



**Hillsborough
County Florida**

LAND USE HEARING OFFICER VARIANCE REPORT

APPLICATION NUMBER: VAR 21-1123	
LUHO HEARING DATE: October 25, 2021	CASE REVIEWER: Carla Shelton Knight

REQUEST: The applicant is requesting a variance from the 30-foot Wetland Conservation Area setback requirement, Section 4.01.07B of the Land Development Code (LDC). The applicant's specific request, as shown on the site plan submitted on July 27, 2021, is to allow for construction of a retaining wall and a portion of a single-family home and driveway within the 30-foot Wetland Conservation Area setback.

SUMMARY OF VARIANCE(S):

Wetland Setback

- 1) Per LDC Sec. 4.01.07.B.4, no filling, excavating or placement of permanent structures or other impervious surfaces shall be allowed within a required 30-foot wetland conservation area setback. The applicant requests construction of a retaining wall and a portion of a single-family home and driveway within the 30-foot wetland conservation area setback. The applicant requests a 15-foot reduction of the setback to allow for a setback of 15 feet.

Findings

- 1) The applicant has submitted a Wetland Setback Compensation Planting Plan with a square footage exceeding that of the amount of encroachment into the wetland setback area.

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.

Approval of this variance petition by Hillsborough County does not constitute a guarantee that the Environmental Protection Commission of Hillsborough County (EPC) approvals/permits necessary for the development as proposed will be issued, does not itself serve to justify any impact to wetlands, and does not grant any implied or vested environmental approvals.

The Development Services Natural Resources Section has no objections with the result contingent upon the Land Use Hearing Officer's acceptance and referral to the submitted site plan.

Attachments: Site Plan

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ADMINISTRATOR'S SIGN-OFF

A handwritten signature in black ink, appearing to read "Carla Shelton", is written on the sign-off line.

Revisions

***SHADOW RUN REQUIRED SETBACKS:
FRONT-50' FROM EOP; SIDE-25'
OWNER WAS GRANTED SETBACK VARIANCES
NEW SHADOW RUN SETBACKS ARE 40' FROM
EOP & 20' FROM SIDE PROPERTY LINE.**



WETLAND SETBACK ENROACHMENT COMPENSATION PLANTING REQUIREMENTS:

THE AREA OF REQUIRED PLANTING WILL BE A MINIMUM 1:1 RATIO FOR THE AREA OF ENROACHMENT WHICH IS NOT EXEMPT NO MORE THAN A 1:1 RATIO SHALL BE REQUIRED. ADDITIONAL COMPENSATION MAY BE PROPOSED

COMPENSATION PLANTINGS WILL CONSIST OF NATIVE SHRUBS WITH NO LESS THAN TWO SPECIES AND EACH SPECIES WILL COMPRISE NO LESS THAN 30% OF THE TOTAL NUMBER OF REQUIRED SHRUB PLANTINGS. SEE TABLE 1 FOR SUGGESTED SPECIES.

ALL SHRUB PLANTINGS WILL BE EVENLY SPACED ON 5 FOOT CENTERS WITH A MINIMUM SIZE OF 3 GALLON OR #3 SIZE MATERIALS.

PLANTINGS WILL BE LOCATED WITHIN ANY SUITABLE OPEN AREAS OF THE REMAINING SETBACK ABUTTING THE AREA OF ENROACHMENT OR IF THESE AREAS DO NOT EXIST, THE PLANTINGS MAY BE LOCATED WITHIN OR ADJACENT TO ANOTHER PORTION OF THE SITES WETLAND SETBACK. IF NO SUITABLE PLANTING AREAS EXIST ON SITE, A WETLAND AND /OR WETLAND SETBACK ENHANCEMENT PLAN, NUISANCE SPECIES CONTROL PROGRAM OR OTHER SUITABLE COMPENSATION ALTERNATIVE MAY BE PROPOSED.

