



**Hillsborough  
County Florida**

**LAND USE HEARING OFFICER VARIANCE REPORT**

**APPLICATION NUMBER:** VAR 21-0468

**LUHO HEARING DATE:** April 26, 2021

**CASE REVIEWER:** Steve Beachy, AICP

**REQUEST:** The applicant is requesting multiple variances to accommodate unspecified future development of property zoned CG-(R).

**VARIANCE(S):**

**Front Yard**

Per LDC Section 6.01.01, the required front yard setback in the CG district is 30 feet. The applicant requests a 22-foot reduction to the required front setback to allow a setback of 8 feet from the south lot line along Big Bend Road.

**Additional Setback**

Per LDC Section 6.01.01, Endnote 8, required side and rear setbacks in the CG district shall be increased for structures more than 20 feet in height by an additional two feet of setback for every one foot of structure height over 20 feet. The applicant requests that no additional setback be required until the proposed structure exceeds 30 feet in height, at which time two feet of additional setback shall be required for every one foot of structure height over 30 feet.

**Buffer Width**

Per LDC Section 6.06.06, a 20-foot-wide buffer with Type B screening is required on the subject property adjacent to the abutting multi-family residential parcel to the east which is developed at a density of less than 20 units per acre. The applicant requests a 10-foot reduction to the required buffer width to allow a buffer width of 10 feet along the east parcel boundary. No variance is requested to the required Type B screening within the buffer area.

**FINDINGS:**

None.

**DISCLAIMER:**

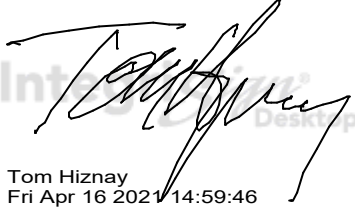
The variance listed above is based on the information provided in the application by the applicant. Additional variances may be needed after the site has applied for development permits. The granting of these variances does not obviate the applicant or property owner from attaining all additional required approvals including but not limited to: subdivision or site development approvals and building permit approvals.

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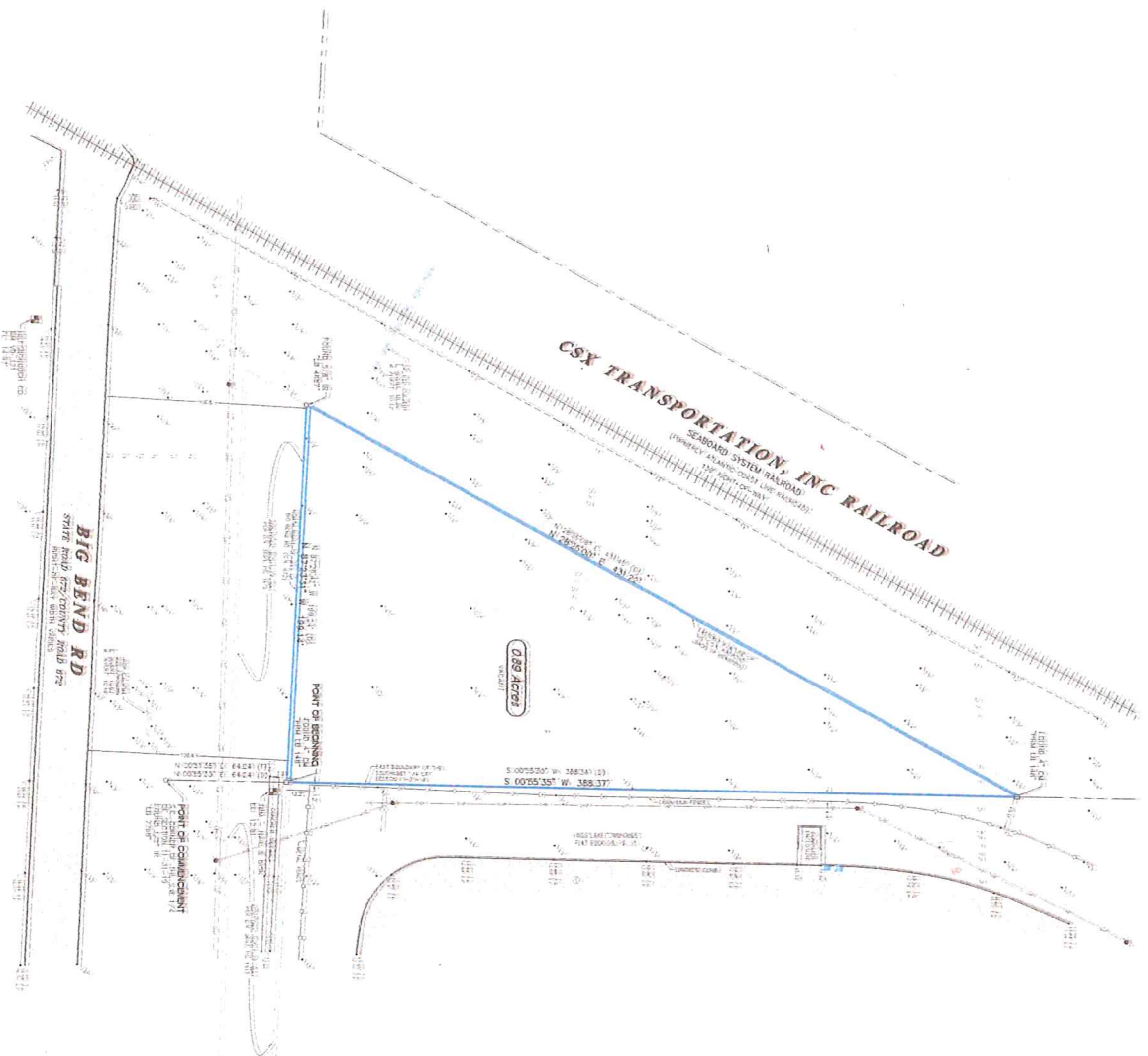
**ADMINISTRATOR'S SIGN-OFF**



