

**CITY OF BROOKSVILLE  
SPECIAL CITY COUNCIL MEETING/PUBLIC HEARING  
CITY COUNCIL CHAMBERS  
201 HOWELL AVENUE  
AGENDA**

April 16, 2007

6:00 P.M.

**A. CALL TO ORDER**

**B. INVOCATION AND PLEDGE OF ALLEGIANCE**

**C. SPECIAL AGENDA**

- \* 1. **Notice of Appeal of P&Z Commission Decision - Garden Homes Zoning**  
Consideration of Appeal of Planning & Zoning Commission March 14, 2007, decision concerning the Petition for Variances from City Code for property located on the south side of Dr. MLK, Jr., Boulevard and west of Hale Avenue.

Presentation: Petitioner/Appellant  
Recommendation: Reaffirm P&Z Commission Action  
Action: Motion to Approve Recommendation  
Attachments: City Code Sec. 137-43; Notices of Appeal dated 03/15/07 and 03/19/07; Draft Minutes of P&Z Board's 03-14-07 Meeting

- \* 2. **Notice of Appeal of P&Z Commission Decision - Variance for Property located at 602 Ellington Street**  
Consideration of Appeal of Planning & Zoning Commission March 14, 2007 decision concerning the Petition for Variances from City Code for property located at 602 Ellington Street.

Presentation: Appellant  
Recommendation: Reaffirm P&Z Commission Action  
Action: Motion to Approve Recommendation  
Attachments: City Code Sec. 137-43; Notice of Appeal dated 03/15/07; Draft Minutes of P&Z Board's 03-14-07 Meeting

**D. ADJOURNMENT**

## General Information and Instructions

Items identified on this agenda with an asterisk (\*) are land use and other quasi-judicial function of the City Council involving land use, and the following ex parte procedures apply:

- Consideration of applications to intervene as a party, if any. "Request to Intervene/Expert Witness" forms and instructions may be obtained from the recording secretary prior to the scheduled time for consideration of the item.
- Qualification of sworn witnesses who wish to testify as an expert, based on statement of credentials made orally or set forth in application file.
- Swearing of witnesses who wish to give sworn testimony.
- Testimony of City staff witnesses, with cross-examination by applicant and party-interveners, if they request.
- Testimony of applicant and applicants witnesses, with cross-examination by City and party-interveners, if they request.
- Testimony of party-interveners and their witnesses, with cross-examination by City and applicant, if they request.
- Testimony by members of public who wish to address application. Any individual, not requesting/designated as an intervening party or expert witness may, upon being recognized by the Mayor, present information to the Council, and may be questioned by the Council but is not required to be subject to cross examination, and need not be sworn in.
- Close of public hearing.
- Council deliberation/vote.

Items identified with a double asterisk (\*\*) are quasi-judicial function of the City Council other than land use; the Council Members disclose any ex parte communications.

Meeting agendas and supporting documentation are available from the City Clerk's office, and online at [www.ci.brooksville.fl.us](http://www.ci.brooksville.fl.us). Persons with disabilities needing assistance to participate in any proceedings should contact the City Clerk's office 48 hours in advance of the meeting at 352/544-5407.

Any person desiring to appeal any decision with respect to any matter considered at this meeting, may need a record of the proceedings including the testimony and evidence upon which the appeal is to be based, and therefore must make arrangements for a court reporter to ensure that a verbatim record of the proceedings is made.

**CITY OF BROOKSVILLE**  
OFFICIAL POLICY  
9-97

**APPEAL PROCEEDINGS**

This meeting procedure is to be used whenever an appeal is brought before the City Council pursuant to City Ordinance No. 562.

Procedure:

1. The Chairperson will call the meeting to order.
2. Notice of publication will be read into the record.
3. Representatives of the parties will be sworn in by the City Attorney.
4. Staff presentation. (4 minutes)
5. Council questions of staff.
6. Appellant presentation. (5 minutes)
7. Council questions of appellant.
8. Staff rebuttal. (1 minute)
9. Additional questions of staff/appellant.
10. Council discussions.
11. Council motion, second, vote.

General

1. Additional time may be allotted to the staff/appellant so long as the time available is fairly apportioned. Time made available under this section will be printed on the Council Agenda and would supersede the standard times listed on the foregoing procedure.

2. These Rules have been promulgated as self-imposed guidelines upon the City Council in the conduct of City business. The inadvertent failure of the Council to comply with the specific requirements of these Rules shall in no way affect the validity of any action taken by the Council, unless otherwise provided by the statutory law of the State of Florida. In keeping with this intent, the Council hereby waives any inadvertent procedural irregularities which may result from the Council's failure to comply with the specific requirements of these rules prior to taking official action.

APPROVED BY CITY MANAGER: s/Richard E. Anderson  
Richard E. Anderson

11/17/97  
Date

ADOPTED BY CITY COUNCIL: November 17, 1997

## APPEALS OF COMMISSION DECISION

Sec. 137-43. Additional duties of planning and zoning commission.

1. (a) Generally. The commission shall have the following additional powers and duties:

(1) To hear and decide appeals where it is alleged there is an error in an order or determination made by the administrative official in the enforcement of the land use/zoning regulations of the city.

(2) To hear and decide special exception petitions to the land use/zoning regulations of the city.

(3) To hear and decide petitions seeking variances from the land use/zoning regulations of the city. No such variance will be granted unless the facts presented show that a literal interpretation and enforcement of the regulations would result in an unnecessary hardship to the petitioner. No variance will be granted for a condition which was caused by the petitioner.

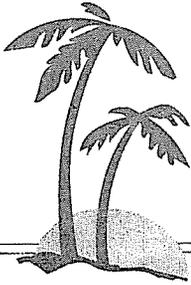
(b) Decision of the commission. In the exercise of its powers and duties, the commission shall have all of the powers of the administrative official. The concurring vote of a majority of the commission shall be required to approve a variance or special exception request. Written confirmation of the decision of the commission shall be mailed to the applicant within two business days of the hearing on such decision.

(c) Appeals. Appeal of a decision of the administrative official may be taken to the commission by any person affected by such decision. Any appeal must be taken within 21 calendar days from the date the decision is rendered by the administrative official. Written notice of the appeal shall be delivered to the administrative official or his authorized representative. The administrative official will publish in a newspaper of local circulation (as defined in F.S. ch. 50) a notice of hearing at least seven calendar days prior to the hearing. The cost of such publication will be paid by the petitioner. The hearing before the commission shall be conducted pursuant to the rules and procedures established for such proceedings by the city council.

(d) Appeals of a commission decision. Anyone may appeal a decision of the commission to the city council. In order to appeal a decision, the petitioner must deliver a notice of appeal to the city clerk within ten calendar days of the date of the commission's decision. The notice of appeal must specify the decision being appealed and the specific reasons for the appeal. The notice of appeal shall be placed as an item on the next available regular agenda of the city council. No discussion of the merits of the appeal will be permitted; the mayor will request a vote of the council to determine if it wishes to hear the appeal. If a majority of the council votes to hear the appeal, a hearing at a special meeting of the city council will be scheduled within 21 days of the vote by the council. The city clerk will publish in a newspaper of local circulation (as defined in F.S. ch. 50) a notice of hearing at least three calendar days prior to the hearing. The cost of such publication will be paid by the petitioner. The hearing before the commission shall be conducted pursuant to the rules and procedures established for such proceedings by the city council.

(e) Stay of proceedings. An appeal to the commission of a decision of the administrative official or an appeal to the city council of a decision of the commission shall cause all matters relating to the appeal to be stayed until the conclusion of the appeal process. However, after receipt of the notice of appeal, the stay may be lifted by the administrative official if, in his opinion, the facts in the notice of appeal would cause imminent peril to life or property.