THE INSTALLATION OF A SUITABLE IRRIGATION SYSTEM IS RECOMMENDED TO ENSURE PLANT ESTABLISHMENT AND FULFILLMENT OF THE REQUIRED SURVIVAL CRITERIA.

NATIVE TREE AND HERBACEOUS SPECIES MAY BE UTILIZED IN ADDITION TO THE REQUIRED SHRUB PLANTINGS TO ESTABLISH CANOPY OR GROUNDCOVER COMPONENTS IF DESIRED BY THE APPLICANT.

MONITORING REQUIREMENTS:

MONITORING OF PLANTED AREAS SHALL CONSIST OF THE FOLLOWING:


A TIME -ZERO REPORT, LISTING SPECIES AND #S PLANTED. UPON COMPLETION OF THE PLANTINGS SHALL BE PROVIDED TO THE NATURAL RESOURCES SECTION OF PGMD NO LATER THAN 30 DAYS FOLLOWING PLANTING COMPLETION.

TWO ANNUAL REPORTS THAT LIST SURVIVAL % PER SPECIES AND ANY REQUIRED REPLANTS SHALL BE PROVIDED TO THE NATURAL RESOURCES SECTION OF PGMD LATER THAN 30 DAYS FOLLOWING DATA COLLECTION.

PLANTED SHRUB SPECIES MUST MAINTAIN A MINIMUM 85% SURVIVAL RATE WITH ANNUAL REPLANTING IF NEEDED. EXOTIC AND NUISANCE SPECIES (REFERENCE MOST CURRENT FLORIDA EXOTIC PEST PLAN COUNCIL LIST) COVER WITHIN THE PLANTING ZONES MUST BE MAINTAINED BELOW 10%.




FOR NUISANCE SPECIES CONTROL PROGRAM AREAS, ALL EXOTIC AND NUISANCE SPECIES MUST BE REMOVED DURING THE INITIAL CONTROL EVENTS) AND TOTAL NUISANCE SPECIES COVERAGE MUST BE MAINTAINED BELOW 10% FOR 2 YEARS THEREAFTER.

SCALE : 1" = 10'



NORTH

**WETLAND SETBACK
ENCROACHMENT
PLANTING LEGEND**

	27 PROPOSED S. GAL. WAX MYRTLE (MYRTICA CERIFERA)
	27 PROPOSED S. GAL. GALLBERRY (ILEX GLABRA)
	27 PROPOSED S. GAL. WAX CORAL BEAN (ERYTHRINA HERACEA)
	

NOTE: ALL SHRUB PLANTINGS WILL BE
EVENTS SPACED ON 5 FOOT CENTERS
(200 SF TOTAL COMPENSATION)

DESCRIPTION OF PROPERTY SURVEYED:
Lot 11, Block 14, SHADOW RUN UNIT 2, according to the plat thereof as recorded in Plat Book 47, Page 47, of the Public Records of Hillsborough County, Florida.

TSP COMPANIES, INC.
P.O. Box 1016
Tampa, FL 33601-1016

Owner

Daniel & Nancy Perez
11723 Albatros Lane
Riverview, FL 33569

Perez Residence Variance

SITE PLAN

SHEET

OF

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.

PLEASE REFER TO THE ATTACHED VARIANCE REQUEST.

2. A Variance is requested from the following Section(s) of the Hillsborough County Land Development Code:
LDC Section 4.01.07.B

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 _____ Yes X
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 X Public Wastewater X 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 **19th floor County Center**).

VARIANCE REQUEST

The applicant is requesting a variance to allow the reduction of the required wetland conservation area setback from 30 feet to 15 feet to allow the construction of a single-family home on the subject property.

The property is located within the Shadow Run Subdivision governed by the REVITALIZED DECLARATION OF PROTECTIVE COVENANTS AND RESTRICTIONS – SHADOW RUN UNIT ONE AND UNIT TWO which require a 25-foot side yard setback which is substantially greater than the required 10-foot side yard setback for an RSC-2 zoned property in the Hillsborough County Land Development Code.