Tom Hiznay  
Fri Apr 16 2021 14:59:46

**Attachments:** Application  
Site Plan  
Petitioner's Written Statement  
Current Deed

A PORTION OF  
THE SOUTHWEST 1/4 OF  
SECTION 11, TOWNSHIP 31 SOUTH, RANGE 19 EAST  
HILLSBOROUGH COUNTY, FLORIDA



RECEIVED

SEP 12 2019

## Development Services

19-1431

The image shows a document cover with a compass rose and a ruler. The compass rose is a circular diagram with a central point and four main directions labeled N (North), S (South), E (East), and W (West). The ruler is a horizontal scale with markings for 0, 15, 30, and 45. The document cover has a light blue background with a grid of small squares. The text 'SECRET' is visible in the top right corner.

[illegible]

## SURVEYOR'S NOTES:

1. The use of the survey for predictive rather than for historical and without making a distinction between the two, and the survey, both in the past and in the future, for the purpose of making a prediction or for the purpose of controlling the future rather than for the purpose of controlling the past.
2. The survey is presented only in abstract of the survey, and the survey is presented only in abstract of the survey, and the survey is presented only in abstract of the survey.
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10. The survey is presented only in abstract of the survey, and the survey is presented only in abstract of the survey, and the survey is presented only in abstract of the survey.

BOUNDARY & TOPOGRAPHIC SURVEY Apollo Beach 41, LLC BIG BEND ROAD TRIANGLE PARCEL		 <p>JOHNSON ASSOCIATES SURVEYING AND MAPPING 11011 E. Bay Street Suite 100 Tampa, FL 33610 (813) 988-7888 www.johnsonassoc.com</p>	 <p>DAVID J. JOHNSON REGISTERED PROFESSIONAL ENGINEER NO. 12523 STATE OF FLORIDA</p>	 <p>David J. Johnson Reg. Professional Eng. No. 12523 This survey conforms to the "Standard of Practice" set forth by the Florida Board of Surveying and Mapping, Chapter 46-F, Florida Administrative Code.</p>	DATE: _____ REVISION: _____ BY: _____
PROJECT NO.: 2016-12041 (BG00001) SEC. 11 TWP. 31S RANG. 16E COUNTY: HILLSBOROUGH		SCALE: AS SHOWN DATE: 07/22/2016			DATE OF FIELD SURVEY: 7/30/2016






