kemp.** Dialogue ensued. Upon roll call vote, ► **the motion carried seven to zero.** Chairman Miller announced he would be leaving the meeting.

G.2. Application Number:	MM 19-1173
Applicant:	ROBERT H. GIDEL, JR. / PHELPS DUNBAR
Location:	90' Northeast of Inter: S. Gornto Lake Rd / Kings Palace Dr.
Folio Number:	073834.1512
Acreage:	1.45 acres, more or less
Comp Plan:	SMU-6
Service Area:	Urban
Community Plan:	Brandon
Existing Zoning:	PD (13-0491)
Request:	Major Modification to a Planned Development

RECOMMENDATION:

ZHM:	Approval
Development Services:	Approvable, subject to conditions
PC:	Consistent with Plan

ORAL ARGUMENT

► The Deputy Clerk called the roll and noted a quorum was present. ► Vice Chairman Overman assumed the chair and called for a motion to open for oral argument. **Commissioner Murman so moved, seconded by Commissioner Smith.** Upon roll call vote, ► **the motion carried six to zero.** (Chairman Miller had left the meeting.) Mr. Brian Grady, Development Services, introduced the item. ► Attorney Derrill McAteer and Mr. Ryan Renardo, applicant representatives, gave a presentation. ► Attorney Matthew Newton, Mariposa