(Code 1988, pt. III, subpt. B, § 53)



**NICHOLSON ENGINEERING ASSOCIATES, INC.**

P.O. Box 12230 ~ Brooksville, FL 34603 • 7468 Horse Lake Rd.

Phone: 352-799-0170 • Fax: 352-754-9167

www.nicholson-engineering.com

March 15, 2007

City of Brooksville  
201 Howell Avenue  
Brooksville, FL 34601

Attention: City Clerk

Re: SE2007-01 -Jorge Lopez for Garden Homes  
Letter of Appeal

To Whom It May Concern:

Regarding the above referenced project which was turned down by the City of Brooksville's Planning & Zoning Board on 3-14-07, please note that by receipt of this letter, we are appealing their decision.

We believe the reason for this appeal is obvious. Mr. William Geiger and staff recommended approval of this project. There was no expert testimony from anyone for a reason to deny the project. Mr. Korbus made the motion to deny the project because he thought there were too many units. This is obviously not a reason to turn down this project. This property is already zoned for multi-family which allows anywhere from eight (8) to eighteen units to be placed on the property. The thirty six (36) units that we had requested are actually less than eight (8) units per acre. This is below the minimum of the City of Brooksville's stated allowance. It is our feeling that Mr. Korbus was incorrect in his statement and had no legal authority to make the motion to deny.

Therefore, we respectfully request that the appeal be heard and the project be approved as is legally required.

Sincerely,

Nicholas W. Nicholson, P.E.  
President

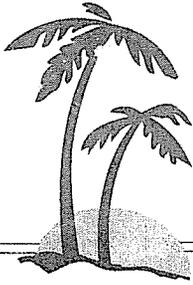
NWN:sad  
File No. 05-09-01

HAND DELIVERED AND RECEIVED BY:

Per [unclear] ✓  
Bill ✓  
Dennis ✓  
L. O. ✓

3/16/07 (JP)

4/2/07 ag...  
R.C.T.V.



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March 19, 2007

03-21-07 P02:11 IN

Brooksville City Council  
201 Howell Avenue  
Brooksville, FL 34601

To: Mr. David Pugh, Mayor  
Mr. Frankie Burnett, Vice Mayor  
Mr. Joe Bernardini  
Ms. Lara Bradburn  
Mr. Richard Lewis

Re: Hale Avenue Project-SE-2007-01

Currently we are requesting an appeal on the above referenced project that was recently turned down by the Planning & Zoning Board. I think it is important to note that of the 15 adjacent property owners on the above referenced project, only four properties are in the city. The rest of these properties are in the county.

We have included a copy of the APO for your reference.

Sincerely,

Nicholas W. Nicholson, P.E.  
President

NWN:sad  
File No. 05-09-01



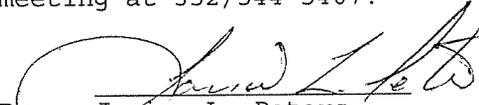


## NOTICE OF PUBLIC HEARING

NOTICE is hereby given that the City Council of the City of Brooksville, Florida, will hold a public hearing on April 16, 2007 at 6:00 p.m., in the City Council Chambers, 201 Howell Ave. (located at the corner of Howell Ave. and Ft. Dade Ave.) for the appeal of Planning and Zoning Commission Decisions (Jorge Lopez for Garden Homes). The transcript and documents in its entirety may be inspected at the office of the City Clerk during regular workings hours.

All persons wishing to be heard, please take notice and govern yourselves accordingly. You are further advised that if a person decides to appeal any decision with respect to any matter considered at these proceedings, he will need a record of the proceedings, and that, for such purpose, he may need to ensure that a verbatim record of the proceedings is made which record includes the testimony and evidence upon which the appeal is to be based.

Persons with disabilities needing assistance to participate in any of these proceedings should contact the City Clerk's office 48 hours in advance of the meeting at 352/544-5407.

By:   
Janice L. Peters  
Deputy City Clerk

Richard C. Herman  
1607 Oak Arbor Lane  
Valrico, FL 33594-7204

Kathryn L. Rodgers  
841 S. Mildred Ave  
Brooksville, FL 34601

Cherry B. Stettin  
905 S Mildred Ave  
Brooksville, FL 34601

BGIV, Inc.  
5514 Park Blvd  
Pinellas Park, FL 33781-3326

Marianne H. Bennett  
2018 Pennbrook Rd  
Brooksville, FL 34601

Andor & Loretta Jean Dejony  
P. O. Box 10676  
Brooksville, FL 34603-0676

Brooksville Housing Authority  
800 Continental Dr  
Brooksville, FL 34601

Robert A. Buckner  
11 N. Main Street  
Brooksville, FL 34601

Ruth H. Reeder  
987 S. Mildred Ave  
Brooksville, FL 34601

Dexter Waddy  
Deanna Fields  
4065 Dristol Ave  
Spring Hill, FL 34609-2428

Barbara E. Berke  
P. O. Box 1492  
Brooksville, FL 34601

Charles D. & Brigitte Lambert  
1003 S. Mildred Ave  
Brooksville, FL 34601

Philip J. & Barbara Mylrea  
969 Hale Ave  
Brooksville, FL 34601

John F. & Marilyn Mason  
921 S. Mildred Ave  
Brooksville, FL 34601

Nicholson Engineering Assoc., Inc.  
P. O. Box 12230  
Brooksville, FL 34601

Owner: Jorge Lopez for Garden Homes, LLC  
7711 SW 20<sup>th</sup> Street  
Miami, FL 33155

COUNCIL ACTION

MEETING DATE: 4/2

AGENDA ITEM NO.: F-10 Garden Home Appeal  
TITLE: \_\_\_\_\_

RECOMMENDATION: \_\_\_\_\_

PRESENTED BY: only addressing set hearing or deny

DISCUSSION: noted  
LB - noting appeal? priority done at CAB cont  
4/10 at board

MOTION MADE BY: JB appeal 4/10 at Lpr

SECONDED BY: LB

CARRIED: 1-0 DENIED: \_\_\_\_\_

DATE: \_\_\_\_\_ CITY CLERK'S INITIALS: KMP

DRAFT

CITY OF BROOKSVILLE  
PLANNING AND ZONING COMMISSION MEETING  
Regular Meeting

March 14, 2007

6:30 P.M.

Attendees: Vice Chairman John Wanat, Elmer Korbus, and Ernie Weaver. Also attending were Bill Geiger, Community Development Director, David LaCroix, City Attorney, and Patricia Jobe, Planning & Zoning Coordinator/ Recording Secretary. ABSENT: Chairman George Rodriguez, Louise Taylor, Charles Miller, and Don Varn.

The meeting was called to order at 6:30 p.m. by George Rodriguez, followed by the invocation and pledge of allegiance.

APPROVAL OF MINUTES

Motion was made by Commissioner Wever, seconded by Commissioner Korbus, to approve the minutes of February 14, 2007, as written.

\*\* SE2007-01 - JORGE LOPEZ FOR GARDEN HOMES, LLC - PRESENTED BY NICHOLSON ENGINEERING ASSOCIATES, INC.

Petition for a Special Exception Usage for a Residential Planned Development Project - Continued from January 10, 2007.