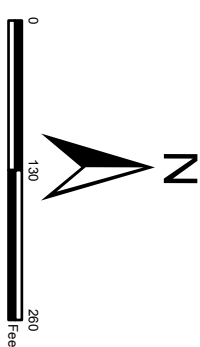


**Immediate Aerial  
Zoning Map**

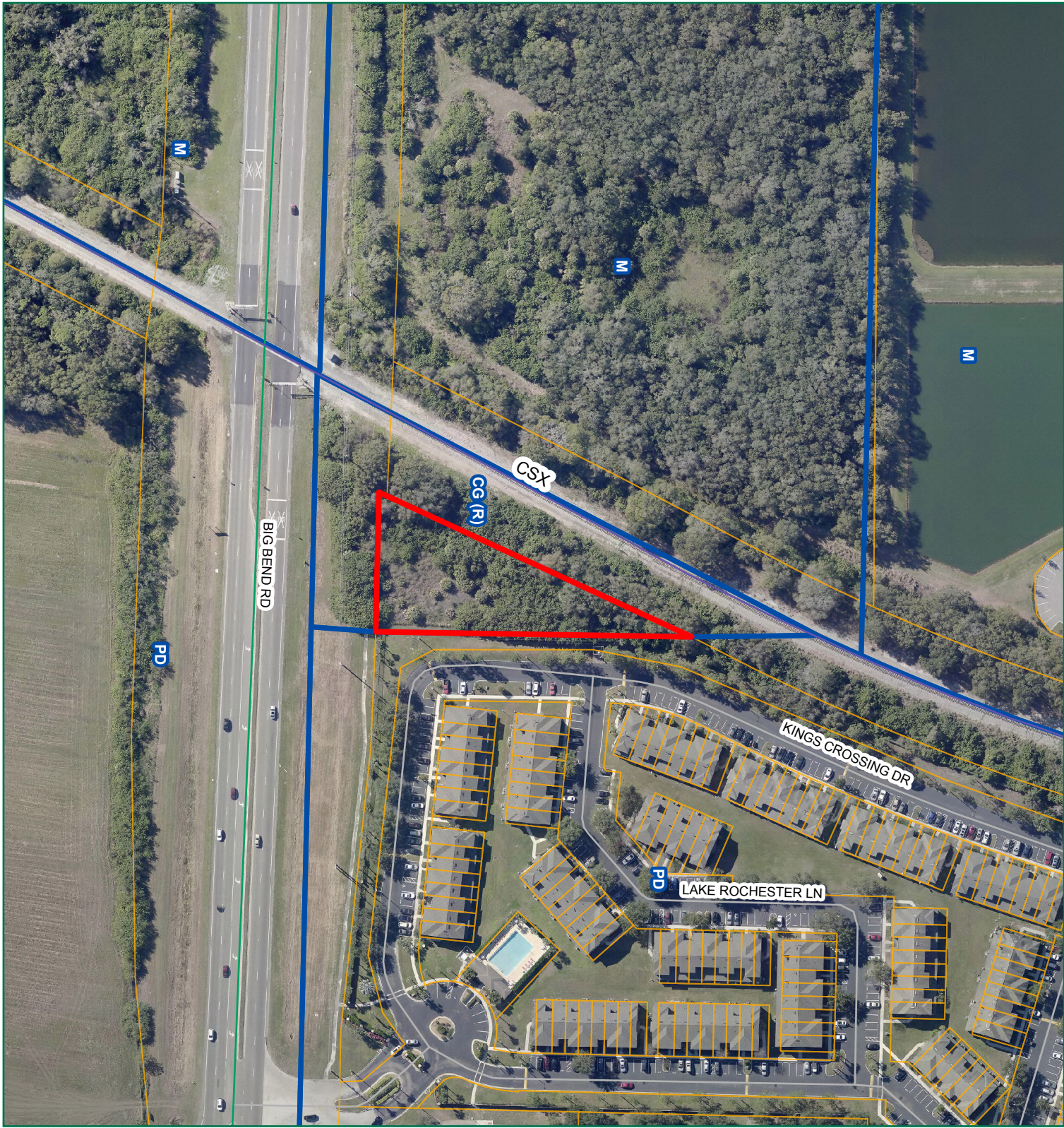
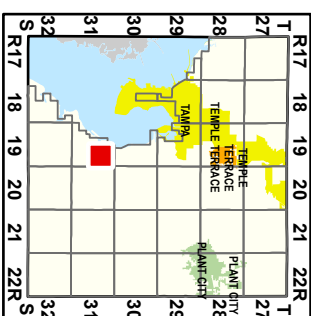
**VAR 21-0468**