The applicant made a formal request to the Shadow Run HOA to reduce the side yard setback from 25-feet to 15-feet. The HOA denied the variance to reduce the side yard to 15-feet but approved a reduction of the side yard to 20-feet; therefore, the applicant is requesting an encroachment into the 30-foot wetland conservation area setback as depicted on the variance site plan.

If granted, this variance will result in a 1,175 square foot encroachment into the wetland conservation area setback, and the applicant is proposing to mitigate the encroachment by planting 1,200 square feet of approved wetland plantings within the wetland conservation area setback as depicted on the variance site plan and listed below:

- 27 proposed 3-gallon Wax Myrtle (*Myrica Cerifera*)
- 27 proposed 3-gallon Gallberry (*Ilex Glabra*)
- 27 proposed 3-gallon Wax Coral Bean (*Erythrina Hervacea*)

All plantings shall be evenly spaced on 5-foot centers to achieve a total compensation planting area of 1,200 square feet.

VARIANCE CRITERIA RESPONSES

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?

RESPONSE

The variance request is to LDC Sec. 4.01.07.B to reduce the required conservation area setback from 30' to 15' creating a 1,175 sq.ft. encroachment area into said area which is being mitigated by a 1,200 sq.ft. compensation area. The alleged hardships or practical difficulties are unique and singular to the subject property in that the geographic, topographic, characteristics and physical features of the subject property are such that in order to develop the property meeting the LDC setback and parking requirements, the 15' reduction of the conservation setback area is the minimum required to avoid creating any delineated wetland impacts. The stated set of hardships or practical difficulties are not those suffered in common with other properties similarly configured and located adjacent to existing wetlands.

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.

RESPONSE

The large wetland area of the subject property is undulating and so configured as to create significant challenges in meeting the LDC setback and parking requirements and avoid creating delineated wetland impacts. The building has been so located on the site as to have a minimal impact on the conservation area setback and avoid creating any delineated wetland impacts. Conservation area setback encroachments are commonly granted in the same district and general area upon the providing of acceptable compensating mitigation areas and the granting of a variance.

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.

RESPONSE

The conservation setback reduction from 30' to 15' will be internal to the site; therefore, 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 as there is no impact on adjacent properties.

Application Number: _____

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).

RESPONSE

The variance reducing the applicant's requirement for a conservation area setback requirement will be in harmony with and serve the general intent and purpose of the LDC and the Comprehensive Plan as the LDC's stated intent sets forth requirements to foster and preserve public health, safety, comfort and welfare, and to aid in the harmonious, orderly, and progressive development of the unincorporated areas of Hillsborough County, which the resulting site's development with the requested variance and required compensating mitigation area will achieve.

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.

RESPONSE

The applicant has not yet reached a point in the site development permitting process allowing development to construct; therefore, the Church is not in violation of the LDC's requirement of avoiding encroachment into the conservation setback resulting in a self-imposed hardship.

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.

RESPONSE

Granting the variance is in accordance with the character and existing land uses in the neighborhood.

Prepared By

Yousuf Akhter
12603 Lake Hills Drive
Riverview, Florida
33569

After Recording Return To

Dan Perez and Nancy Billups
11723 Albatross Lane
Riverview, Florida
33569

Space Above This Line for Recorder's Use

FLORIDA GENERAL WARRANTY DEED

State of Florida

Hillsborough County

KNOW ALL MEN BY THESE PRESENTS, that for and in consideration of the sum of Ninetyfive thousand US dollars Dollars (\$95,000.00) and/or other valuable consideration to the below in hand paid to the Grantor(s) known as:

Yousuf Akhter, a single individual, residing at 12603 Lake Hills Drived, Riverview, Florida, 33569.