The City Attorney explained that this is a quasi-judicial proceeding and that the public hearing was continued from the previous meeting. At that meeting, Mr. Nicholson had been sworn in and accepted by a consensus of the Commission as an expert witness in civil engineering and land use planning, and Director Geiger had also been sworn in and accepted by a consensus of the Commission as an expert witness in land use planning, development, and zoning. In addition, six persons had come forward at the previous public hearing and asked to be sworn in as intervening parties on this petition: Dennis Lamberti, Cherry Stettin, John Mason, Barbara Burke, Ruth Reeder, and Bill Bailey. Another person then stepped forward, Loretta DeJony, and requested that she be added as a party intervenor because she, too, was a concerned nearby resident of the subject area. The City Attorney then explained that the public hearing was still open and encouraged anyone new who wished to come forward in any capacity to speak on this subject to now come forward. Also, all those who had been sworn in at the previous public hearing were still under oath for the continuation of this hearing.

Director Geiger then explained that the intent of the continuation of the previous meeting and public hearing was to allow the petitioner and his representative, Nick Nicholson, to meet with neighboring property owners to go over their concerns so that they could try and address those concerns and possibly bring back a revised plan. He directed the Commission's attention to the revised conceptual plan for the project that had been given to them in their packet and requested that the staff report be entered into the record in its entirety, as follows:

The petitioner is requesting Special Exception Use approval for a Residential Planned Development Project on a 4.88 acre  $\pm$  site. The property is located on the south side of Dr. MLK, Jr., Boulevard and west of Hale Avenue.

STAFF FINDINGS:

CURRENT LAND USE/ZONING

The subject property (Where the residential structures are being planned) is currently zoned as a Planned Development Project (PDP). The eastern portion of the same site is zoned C2. The property has a Comprehensive Plan Future Land Use (FLU) designation for Multifamily/Mobile Home and Commercial Uses respectively.

FACTUAL INFORMATION:

1. The western portion of the subject property is currently zoned as a PDP

- with FLU designations for multifamily/mobile homes and the eastern portion of the site is zoned C2 with a FLU designation for commercial uses.
- 2. The total subject property is approximately 4.88 ± acres in size.
- 3. The site is currently undeveloped.
- 4. The developer is proposing to construct two buildings with eighteen residential units each on the PDP (western) portion of the site.
- 5. The proposed residential structures are four stories in height with an internal parking area.
- 6. Access to the site is proposed via Dr. MLK, Jr. Boulevard. A secondary access is proposed for connection to Hale Avenue with the completion of future phases of this project.
- 7. Development of this property for the proposed use is consistent with the City Comprehensive Plan.
- 8. The subject property is not located within any wellhead protection areas.
- 9. The developer will be required to negotiate a utility service agreement with the City of Brooksville to facilitate the provisions for and determine the availability of water and sewer services to the property.
- 10. In addition to water and sewer services, the property will be served by City police, fire and sanitation collection services.

**STAFF DISCUSSION & FINDINGS OF FACT:**

The petitioner is proposing a 36-unit residential project. The petition has been reviewed for compliance with applicable standards and comments are as follows:

- 1. Table 2 of the City's PDP Land Area and Dimension Regulations requires a 10-foot minimum landscape separation strip along all property lines and streets serving the project. The code also provides latitude for the Commission to consider a requirement for the project to be permanently screened from adjoining and contiguous property by a wall, fence, evergreen hedge and/or other approved enclosures, as deemed applicable and appropriate. The detailed development plan for this proposal will be required to reflect and adhere to the standards of the City's Landscaping, Buffer and Tree Protection code (Chapter 9.5, City Code). This portion of the City code encourages the preservation of existing trees on the site and it is recommended that the developer give due consideration to this in the design and final plan layout. Given the height of the proposed buildings and the proximity of this project to existing SFR development on Mildred Avenue, the Commission may consider requiring that a specified natural buffer of at least 80' be maintained along the western boundary of this property.
- 2. Per Table 2 of the City's Planned Development Project regulations, the following square footage amounts represent the "maximums/minimums" permitted for the acreage involved with this PDP:
  - a. Maximum gross floor area permissible = 63,771.84 sq.ft.
  - b. Min. open space req'd (incl. roads & parking) = 159,429.6 sq.ft.  
(3.66 acres)
  - c. Min. open space required, less roads & parking = 102,034.94 sq.ft.  
(2.34 acres)
  - d. Min. recreation space that must be provided = 9,565.78 sq. ft.  
(.22 acres)
- e. Minimum number of parking spaces required = \*\* 72 parking spaces  
\*\* May vary depending upon the size of unit.

The petitioner will need to submit information related to total gross floor area, square footage of roads and parking, and square footage of the balance of open space and recreation space proposed for the site prior to construction plan submittal. This information will be used to determine if this project is in compliance with land use and intensity standards established by the City for Planned Development Projects.

- 3. Traffic - The developer proposes to utilize Dr. MLK, Jr., Boulevard as the primary access. A secondary access is proposed for connection to Hale

- Avenue upon completion of the final phasing of this project (to be brought back to the commission for consideration at a later date).
4. It is recommended that the developer incorporate and provide appropriate pedestrian amenities with this development including sidewalks. Facilities constructed are required to be ADA accessible.
  5. Drainage - This project will be required to be designed to meet all applicable standards specified by the technical requirements for open and closed basins in the *Environmental Resource Permitting Information Manual*, latest edition, as published by the Southwest Florida Water Management District.
  6. Infrastructure & Services - The developer will be required to negotiate a utility service agreement with the City of Brooksville for water and sewer services. Connection to City water and sewer service will be required. Service availability and requirements include the following:
    - Potable water service is available via a 12-inch force main on the west side of Hale Avenue.
    - There is currently an 8" sewer line located on the east side of Hale Avenue and on the North side of Dr. MLK, Jr., Boulevard.
    - Fire hydrants must be installed and spaced to meet all applicable fire code (NFPA) standards.
    - Water lines on-site will be private and must be sized to provide adequate fire flow as per AWWA Manual M31.
    - Sanitation dumpster solid waste collection services will be provided by the City.
    - Transportation - According to the ITE Trip Generation Manual (6<sup>th</sup> edition - Use Code #'s 223/222), this project will generate approximately 16 PM Peak Hour Trips (.44 x 36 units) and 151± total daily trips (weekday/4.2 multiplier).
  7. City Concurrency Standards - The City requires concurrency review and analysis at the time when a development order/permit application is submitted. Concurrency review and adherence is not required in consideration of a land use or zoning action, as is the case for this petition. It may be noted that in reviewing the potential impacts associated with this proposal, it does not appear that any adopted level-of-service standards would be breached if permits were applied for at this time. The developer will be required to provide a "Statement of Impact - Concurrency Application" with each phase of development for this project that will be reviewed to ensure that level-of-service standards are being maintained within their adopted levels.
  8. Pursuant to an interlocal agreement between the City, County and the Hernando County School Board, the developer is encouraged to coordinate with the Hernando County School District to determine if adequate school capacity exists for each school level based on the number of residential units to be constructed by the development. If adequate capacity does not exist, the developer may propose and the school district may accept a proportionate share mitigation settlement to address any identified deficiency. School concurrency issues related to a proposed development should be resolved prior to the submittal of construction plans.
  9. Parking - The Developer will be required to provide 1.5 parking spaces per dwelling unit for 1 or 2 bedrooms units, and 2 parking spaces per dwelling unit for units with 3 or more bedrooms.
  10. The following specific performance standards should be considered for this project:
    - Four story/18-unit maximum per building
    - 40-foot minimum structure setback from M.L. King Boulevard
    - 140-foot minimum structure setback from western property line
    - 80-foot minimum natural buffer required along the western boundary of the property
    - 25-foot minimum structure setback from the southern boundary of the property
    - 190-foot structure (building) setback from Hale Avenue
    - 15-foot minimum building separation

11. Unless specifically addressed to the contrary herein, City ordinance regulations which apply with regard to zoning district classification shall apply to residential areas within this PDP as if they are zoned R3.
11. 36 Residential units are the maximum number requested for this project at this time.