Folio: 51495.0050

-  Application Site
-  Zoning Boundary
-  Parcels



STR: 11-31-19



NOTE: Every reasonable effort has been made to ensure the accuracy of this map. Hillsborough County does not assume any liability arising from use of this map.

THIS MAP IS PROVIDED WITHOUT WARRANTY OF ANY KIND, either expressed or implied, and shall not be used to the detriment of the user.

SOURCE: This map has been prepared for the inventory of real property, found within Hillsborough County and is compiled from recorded deeds, plats, and other AVAILABLE data.

Users of this map are hereby notified that the aforementioned public primary information sources should be consulted for verification of the information contained on this map.

Date: 03/09/2021    Path: G:\ZONING\GIS\MapZoning- Site.aprx





**Hillsborough  
County Florida**  
Development Services  
601 E. Kennedy Blvd., 19th Floor | (813) 272 5600

# Additional / Revised Information Sheet

Date Stamp Here

Application Number: VAR 21-0468 Applicant's Name: Brickley Law Group, P.L.

Reviewing Planner's Name: Steve Beachy Date: 04/14/2021

**Application Type:**

- ☐ Planned Development (PD) ☐ Minor Modification/Personal Appearance (PRS) ☐ Standard Rezoning (RZ)  
☒ Variance (VAR) ☐ Development of Regional Impact (DRI) ☐ Major Modification (MM)  
☐ Special Use (SU) ☐ Conditional Use (CU) ☐ Other \_\_\_\_\_

Current Hearing Date (if applicable): 04/26/2021

## The following must be attached to this Sheet.

- ☐ Cover Letter with summary of the changes and/or additional information provided. If a revised Site Plan is being submitted, all changes on the site plan must be listed in detail in the Cover Letter.
- ☒ An updated Project Narrative consistent with the changes or additional information provided, if applicable.

**Submittal Via:**

- ☐ Email (Preferred). Note that no follow up paper file is necessary. Pdf format only. Maximum attachment(s) size is 15 MB.

Email this sheet along all the additional/revised submittal items in pdf to: ZoningIntake-DSD@hcf.gov

- ☐ Mail or delivery. Number of Plans Submitted: Large \_\_\_\_\_ Small \_\_\_\_\_

For PD, MM, PRS and SU: 7 large copies 24"X36", one small 8.5X11".  
 For RZ-Standard: if plot plan is larger than 8.5"X11", 7 large copies should be submitted.  
 For Minor Change: 6 large copies.  
 For Variances or Conditional Use permits: one 8.5"X11" or larger)

**Mail to:**  
Development Services Department  
Community Development Division  
P.O. Box 1110  
Tampa, FL 33601-1110

**Hand Deliver to:**  
County Center  
Development Services Department  
19th Floor  
601 E. Kennedy Blvd., Tampa

*I certify that changes described above are the only changes that have been made to the submission. Any further changes will require an additional submission and certification.*

Signature

04/14/2021

Date

- ☒ Notification E-Mail Sent  
☒ Transmittal Completed

- ☒ FOR OFFICE USE ONLY  
☒ Scanned into OPTIX

In-Take Completed by: CM

Application Number: \_\_\_\_\_

## VARIANCE REQUEST

1. Project Narrative: In the space below describe the variance including any history and/or related facts that may be helpful in understanding the request. This explanation shall also specifically identify what is being requested (e.g. *Variance of 10 feet from the required rear yard setback of 25 feet resulting in a rear yard of 15 feet*). If additional space is needed, please attach extra pages to this application.