The receipt whereof is hereby witnessed and acknowledged, the undersigned hereby grants, bargains, and sells to:

Dan Perez, a single individual, residing at 11723 Albatross Lane, Riverview, Florida, 33569


Nancy Billups, a single individual, residing at 11723 Albatrass Lane, Riverview, Riverview, Florida, 33569

(hereinafter called the "Grantee(s)") all the rights, title, interest, and claim in or to the following described real estate, situated in Hillsborough County, Florida, to-wit:


Shadow Run Unit 2, lot 11, Block 14 according to the plat thereof as recorded in Plat Book 47, Page 47 of the Public Records of Hillsborough County,Florida, City of Riverview,Florida,33569 Address 11424 Donneymoor Drive ,Riverview,Florida 33569 Folio # 76828.62220

And the said party of the first part does hereby fully warrant the title to said land, and will defend the same against the lawful claims of all persons whomsoever.

To have and to hold, the same together with all and singular the appurtenances thereunto belonging or in anywise appertaining, and all the estate, right, title, interest, lien, equity and claim whatsoever for the said first party, either in law or equity, to the only proper use, benefit and behoof of the said second party forever.


 _____ Date August 28 2020
Grantor's Signature
Yousuf Akhter
12603 Lake Hills Drived, Riverview, Florida, 33569

In Witness Whereof,

 _____ Date August 28 2020
Witness's Signature
Timothy Barrios
Name of Witness

10518 Boyette Creek Blvd.
Street Address

Riverview, FL. 33569
City, State, Zip Code

 _____ Date August 28 2020
Witness's Signature
Kendy S. Barrios
Name of Witness

10518 Boyette Creek Blvd.
Street Address

Riverview, FL 33569
City, State, Zip Code

NOTARY ACKNOWLEDGMENT

State of Florida)

County of Hillsborough)

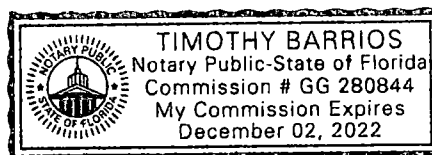
I, the undersigned, a Notary Public in said County, in said State, hereby certify that
Yousuf Akher whose names are signed to the foregoing instrument, and who is
known to me, acknowledged before me on this day that, being informed of the contents of the
instrument, they, executed the same voluntarily on the day the same bears date.

Given under my hand this 3 day of August, 2020.


Notary Public

(SEAL)

My Commission Expires: 12/2/2022





Received
07/27/2021
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

Address: 11424 DONNEYS MOOR DR City/State/Zip: RIVERVIEW, FL 33569 TWN-RN-SEC: 35-30-20

Folio(s): 76828.6220 Zoning: RSC-2 Future Land Use: R-4 Property Size: 0.9 AC

Property Owner Information

Name: DAN PEREZ & NANCY PEREZ (FORMERLY BILLUPS) Daytime Phone: _____

Address: 11723 ALBATROSS LANE City/State/Zip: RIVERVIEW, FL 33569

Email: _____ FAX Number: _____

Applicant Information

Name: DAVID WRIGHT / TSP COMPANIES, INC. Daytime Phone: 813-230-7473

Address: PO BOX 273417 City/State/Zip: TAMPA, FL 33688

Email: david@tspco.net FAX Number: _____

Applicant's Representative (if different than above)