When development plans are submitted for permitting on each phase of this project, they will be reviewed and analyzed for impact to roads, utilities, drainage, the environment and compliance with all other applicable land use criteria and will be subject to meeting all federal, state and local agency permitting requirements.

**NOTE:** The Special Exception Use process is a land use determination which does not constitute a permit for either construction on or use of the property. These actions are not considered a Certificate of Concurrency. Prior to use of or construction on the property, the petitioner must receive approval from the appropriate City, County and/or other governmental agencies that have regulatory authority over the proposed development.

The granting of this land use determination does not protect the owner from civil liability for recorded deed restrictions which may exceed any City land use ordinances. Homeowner associations or architectural review committees may require submission of plans for their review and approval. The applicant for this land use request should contact the local association (if there is one) and review the Public Records for all restrictions that may be applicable to this property.

This report does not include the perspective of adjacent landowners, who may be present at the public meeting to address and present questions and comment.

**STAFF RECOMMENDATION:**

Conditionally approve the Special Exception Use Residential PDP, subject to the following conditions and stipulations:

1. The phased and/or final development plan(s) for this proposal will be required to reflect and adhere to the standards of the City's Landscaping, Buffer and Tree Protection code (Chapter 9.5, City Code). Additionally, the developer is required to maintain a natural buffer of at least 80' along the western boundary of this property.
2. The developer shall incorporate and provide appropriate pedestrian amenities with this development including sidewalks (along M.L. King Boulevard and Hale Avenue). Applicable facilities constructed are required to be ADA accessible.
3. The developer will be required to construct an on-site storm water drainage control system that meets the design and performance standards as specified by the technical requirements for open and closed basins in the *Environmental Resource Permitting Information Manual, latest edition*, as published by the Southwest Florida Water Management District. The proposed stormwater plan associated with this project must comply with all applicable federal, state and local standards.
4. Comprehensive site development plans shall be submitted. Said plans are subject to approval by the City Department's of Public Works and Community Development prior to the issuance of a building/construction permit.
5. The developer will be required to successfully negotiate a utility service agreement with the City prior to permitting.
6. This special exception use approval is conditioned with a three-year time period. If phasing and development plans are not submitted and construction contracts are not let within this time, this approval will be considered null and void.
7. The developer will be required to provide site lighting plan to ensure that the lights do not disturb the neighboring residents adjacent to this project.

8. Pursuant to an interlocal agreement between the City, County and the Hernando County School Board, the developer is encouraged to coordinate with the Hernando County School District to determine if adequate school capacity exists for each school level based on the number of residential units to be constructed by the development. If adequate capacity does not exist, the developer may propose and the school district may accept a proportionate share mitigation settlement to address any identified deficiency. School concurrency issues related to a proposed development should be resolved prior to the submittal of any construction plans.
9. The following specific performance standards are required for this project:
  - Four story/18-unit maximum per building
  - 40-foot minimum structure setback from M.L. King Boulevard
  - 140-foot minimum structure setback from western property line
  - 80-foot minimum natural buffer required along the western boundary of the property
  - 25-foot minimum structure setback from the southern boundary of the property
  - 190-foot structure (building) setback from Hale Avenue
  - 15-foot minimum building separation
10. Unless specifically addressed to the contrary herein, City ordinance regulations which apply with regard to zoning district classification shall apply to this PDP as if it were zoned R3.
11. 36 Residential units are the maximum number approved for this phase.
12. The residential community entrances may incorporate appropriate signage, consistent with community standards and subject to approval by the City Manager or the City Manager's designee.

Director Geiger then directed the Commission's attention to the addendum that had been given to them this evening and stated that staff had received the addendum via e-mail just the day before. He explained that the addendum proposes a different site plan and has one additional request associated with it that was different from the plan that had been included in their agenda packet for this meeting. Essentially, the major changes the applicant is proposing are: 1) The development will have the same number of units but the buildings have been reduced to three-story instead of the four-story. (In the original plan, the first story had been exclusively for parking, but in the revised plan the parking has been taken out from under the building and has been moved out into the site, which is taking up additional open space on the site.) 2) The new petition also asks for a reduction from the 80-foot natural buffer in the original plan to a 45' buffer along the western property line because they now have to provide additional parking space out on the site. 3) The new addendum also requests the addition of a clubhouse and pool to the site plan. Director Geiger said there were a few additional minor changes that had been made, i.e., building reference numbers, but nothing else substantial.

In response to a question by Vice-Chairman Wanat regarding the 50' buffer mentioned in staff's performance condition number one, Director Geiger clarified that distance was the applicant's revised request previous to the addendum received yesterday requesting a 45' buffer. He said staff's performance conditions still specified a minimum 140' structure setback from the western property line, even though the applicant actually requested the building setback be set at less than that, to ensure that the three-story buildings didn't end up any closer than that for whatever reason.

In response to a question by Commissioner Wever regarding where the proposed connection to Hale Avenue would be, Mr. Nicholson replied that it would be at the corner of Hale Avenue and MLK Jr. Blvd. Director Geiger clarified that was where the property was located, but the actual connection was not being proposed at this time because the petitioner anticipates coming back later on with a proposal for a second phase that will provide the connection to Hale Avenue, but this first phase would only have one connection point which would be to MLK Jr. Blvd.

He said that considering this, the Commission could only look at what was being proposed with this petition and they really couldn't contemplate what kind of changes might happen between now and any future phases.

Mr. Nicholson said it was mentioned that a connection to MLK Jr. Blvd. may not even be desirable because of the traffic, and he said it would be fine with his client that once we have the ability to connect to Hale Avenue that they would close the MLK Jr. Blvd. access, if that is what they would like to do. Director Geiger stated that from a planning point of view, two points of connection are actually better than one.

In response to a question by Commissioner Korbis, Director Geiger replied that the future connection point would be somewhere on Hale Avenue. Commissioner Korbis said he just wanted to make sure there would be an exit onto Hale Ave. because without it, if there was an accident in that area, emergency response vehicles couldn't get in and out.

The City Attorney interjected that this application needed to be considered by itself because whether anyone in the future came in with a second phase for this project, or not because of the real estate market, the current proposal might stand alone. Director Geiger agreed and added that the property could even be transferred to another owner and the Commission could be faced with another development proposal. The important thing the Commission might consider with the current development proposal is that this property provide for anticipated future connectivity to the property to the south.

In response to another question by Commissioner Korbis, Director Geiger confirmed that 36 units is the maximum number that could go on the property.

Mr. Nicholson stated that his staff had met twice with the surrounding concerned property owners since the last public hearing. He said that the first time they met they reviewed their original site plan with four-story buildings that the property owners did not like, so they told the property owners they would redesign the project with two-story buildings with the parking on the outside, which would have drastically reduced the buffer areas. However, his client was unwilling to go to two stories, but he felt three stories would be fine, with outdoor parking on the site. So Mr. Nicholson explained he redesigned the project for a third time and met again with the property owners, showing them the 3-story buildings with the outside parking. One of their major concerns with the third plan was the 8-foot privacy wall that they had agreed to build along the west & east property lines, and they wanted the wall built all the way down the side of the vacant property. Mr. Nicholson explained to them that really couldn't be done economically and it would have to be done as part of another project but that the 8-foot wall included in the current plan would adequately protect them from the impacts of their project. He felt the meetings with the property owners went very well, that the property owners had a lot of good comments, and he felt that they had addressed all of their major concerns.