Applicant seeks to reduce side and front yard buffer and setback requirements for a triangular parcel lying on the north side of Big Bend Road. For the reasons specified in the Variance Criteria, Applicant requests the following reductions:

Reduce the front building setback from 30' to 8'

Reduce the east side of landscape buffer from 20' to 10'

Reduce the required setback in 6.01.01, endnote 8, so that no additional setback is required until a proposed structure is 30' in height.

As more particularly detailed in the Variance Criteria section of this application, the unique location of the site renders the required buffers and setbacks unnecessary and the unique location of the site necessitates the reductions sought by Applicant.

2. A Variance is requested from the following Section(s) of the Hillsborough County Land Development Code:

6.01.01

6.06.06

## ADDITIONAL INFORMATION

1. Have you been cited by Hillsborough County Code Enforcement? No   X   Yes \_\_\_\_\_  
If yes, you must submit a copy of the Citation with this Application.
2. Do you have any other applications filed with Hillsborough County that are related to the subject property?  
No   X   Yes \_\_\_\_\_ If yes, please indicate the nature of the application and the case numbers assigned to the application(s): \_\_\_\_\_
3. Is this a request for a wetland setback variance? No   X   Yes \_\_\_\_\_  
If yes, you must complete the *Wetland Setback Memorandum* and all required information must be included with this Application Packet (Attachment A).
4. Please indicate the existing or proposed utilities for the subject property:  
Public Water   Prop.   Public Wastewater   Prop.   Private Well \_\_\_\_\_ Septic Tank \_\_\_\_\_
5. Is the variance to allow a third lot on well and/or septic or non-residential development with an intensity of three ERC's? No   X   Yes \_\_\_\_\_ If yes, you must submit a final determination of the "Water, Wastewater, and/or Reclaimed Water – Service Application Conditional Approval – Reservation of Capacity" prior to your public hearing (form may be obtained from 19<sup>th</sup> floor County Center).

Application Number: \_\_\_\_\_

## VARIANCE CRITERIA RESPONSE

*You must provide a response to each of the following questions. If additional space is needed, please attach extra pages to this application.*

1. Explain how the alleged hardships or practical difficulties are unique and singular to the subject property and are not those suffered in common with other property similarly located?

See attached.

2. Describe how the literal requirements of the Land Development Code (LDC) would deprive you of rights commonly enjoyed by other properties in the same district and area under the terms of the LDC.

See attached.

3. Explain how the variance, if allowed, will not substantially interfere with or injure the rights of others whose property would be affected by allowance of the variance.

See attached.

4. Explain how the variance is in harmony with and serves the general intent and purpose of the LDC and the Comprehensive Plan (refer to Section 1.02.02 and 1.02.03 of the LDC for description of intent/purpose).

See attached.

5. Explain how the situation sought to be relieved by the variance does not result from an illegal act or result from the actions of the applicant, resulting in a self-imposed hardship.

See attached.

6. Explain how allowing the variance will result in substantial justice being done, considering both the public benefits intended to be secured by the LDC and the individual hardships that will be suffered by a failure to grant a variance.

See attached.

## Variance Criteria Response

1. This property is triangular, which is not conducive to strict compliance with the CG setback and buffer standards. Most commercial properties in the area are more rectangular in shape, which allow for a building, parking and retention to be spread across the property. Because this property has a triangular shape, the buildable area is limited.
2. The literal requirements of the LDC would deprive the applicant of rights commonly enjoyed by other properties because it would unduly limit the area to construct a building and a parking lot. The property's CG zoning allows for over 10,000sf of building on the site, based on the allowable FAR, but even with this variance request, significantly less can be built.
3. The variance, if allowed, will not substantially interfere with or injure the rights of others whose property would be affected by allowing the variance. The requested reductions deal primarily with the eastern and southern boundaries. To the east is a residentially zoned parcel, but, notably, the HOA owns the immediately adjacent parcel and holds it as greenspace, as it has power lines present. Said HOA parcel appears to be 20' at its narrowest point, which is the Code-required buffer distance. The townhomes to the east are also ringed by a driveway and parking, providing additional buffering. Similarly, the proposed commercial development on the subject property will be required to locate its driveway along the eastern property boundary due to access requirements. Lastly, said townhome community is supportive of the subject variance request. Big Bend Road is to the south and, at present, over 100' of greenspace lies between the subject property's property line and the edge of pavement, providing ample front yard setback. For the above-referenced reasons, the requested increase in maximum height prior to additional setback is also non-injurious to our neighbors.
4. The variance is in harmony and serves the general intent and purpose of the LDC. The County's LDC provides: "The Board of County Commissioners deems it to be in the best public interest for all developments to be conceived, designed and built in accordance with good planning and design practices and the minimum standards set forth in this Code." This development has been conceived and designed with good planning and design that accounts for the unique geometry of the site while adhering to all other CG standards.
5. The variance will allow for a decrease to the CG setback requirements. This is not a result of an illegal act of the applicant, thereby resulting in a self-imposed hardship. The approval of the variance for the setback is a fair and equitable solution to accommodate the proposed development on a property with a unique geometry.
6. Allowing the variance will result in substantial justice being done. Permitting the variance will benefit the public by allowing a first-class development serving the area, and said variance will not substantially interfere with or injure the rights of any other person or property owner.