Name: _____ Daytime Phone: _____

Address: _____ City / State/Zip: _____

Email: _____ FAX Number: _____

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

DAVID WRIGHT
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

DAN PEREZ
Type or Print Name

NANCY PEREZ

Ana Lizardo

Office Use Only

Intake Staff Signature: _____

Intake Date: 07/27/21

Case Number: 21-1123

Public Hearing Date: 09/20/2021

Receipt Number: _____

Development Services Department, 601 E Kennedy Blvd. 20th Floor

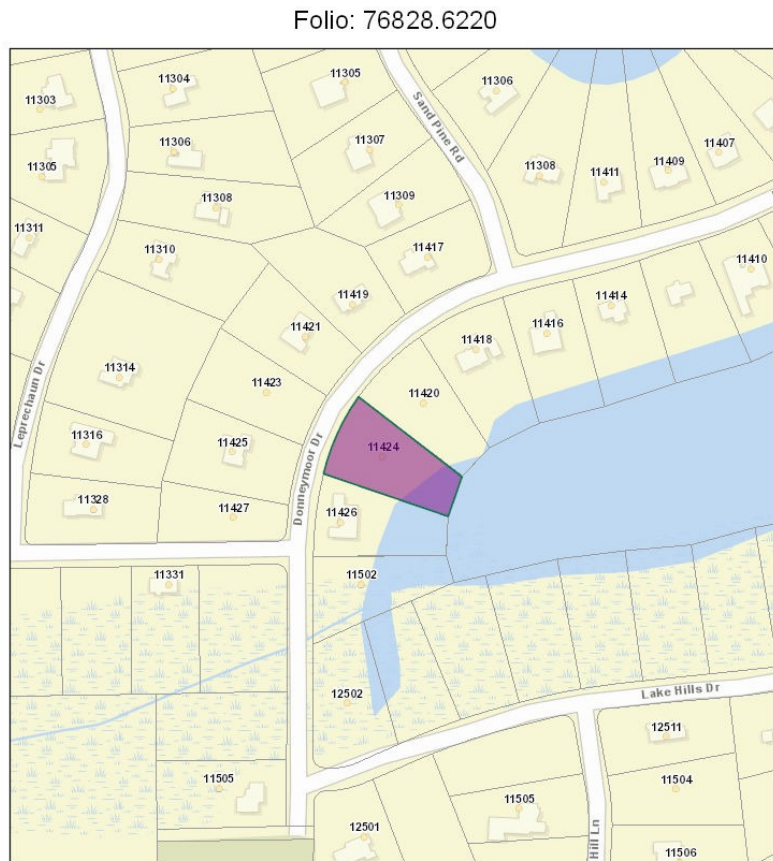
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21-1123

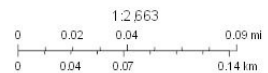


PARCEL INFORMATION HILLSBOROUGH COUNTY FLORIDA

Jurisdiction	Unincorporated County
Zoning Category	Residential
Zoning	RSC-2
Description	Residential - Single-Family Conventional
Flood Zone:AE	
Flood Zone:X	AREA OF MINIMAL FLOOD HAZARD
FIRM Panel	0508H
FIRM Panel	12057C0508H
Suffix	H
Effective Date	Thu Aug 28 2008
FIRM Panel	0509H
FIRM Panel	12057C0509H
Suffix	H
Effective Date	Thu Aug 28 2008
Pre 2008 Flood Zone	X500
Pre 2008 Flood Zone	AE
Pre 2008 Flood Zone	X
Pre 2008 Firm Panel	1201120510C
County Wide Planning Area	Riverview
Community Base Planning Area	SouthShore
Community Base Planning Area	Riverview
Census Data	Tract: 013918 Block: 1004
Future Landuse	R-4
Urban Service Area	USA
Mobility Assessment District	Urban
Mobility Benefit District	4
Fire Impact Fee	South
Parks/Schools Impact Fee	SOUTH
ROW/Transportation Impact Fee	ZONE 7
Wind Borne Debris Area	140 MPH Area
Competitive Sites	NO
Redevelopment Area	NO



July 27, 2021



RS, Hillsborough County - Public Works - Geomatics - Streets & Addresses

Hillsborough County Florida

Folio: 76828.6220
PIN: U-35-30-20-2T4-000014-00011.0
DAN PEREZ AND NANCY BILLUPS
Mailing Address:
 11723 ALBATROSS LN
 RIVERVIEW, FL 33569-6281
Site Address:
 11424 DONEYMOOR DR
 RIVERVIEW, FL 33569
SEC-TWN-RNG: 35-30-20
Acreage: 0.90231401
Market Value: \$104,396.00
Landuse Code: 0000 VACANT RESIDENT

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

21-1123