In response to another question by Commissioner Korbis regarding what the elevation difference of the property is between the west property line and where the front of the proposed buildings will be because he was trying to visualize what the adjacent residents will see when they look out their windows at the new three-story buildings, Mr. Nicholson replied that the existing trees are extremely tall on that side of the property and these structures would be extremely difficult to see from those neighboring properties because of the proposed 45-foot natural vegetative buffer; they do not plan to disturb any of the existing trees.

Mr. Lamberti, nearby property owner, came forward and said that the first meeting with concerned property owners that Mr. Nicholson had mentioned had been scheduled for January 26, 2007, after the initial P&Z meeting on this item on January 10. He explained that he as well as the other affected property owners

expressed their concerns at that meeting, but he didn't feel the new plan at all addressed their concerns regarding height or density, and it was also lacking the wall the applicant had promised that the residents had requested to prevent thugs, thieves, and crooks from coming over the project's back property line into their properties. Mr. Lamberti said the client hadn't shown up at that meeting and was not even present at tonight's meeting, so he requested that the Commission postpone this item until the client was present to answer questions.

John Mason came forward and reiterated what he had stated at the previous public hearing, that he strongly felt the proposed density of the project was too much for the size of the property and that kids would definitely overflow into the surrounding neighborhood onto their properties from the project.

Loretta DeJoney, resident of the area, came forward and stated that she was worried about the impact the increased traffic would have on already busy Hale Avenue, that the roads in the area were not wide enough to accommodate the increased traffic, and she also wanted to know who would maintain those roads because part of them were in the County.

In response to a question by Vice-Chair Wanat, Director Geiger explained that the traffic generation formula for the project for this type of use, based on the number of units, would generate approximately 16 p.m. peak hour vehicle trips (with 36 units, not everybody is driving on the road at the same time). Of these trips, approximately 9 of those would be entering back into the project, and 7 would be exiting, based on the similar uses as projected.

Ms. DeJoney was still concerned about the impact to Hale Avenue, and Vice-Chair Wanat clarified that there would not be an entrance onto Hale Avenue from the proposed project at this point, the entrance is from MLK Jr. Blvd. Ms. DeJoney explained that she had been told at the second meeting with Mr. Nicholson that they were going to let the traffic from the project flow out onto Hale Avenue. Vice-Chair Wanat clarified that would only happen if the project were to expand or if a phase two came in for development. Ms. DeJoney stated that she was still concerned because when she tried to get into her driveway the other night at 7:15 p.m., she'd had to wait for 17 cars to pass before she could pull into her driveway.

Director Geiger clarified that both MLK Jr. and Hale Ave. are local streets, and as such they would both be under the responsibility of the local government to maintain them. In response to a question by Vice-Chair Wanat, Director Geiger replied that the responsibility for maintenance of a portion of MLK Jr. Blvd. that had been a State Road was still under the County; it used to be considered a State Road and then it was turned over to the County some years ago. However, it is something that we will probably be addressing soon when the City renegotiates an interlocal agreement related to gas tax distribution.

Cherry Stettin, adjacent property owner and resident of Lot 20, located right on MLK Jr. Blvd. at the intersection of Mildred Ave., who had spoken at the previous public hearing, came forward and expressed concern that the traffic volume on MLK Jr. Blvd. was already very high, and she felt it would be increased to a dangerous level with the increased volume from the proposed development. She also felt the 8-foot wall that the developer had agreed to put in was inadequate because it would only be around phase one; what about the impact to them from any additional development that occurred in the future? She further thought that the amount of fencing the applicant had agreed to install was inadequate because the buffer was decreasing with each subsequent redesign of the plan (i.e., originally 80 feet, decreased to 50 feet, and now down to a 45-foot buffer), and she felt the inadequate amount of fencing was short-sighted and that adequate provisions needed to be made now with the future in mind.

Bill Bailey, nearby property owner who had also spoken at the previous public hearing, came forward and supported providing an additional access off of Hale

Avenue because he felt it would substantially help the traffic flow. Regarding traffic on MLK Jr. Blvd., he was very concerned that the roadway was inadequate to support heavy construction trucks, much less the increased traffic volume. He also felt the high density of the project was inconsistent with the reasons he moved into Brooksville. He explained that he had sought out his single family residential land on the dead-end of a quiet street and had built a single family residence to live in, stay here, and retire and live out the rest of his life here; however, if this development goes in as proposed, he didn't think he would stay here as he had previously planned. He strongly felt the proposed plan is inconsistent with the surrounding area and that there are plenty of other areas where such a high density development could be built. Also, based on his perspective from working for the fire department for many years, he strongly felt that the emergency infrastructure of the area would not be capable of supporting the high density of the proposed development. Also, with the parking now being placed all around the property outside of the buildings, he felt that would impede the emergency vehicles from being able to get in and provide emergency services in a quick and efficient manner.

Ruth Reeder, owner of property directly adjacent to the proposed development, felt the proposed high density development would be very inappropriate for the existing very low density neighborhood. She did not want a development that had the high density of, for example, the Bronx area of New York, to be built in her neighborhood consisting of one- or two-acre lots with single family homes on them. She questioned if this could be considered "spot zoning."

Commissioner Korbis asked that if the current proposal was for apartments, and there is going to be children living there, when the school buses go out there and stop at the entrance to the development, what is the sight distance from the proposed driveway to the top of the hill? Specifically, is there enough room for drivers to stop when they see the lights of the stopped bus after they come up over the top of the hill. Director Geiger responded that where it is located on the site plan right now, there is approximately a distance of 250 feet from the top of the hill to where the buses will stop at the entrance to the development.

Mr. Nicholson again came forward and stated that this issue has come up before, and he and his client had already told Director Geiger that they would agree to adhere to any codes for sight distance requirements for that driveway. Further, if they needed to do modifications to MLK Jr. Blvd. to meet the sight distance requirements, they had agreed to do so at their expense (i.e., they would look at options such as lowering the hill by cutting it down, by putting in a deceleration lane, or whatever would be necessary to meet the sight distance requirements because they obviously didn't want anything to happen to any children).

Mr. Nicholson asked the Commission to explain to the people who had expressed their opposition to this project that the property had already been zoned by the City a long time ago to allow multi-family residential development, and all they were doing is trying to get approval for a master plan layout which meets zoning requirements that are already in place.

In response to a question by Commissioner Korbis whether the owner would be willing to reduce the number of units on the property, Mr. Nicholson explained that they have already reduced the number of units and the owner was not amenable to reducing it any further. Director Geiger clarified that multi-family is the land use that was approved for the subject property many years ago, and under the City's comprehensive plan designation, multi-family ranges anywhere from 8 units all the way up through 18 units, and single family can also be placed in multi-family designations. But, as far as the zoning of the property is concerned, it is actually zoned as a project, and any planned development project has to go through a special exception use approval process, which is what we are doing now, where it always comes back to the City to either this Board if it's a special exception, or to the City Council if it's an actual zoning, to make the

determination on what is appropriate for that area as far as what densities, setbacks, and/or with what kind of special conditions or performance standards might be placed with giving approval to a project in this area. In this case, a petitioner is asking for what they would like to do and the Board can either approve it conditionally or approve it with modifications.

Mr. Nicholson clarified that the current zoning standards would allow them to develop the property with a density of from 8 to 18 units per acre, and they were only asking to develop it with the lowest units per acre. In addition, they were developing the property with buffers that are very large, and he didn't see how it could be economically feasible to have less than 9 units per acre on this property. The development was intentionally being geared toward workforce housing (i.e., affordable), and if the number of units were decreased any further, it would no longer be economically feasible for teachers, firemen, policemen, etc., to have an affordable place to live. Lastly, he said the proposed development would be visually aesthetic and would be a great improvement to the neighborhood, and they obviously wanted to make it a showcase and make it look good because the client wanted to do another project next door later on.