Prepared by:  
Andrew Z. Spilkin, Esq.  
Bodman, PLC  
201 W. Big Beaver Rd, Ste 500  
Troy, MI 48084

And Return to:  
Apollo Beach 41, LLC  
13927 Lake Fishhawk Dr  
Lithia Fl 33547

Folio Number: 515000050 and 514950050

**SPECIAL WARRANTY DEED**

THIS INDENTURE, made this 26<sup>th</sup> day of July, 2018, between **SSC 2 Tampa Big Bend Retail, LLC**, a Florida limited liability company ("**Grantor**"), whose mailing address is 31400 Northwestern Highway, Suite H, Farmington Hills, MI 48334, and **APOLLO BEACH 41, LLC**, a Florida limited liability company ("**Grantee**"), whose mailing address is 7637 Stoney Hill Drive, Wesley Chapel, Florida 33545.

**WITNESSETH:**

Grantor, for and in consideration of the sum of Ten and No/100 Dollars (\$10.00), to it in hand paid, the receipt whereof is hereby acknowledged, has granted, bargained, sold and transferred and by these presents does grant, bargain, sell and transfer unto Grantee and its heirs, successors and assigns forever, all that certain real property in the County of Hillsborough and State of Florida, including all appurtenances thereto (the "**Property**"), as described on attached Exhibit A.

Grantor warrants that this is not its homestead property.

TOGETHER WITH all the tenements, hereditaments and appurtenances thereto belonging or in anywise appertaining: TO HAVE AND TO HOLD the same in fee simple forever, subject to all matters listed on attached Exhibit B (the "**Permitted Exceptions**").

Grantor hereby covenants with Grantee that Grantor is lawfully seized of the Property in fee simple (subject to the Permitted Exceptions), that it has good right and lawful authority to sell and convey the Property, and that, subject to the Permitted Exceptions, it specially warrants the title to said Property and will defend the same against the lawful claims of all persons claiming by, through or under Grantor, but against none other.

WITNESS the execution hereof as of the date first written above.

Signed in the presence of:

Lauren Lecura

Lauren Lecura

(printed name of witness)

Isa Eric Noedan

(printed name of witness)

SSC 2 Tampa Big Bend Retail, LLC, a Florida limited liability company

By

Steven J. Schafer

Its: Manager

STATE OF MICHIGAN )

) ss.:

COUNTY OF OAKLAND )

The foregoing instrument was acknowledged before me this 25 day of July, 2018 by Steven J. Schafer, the Manager of SSC 2 Tampa Big Bend Retail, LLC, a Florida limited liability company, on behalf of said company.