Director Geiger clarified that the proposed development was actually only going to be 7.38 units per acre, which was even less than minimum of 8 that was allowed, if they were looking at the total acreage of what is in the City. Mr. Nicholson clarified that they were not proposing the commercial component to it at this point, and the only thing they were doing was presenting their request for the density consideration. Vice-Chair Wanat clarified that the DRA is included in the acreage.

Mr. Nicholson reiterated that they were looking at a traffic increase of only 16 peak hour trips, which is not a lot of traffic.

In response to a question by Commissioner Korbus regarding where the closest apartment complex is located that is comparable to the proposed development, other than the City housing one across the street, Director Geiger responded that there are 3-story condominium projects that are currently under construction right now, but there aren't any other existing comparable projects in Brooksville.

Mr. Nicholson explained that as land values increase, the building heights are going up to offset the expense. He said that the one positive thing is that there is more open space when a building is built taller instead of spread out on a property. He then addressed the concern regarding inadequate infrastructure, and he explained that they were aware they would have to improve the existing infrastructures to meet all the City's requirements.

Director Geiger stated that from a concurrency point of view, before the issuance of a construction permit or development order for this project, they would be required to comply with concurrency requirements, which addresses level of service issues in regards to the infrastructure concerns (i.e., roads, water, sewer, and several other categories).

Vice-Chair Wanat asked about the property owners' concern over the wall that they said had been removed from the plans for the site of the future development, and Mr. Nicholson replied that they had never removed the wall. He explained that the wall for the currently proposed development will stop right there at the property line, and on the future site plans that they have, they had agreed to construct the 8-foot wall in the future, but he had told them it would not be economically feasible to construct that wall now. Of course they want to protect the adjacent property owners, and if they bring in another phase on that future development site, the 8-foot wall that is on the current development site will be continued onto that adjacent piece of property. If they are worried about containing the children, they would agree to fence it, but to build a wall right now would be very expensive. If the Board wanted the developer to fence the

entire property, they would agree to put up a 6-foot chain link fence along the southern property boundary to connect the two block walls, even though his client owns both properties. But they would be agreeable to doing that if the Commission wanted to make that a stipulation, to protect the adjacent property owners from the children leaving the property.

Mr. Bailey again came forward and wanted clarification whether these were going to be apartments because he was under the impression they were going to be condominiums. Mr. Nicholson clarified that the units will be for sale and apologized for talking about rent earlier. The units will not be government-subsidized in any way. He explained that they are trying to keep the sale price of the units at less than \$200,000; however, that was directly contingent upon how many improvements they would be required to make to MLK Jr. Blvd. and the cost of improvements to any other infrastructure elements.

Barbara Burke came forward and indicated that she was confused because at the first public hearing they had been told they were going to have a wall. Then the concerned property owners met with Nicholson Engineering and the proposed project went from four stories down to two stories after that first meeting. The property owners then went back for a second meeting and were told the project was redesigned again to three stories. However, before all this, when they came to the first public hearing, it was going to be condominiums that Mr. Nicholson said would be \$200,000 per unit. At that time, somebody asked when the project would start, and Mr. Nicholson replied not until all the units were sold. But at their second meeting at his office, they asked him again when construction would start on the project, he said it would start as soon as possible. She asked how they could be selling the units already if they haven't even seen a final plan or picture of the proposed project yet; in addition, she said that Mr. Nicholson had informed them that the architect had died so they had to get new drawings. She didn't see how they could build something if they didn't even have a firm concept of what they planned to build.

Vice-Chairman Wanat replied that they were only talking about a conceptual plan at this point. The developer didn't have to submit actual drawings until later on down the road.

Ms. Burke asked how the developer could tell them something different every time they turned around, and Commissioner Korbus clarified that what the developer is proposing right now is that there will be 36 living units on the property, but there are no further specifics right now regarding how many will be 3-bedrooms or how many will be 2-bedrooms, etc. All the Commission needs to look at right now is the 36 units.

Ms. Burke asked what about the wall the developer had promised to build to protect them and said that he hadn't told them when they met that it would be built with each phase. She explained that where they plan to stop the wall now with the first phase is where the pool and clubhouse are. Vice-Chair Wanat reiterated that Mr. Nicholson had just agreed to put in a chain link fence connecting the two walls.

Regarding what the property owners directly adjacent to the new development will see from their backyards, Ms. Burke said that she is upset because all she will see is the tall buildings of the new development because her property is of a pretty high elevation. Right now from the deck in her backyard, she can see all the way across the wooded property to the sheds on the other side of Hale Avenue, a view which she feels is better than looking at buildings.

Commissioner Korbus asked Mr. Nicholson if when he had met with the concerned property owners group at his office whether he had shown them any kind of conceptual plan, and Mr. Nicholson replied that they don't have any at this point in time. He explained that right now the only drawings they have are from the architect who died, which are the ones with the parking underneath the buildings,

so plans are going to have to be completely redone. Mr. Nicholson went on to explain that it may sound like a conflict, but the developer will try to pre-sell the condos because it's the best plan financially, and construction will start as soon as possible, so it's not really a conflict.

**MOTION:**

Motion was made by Commissioner Korbis, seconded by Commissioner Wever, to DENY this variance request because they felt the proposed density was too high for the area. Motion carried 2-1, with Vice-Chairman Wanat in opposition.

Director Geiger explained that the applicant could appeal the Commission's decision to the City Council by filing a petition with the City Clerk's office within the next 10 days. It would then be put on the City Council's agenda for either their next regularly scheduled meeting of April 2, 2007, or one very soon thereafter, and the City Council will determine whether or not to entertain the petition for an appeal and will set a date for hearing the appeal if they decide to do so.

**\*\*VR2007-03 - AMIN NATHANI-PRESENTED BY NICHOLSON ENGINEERING ASSOCIATES, INC.**

Petition request to reduce the minimum setbacks and to maintain status for a non-conforming structure.

The City Attorney explained that this is a quasi-judicial proceeding and asked anyone who would like to be recognized as an intervening party to the proceeding or who would like to be sworn as an expert witness to come forward.

The Commission swore in and accepted by consensus Mr. Amin Nathani, the petitioner, and again accepted by consensus Mr. Nick Nicholson as an expert in civil engineering and land use planning and Director Geiger as an expert in land use planning, development, and zoning.

Director Geiger requested that the staff report be entered into the record in its entirety, as follows:

**SUMMARY OF REQUEST - GENERAL INFORMATION:**

This property is located at 717 S. Broad Street (U.S. Highway 41). The petitioner is requesting a variance from the City's minimum front-yard setbacks for new structures on the site. The petitioner also wishes to maintain an existing, non-conforming structure on the site. A variance petition for this property requesting relief from setback and parking standards was considered at the January 10, 2007, Planning and Zoning Commission meeting. The Commission denied that petition and encouraged the petitioner to rework the configuration of the site and reapply with a plan that more closely conforms to the City's adopted setback and parking requirements. At this time, the petitioner has submitted this new petition and site plan requesting relief from the City's minimum front-yard setbacks. Specifically, the petitioner is requesting the following:

1. The petitioner wants to build a new 2,200 square foot building and replace/relocate gasoline pumps, canopy and car wash. A variance is requested from the City's Land Use/Zoning Regulations, Schedule F "Dimensions and Area Regulations for Nonresidential Districts," regarding minimum front-yard building setbacks. The City Code requires a 75-foot front yard building setback from the US 41 rights-of-way. The petitioner is requesting a reduction to a 50-foot front yard structure setback for the new 2,200 square foot building, a 25-foot front yard setback to the gasoline dispensing island canopy and a 35-foot yard setback to the pumps. The petitioner is proposing an 18-foot wide cross property access aisle at the rear of the property. Although 24-feet of pavement width would be the normal minimum for a frontage road, the 18-foot width may be accepted in a redevelopment circumstance to facilitate cross-access through the property.

# MEMORANDUM

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**To:** Planning & Zoning Commission Members  
**From:** Patricia J. Jobe, Planning & Zoning Coordinator   
**Via:** Bill Geiger, Community Development Director   
**Subject:** SE2007-01 - Requesting Special Exception Use approval for a proposed Residential Planned Development Project on a 2.82 ± acre site.  
**Petitioner:** Jorge Lopez for Garden Homes, LLC (Represented by Nicholson Engineering Associates, Inc.)  
**Location:** South side of Dr. MLK, Jr., Boulevard and west of Hale Avenue  
**Date:** March 14, 2007

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The petitioner is requesting Special Exception Use approval for a Residential Planned Development Project on a 4.88 acre ± site. The property is located on the southwest corner of Dr. M. L. King, Jr., Boulevard and Hale Avenue. This petition was continued from the January 10, 2007 Planning and Zoning Commission meeting to the February 14, 2007, and subsequently was continued to the March 14, 2007 meeting. The continuations were requested to allow the petitioner time to meet with the neighboring property owners to work out their concerns regarding building height, density, and consideration of a privacy fence. The petitioner originally requested the special exception to enable him to build two 4-story, 18-unit residential buildings. The petitioner has reduced the 4-story buildings to 3-story buildings, containing 18-units each, and has revised the site plan to include an 8-foot masonry wall to be constructed around the development. In conjunction with the modifications, the the buildings and parking area were redesigned in the site layout.

## STAFF FINDINGS:

### CURRENT LAND USE/ZONING

The subject property (where the residential structures are being planned) is currently zoned as a Planned Development Project (PDP). The eastern portion of the same site is zoned C2. The property has a Comprehensive Plan Future Land Use (FLU) designation for Multifamily/Mobile Home and Commercial Uses respectively.

### FACTUAL INFORMATION

1. The western portion of the subject property is currently zoned as a PDP with FLU designations for multifamily/mobile homes and the eastern portion of the site is zoned C2 with a FLU designation for commercial uses.
2. The total subject property is approximately 4.88 ± acres in size.
3. The site is currently undeveloped.
4. The developer is proposing to construct two buildings with eighteen residential units each (36 units total) on the PDP (western) portion of the site (equivalent to 7.38 units per acre).
5. The proposed residential structures are ~~four~~ three stories in height with an internal parking area.
6. Access to the site is proposed via Dr. MLK, Jr. Boulevard. A secondary access is proposed for connection to Hale Avenue with the completion of future phases of this project.
7. Development of this property for the proposed use is consistent with the City Comprehensive

Plan.

8. The subject property is not located within any wellhead protection areas.
9. The developer will be required to negotiate a utility service agreement with the City of Brooksville to facilitate the provisions for and determine the availability of water and sewer services to the property.
10. In addition to water and sewer services, the property will be served by City police, fire and sanitation collection services.

### STAFF DISCUSSION & FINDINGS OF FACT

The petitioner is proposing a 36-unit residential project. The petition has been reviewed for compliance with applicable standards and comments are as follows:

1. Table 2 of the City's PDP Land Area and Dimension Regulations requires a 10-foot minimum landscape separation strip along all property lines and streets serving the project. The code also provides latitude for the Commission to consider a requirement for the project to be permanently screened from adjoining and contiguous property by a wall, fence, evergreen hedge and/or other approved enclosures, as deemed applicable and appropriate. The detailed development plan for this proposal will be required to reflect and adhere to the standards of the City's Landscaping, Buffer and Tree Protection code (Chapter 9.5, City Code). This portion of the City code encourages the preservation of existing trees on the site and it is recommended that the developer give due consideration to this in the design and final plan layout. Given the height of the proposed buildings and the proximity of this project to existing SFR development on Mildred Avenue, the Commission may consider requiring that a specified natural buffer of at least 50' be maintained along the western boundary of this property.
2. Per Table 2 of the City's Planned Development Project regulations, the following square footage amounts represent the "maximums/minimums" permitted for the acreage involved with this PDP:
  - a. Maximum gross floor area permissible = 63,771.84 square feet
  - b. Min. open space required (includes roads & parking) = 159,429.6 sq. ft. (3.66 acres)
  - c. Min. open space required, less roads & parking = 102,034.94 sq. ft. (2.34 acres)
  - d. Min. recreation space that must be provided = 9,565.78 sq. ft. (.22 acres)
  - e. Minimum number of parking spaces required = \*\* 72 parking spaces\*\* May vary depending upon the size of unit.

The petitioner will need to submit information related to total gross floor area, square footage of roads and parking, and square footage of the balance of open space and recreation space proposed for the site prior to construction plan submittal. This information will be used to determine if this project is in compliance with land use and intensity standards established by the City for Planned Development Projects.

3. Traffic - The developer proposes to utilize Dr. M. L. King, Jr., Boulevard as the primary access. A secondary access is proposed for connection to Hale Avenue upon completion of the final phasing of this project (to be brought back to the commission for consideration at

- a later date).
4. It is recommended that the developer incorporate and provide appropriate pedestrian amenities with this development including sidewalks. Facilities constructed are required to be ADA accessible.
  5. Drainage - This project will be required to be designed to meet all applicable standards specified by the technical requirements for open and closed basins in the *Environmental Resource Permitting Information Manual*, latest edition, as published by the Southwest Florida Water Management District.
  6. Infrastructure & Services - The developer will be required to negotiate a utility service agreement with the City of Brooksville for water and sewer services. Connection to City water and sewer service will be required. Service availability and requirements include the following:
    - Potable water service is available via a 12-inch force main on the west side of Hale Avenue.
    - There is currently an 8" sewer line located on the east side of Hale Avenue and on the North side of Dr. M. L. King, Jr., Boulevard.
    - Fire hydrants must be installed and spaced to meet all applicable fire code (NFPA) standards.
    - Water lines on-site will be private and must be sized to provide adequate fire flow as per AWWA Manual M31.
    - Sanitation dumpster solid waste collection services will be provided by the City.
    - Transportation - According to the ITE Trip Generation Manual (6<sup>th</sup> edition - Use Code #'s 223/222), this project will generate approximately 16 PM Peak Hour Trips (.44 x 36 units) and 151± total daily trips (weekday/4.2 multiplier).
  7. City Concurrency Standards - The City requires concurrency review and analysis at the time when a development order/permit application is submitted. Concurrency review and adherence is not required in consideration of a land use or zoning action, as is the case for this petition. It may be noted that in reviewing the potential impacts associated with this proposal, it does not appear that any adopted level-of-service standards would be breached if permits were applied for at this time. The developer will be required to provide a "Statement of Impact - Concurrency Application" with each phase of development for this project that will be reviewed to ensure that level-of-service standards are being maintained within their adopted levels.
  8. Pursuant to an interlocal agreement between the City, County and the Hernando County School Board, the developer is encouraged to coordinate with the Hernando County School District to determine if adequate school capacity exists for each school level based on the number of residential units to be constructed by the development. If adequate capacity does not exist, the developer may propose and the school district may accept a proportionate share mitigation settlement to address any identified deficiency. School concurrency issues related to a proposed development should be resolved prior to the submittal of construction plans. Based on the planned number of residential units, approximately 12 students would be generated.
  9. Parking - The Developer will be required to provide 1.5 parking spaces per dwelling unit for 1 or 2 bedrooms units, and 2 parking spaces per dwelling unit for units with 3 or more bedrooms.
  10. The following specific performance standards may be considered for this project:

- Four Three story/18-unit maximum per building
  - 40-foot minimum structure setback from M.L. King Boulevard
  - 140-foot minimum structure setback from western property line
  - 80 50-foot minimum natural buffer required along the western boundary of the property
  - 25-foot minimum structure setback from the southern boundary of the property
  - 190-foot structure (building) setback from Hale Avenue
  - 15-foot minimum building separation
  - 8-foot masonry wall
11. Unless specifically addressed to the contrary herein, City ordinance regulations which apply with regard to zoning district classification shall apply to residential areas within this PDP as if they are zoned R3.
  12. 36 Residential units are the maximum number requested for this project at this time.