Lauren Lecura  
Lauren Lecura, Notary Public  
Macomb County, Michigan  
Acting in Oakland County  
My commission expires: 1/9/2025

EXHIBIT A

Legal Description

The Land referred to herein below is situated in the County of Hillsborough, State of Florida, described as follows:

Parcel 1

A parcel of land lying and being in Section 11, Township 31 South, Range 19 East, Hillsborough County, Florida; being more particularly described as follows:

Commence at the Southwest Corner of said Section 11, thence coincident with the West Boundary of said Section 11, N 00°47'06" E a distance of 243.12 feet; thence departing said West Boundary, S 88°36'17" E a distance of 51.79 feet to a point on the East Right-of-Way Boundary of U.S. Highway 41 (State Road #45); thence departing said East Right-of-way Boundary, S 88°36'17" E a distance of 609.61 feet to the Point of Beginning; thence continue S 88°36'17" E a distance of 379.38 feet; thence S 01°48'00" W a distance of 229.58 feet to a point on the North Right-of-Way Boundary of Big Bend Road (County Road #672); thence coincident with said North Right-of-Way Boundary, N 88°36'49", W a distance of 379.38 feet; thence departing said North Right-of-Way Boundary, N 01°48'00" E a distance of 229.64 feet to the Point of Beginning.

Parcel 2

A parcel of land lying and being in Section 11, Township 31 South, Range 19 East, Hillsborough County, Florida; being more particularly described as follows:

Commence at the Southeast Corner of the Southwest 1/4 of said Section 11; thence coincident with the East Boundary of the Southwest 1/4 of said Section 11, N 00°55'30" E a distance of 64.24 feet to a point on the North Right-of-way Boundary of Big Bend Road (County Road No. 672), said point also being the Point of Beginning; thence departing said East Boundary coincident with said North Right-of-way Boundary, N 87°26'42" W a distance of 199.24 feet to a point on the Easterly Right-of-way boundary of C.S.X. Railroad (formerly known as the Seaboard Coastline Railroad); thence departing said North Right-of-way Boundary coincident with said Easterly Right-of-Way Boundary, N 28°25'08" E a distance of 431.40 feet to a point on the aforementioned East Boundary of the Southwest 1/4 of said Section 11; thence departing said Easterly Right-of-way Boundary coincident with the East Boundary of the Southwest 1/4 of said Section 11, S 00°55'30" W a distance of 388.34 feet to the Point of Beginning.



EXHIBIT B

Permitted Exceptions

1. Easements, rights-of-way, restrictions, reservations, agreements, notifications, oil & gas leases, mineral rights, water rights and other matters of record.
2. Any matters which an accurate survey or inspection of the Property would disclose.
3. All laws, ordinances and other legal requirements or restrictions applicable to the Property.
4. The rights of the public and of any governmental unit in any part thereof taken, used or deeded for street, road, highway, wetland, utility or drainage purposes.
5. The interest, if any, of any governmental unit in the oil, gas and mineral rights in and under the Property.
6. Taxes and assessments, whether general or special, and any lien arising therefrom, which are not yet due and payable as of the effective date of this Deed.
7. All other matters against which the Grantee is insured by title insurance.
8. Any liens arising from Grantee's inspections of the Property.
9. Parcel Certification in Deed recorded in Book 9978, Page 1248 (as to Parcel 1, only).
10. Declaration of Restrictive Covenant recorded in Book 13386, Page 1905 (affects Parcel 1 and Parcel 2).
11. Development Agreement as set forth in instrument recorded in Book 17893, Page 39 restated and amended in Book 21256, Page 1798 and Second Restatement and amended in Book 23740, Page 1454 (affects Parcel 1 and 2).
12. Reciprocal Easement recorded in Book 17905, Page 475 (as to Parcel 1, only).
13. Reciprocal Easement recorded in Book 17905, Page 492 (as to Parcel 1, only).



Received  
03/02/2021  
Development Services

## VARIANCE APPLICATION

### IMPORTANT INSTRUCTIONS TO ALL APPLICANTS:

You must schedule an appointment to submit this application by calling 813-272-5600.  
All requirements listed on the submittal checklist must be met. **Incomplete applications will not be accepted.**

### Property Information

Northwest corner of Big Bend Road and

Address: Kings Crossings Drive City/State/Zip: Gibsonton, FL 33534 TWN-RN-SEC: 31-19-11

Folio(s): 51495.0050 Zoning: CG-R Future Land Use: CMU-12, UMU-20 Property Size: .082 ac.

### Property Owner Information

Name: Apollo Beach 41, LLC Daytime Phone: \_\_\_\_\_

Address: P O Box 491 City/State/Zip: Riverview, FL 33568

Email: \_\_\_\_\_ FAX Number: \_\_\_\_\_

### Applicant Information

Name: Bricklemyer Law Group, P.L. Daytime Phone: (813) 229-700

Address: 601 N. Ashley Drive, Suite 700 City/State/Zip: Tampa, FL 33602

Email: clayton@bricklawgroup.com FAX Number: (813) 255-2714

### Applicant's Representative (if different than above)

Name: K. Clayton Bricklemyer, Bricklemyer Law Group, P.L. Daytime Phone: (813) 229-7700

Address: 601 N. Ashley Drive, Suite 700 City / State/Zip: Tampa, FL 33602

Email: clayton@bricklawgroup.com FAX Number: (813) 255-2714

I HEREBY SWEAR OR AFFIRM THAT ALL THE INFORMATION PROVIDED IN THIS APPLICATION PACKET IS TRUE AND ACCURATE, TO THE BEST OF MY KNOWLEDGE, AND AUTHORIZE THE REPRESENTATIVE LISTED ABOVE TO ACT ON MY BEHALF FOR THIS APPLICATION

Signature of Applicant

K. Clayton Bricklemyer  
Type or Print Name

I HEREBY AUTHORIZE THE PROCESSING OF THIS APPLICATION AND RECOGNIZE THAT THE FINAL ACTION ON THIS PETITION SHALL BE BINDING TO THE PROPERTY AS WELL AS TO CURRENT AND ANY FUTURE OWNERS.

Signature of Property Owner

K. Clayton Bricklemyer, as Authorized Agent  
Type or Print Name

Intake Staff Signature: Ana Lizardo Office Use Only Intake Date: 03/02/2021  
Case Number: 21-0468 Public Hearing Date: 04/26/2021  
Receipt Number: 21-0468



# PARCEL INFORMATION HILLSBOROUGH COUNTY FLORIDA

Jurisdiction	Unincorporated County
Zoning Category	Commercial/Office/Industr
Zoning	CG
Description	Commercial - General
RZ	19-1431
Restr	(R)
Flood Zone:X	AREA OF MINIMAL FLOOD HAZARD
FIRM Panel	0492H
FIRM Panel	12057C0492H
Suffix	H
Effective Date	Thu Aug 28 2008
Pre 2008 Flood Zone	X500
Pre 2008 Firm Panel	1201120492C
County Wide Planning Area	Gibson-ton
Community Base Planning Area	SouthShore
Census Data	Tract: 013804 Block: 1058
Future Landuse	CMU-12
Future Landuse	UMU-20
Urban Service Area	USA
Mobility Assessment District	Urban
Mobility Benefit District	4
Fire Impact Fee	South
Parks/Schools Impact Fee	CENTRAL
ROW/Transportation Impact Fee	ZONE 8
Wind Borne Debris Area	140 MPH Area
Competitive Sites	NO
Redevelopment Area	NO

Folio: 51495.0050



March 3, 2021

1:1,300  
0 0.01 0.02 0.04 mi  
0 0.02 0.04 0.07 km

Hillsborough County Florida

**Folio:** 51495.0050  
**PIN:** U-11-31-19-ZZZ-000001-73960.T  
**APOLLO BEACH 41 LLC**  
**Mailing Address:**  
 PO BOX 491  
 RIVERVIEW, FL 33568-0491  
**Site Address:**  
 0 BIG BEND RD  
 GIBSONTON, FL 33534  
**SEC-TWN-RNG:** 11-31-19  
**Acreage:** 0.76540703  
**Market Value:** \$46,522.00  
**Landuse Code:** 1000 VACANT COMM.

Hillsborough County makes no warranty, representation or guaranty as to the content, sequence, accuracy, timeliness, or completeness of any of the geodata information provided herein. The reader should not rely on the data provided herein for any reason. Hillsborough County explicitly disclaims any representations and warranties, including, without limitations, the implied warranties of merchantability and fitness for a particular purpose. Hillsborough County shall assume no liability for:

1. Any error, omissions, or inaccuracies in the information provided regardless of how caused.
- Or
2. Any decision made or action taken or not taken by any person in reliance upon any information or data furnished hereunder.

21-0468