When development plans are submitted for permitting on each phase of this project, they will be reviewed and analyzed for impact to roads, utilities, drainage, the environment and compliance with all other applicable land use criteria and will be subject to meeting all federal, state and local agency permitting requirements.

**NOTE: The Special Exception Use process is a land use determination which does not constitute a permit for either construction on or use of the property. These actions are not considered a Certificate of Concurrence. Prior to use of or construction on the property, the petitioner must receive approval from the appropriate City, County and/or other governmental agencies that may have regulatory authority over the proposed development.**

**The granting of this land use determination does not protect the owner from civil liability for recorded deed restrictions which may exceed any City land use ordinances. Homeowner associations or architectural review committees may require submission of plans for their review and approval. The applicant for this land use request should contact the local association (if there is one) and review the Public Records for all restrictions that may be applicable to this property.**

**This report does not include the perspective of adjacent landowners, who may be present at the public meeting to address and present questions and comment.**

## **STAFF RECOMMENDATION**

Conditionally approve the Special Exception Use for a Residential PDP, consistent with the "Hale Avenue Multifamily Site Plan" prepared by Nicholson Engineering Associates Inc., dated 02/03/06, subject to the following conditions and stipulations:

1. The phased and/or final development plan(s) for this proposal will be required to reflect and adhere to the standards of the City's Landscaping, Buffer and Tree Protection code (Chapter 9.5, City Code). Additionally, the developer is required to maintain a natural buffer of at least

- § 50' along the western boundary of this property.
2. The developer shall incorporate and provide appropriate pedestrian amenities with this development including sidewalks (along M.L. King Boulevard and Hale Avenue). Applicable facilities constructed are required to be ADA accessible.
  3. The developer will be required to construct an on-site storm water drainage control system that meets the design and performance standards as specified by the technical requirements for open and closed basins in the *Environmental Resource Permitting Information Manual, latest edition*, as published by the Southwest Florida Water Management District. The proposed stormwater plan associated with this project must comply with all applicable federal, state and local standards.
  4. Comprehensive site development plans shall be submitted. Said plans are subject to approval by the City Department's of Public Works and Community Development prior to the issuance of a building/construction permit.
  5. The developer will be required to successfully negotiate a utility service agreement with the City prior to permitting.
  6. This special exception use approval is conditioned with a three-year time period. If phasing and development plans are not submitted and construction contracts are not let within this time, this approval will be considered null and void.
  7. The developer will be required to provide a site lighting plan to ensure that the lights do not disturb the neighboring residents adjacent to this project.
  8. Pursuant to an interlocal agreement between the City, County and the Hernando County School Board, the developer is encouraged to coordinate with the Hernando County School District to determine if adequate school capacity exists for each school level based on the number of residential units to be constructed by the development. If adequate capacity does not exist, the developer may propose and the school district may accept a proportionate share mitigation settlement to address any identified deficiency. School concurrency issues related to a proposed development should be resolved prior to the submittal of any construction plans.
  9. The following specific performance standards are required for this project:
    - a. ~~Four~~ Three story/18-unit maximum per building
    - b. 40-foot minimum structure setback from M.L. King Boulevard
    - c. 140-foot minimum structure setback from western property line
    - d. ~~80~~ 50-foot minimum natural buffer required along the western boundary of the property
    - e. 25-foot minimum structure setback from the southern boundary of the property
    - f. 190-foot structure (building) setback from Hale Avenue
    - g. 15-foot minimum building separation
    - h. An 8-foot masonry wall will be constructed near the western and eastern residential portions of the property
  10. Unless specifically addressed to the contrary herein, City ordinance regulations which apply with regard to zoning district classification shall apply to the residential portions of this PDP as if it were zoned R3.
  11. 36 residential units are the maximum number approved for this phase.
  12. The residential community entrances may incorporate appropriate signage, consistent with

**Page 6**

**Garden Homes, LLC**

**SE - Residential PDP Petition**

**March 14, 2007**

community standards and subject to approval by the City Manager or the City Manager's designee.

- Enclosures:
- (1) Special Exception Use Petition
  - (2) Letter from Nicholson Engineering Assoc., Inc. (dated Feb. 2, 2007)
  - (3) Site Plan - Revised
  - (4) Vicinity Map

# PETITION FOR SPECIAL EXCEPTION USAGE

## TO THE CITY OF BROOKSVILLE, FLORIDA PLANNING & ZONING COMMISSION

The undersigned Petitioner/Property Owner hereby submits this Petition for a Special Exception Usage at the following described property, to wit: (insert typewritten legal description)

All of Lots 5 & 6, 11, and 12, together with the following contiguous roads, "C" Street, "D" Street, the E 1/2 of John's Avenue and the west half of Abbey Avenue, all in Parson's addition to Brooksville, as per plat thereof, as recorded in Plat Book 3, Page 17, Public Records of Hernando County, Florida.

Subject Property Street Address: SW Corner of Hale Avenue and  
Martin Luther King Jr. Blvd.

**PETITIONER IS SPECIFICALLY REQUESTING SPECIAL EXCEPTION USAGE FOR THE FOLLOWING:**

36 Multifamily units, and a 10,500 square foot building,\*  
Commercial. This is part of a combined project with the parcels to the south. We are in the process of annexing Lot 4, Lot 13, Lot 14, into the City.

\* Note: The commercial building will be constructed after the adjacent property is rezoned.

Property future land use is: PDP (MF) & C2  
Current land use is: Vacant  
Property is zoned: PDP (MF) & C2

Petitioner requests that said Special Exception Usage be permitted so that the Owner may utilize the above said property to its highest and best use.

It is in the opinion of the Petitioner that the granting of a Special Exception Use of said property will not be materially detrimental to the Public Welfare, nor to the persons or properties located in the immediate area.

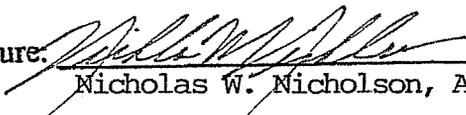
Wherefore, the Petitioner requests that the City of Brooksville, Florida, Planning and Zoning Commission convene to hear and take jurisdiction over the subject matter of this petition.

Petitioner's Name: Jorge Lopez for Garden Homes, LLC

Street Address: 3400 Coral Way Suite 600

City/State/Zip: Miami, FL 33145

Daytime Phone: 305-608-9180

Signature:   
Nicholas W. Nicholson, Agent

C:\bolt\boards\pet\_form\se\_petit  
Rev 09/14/97, 12/09/97

# APPOINTMENT OF AGENT

CITY OF BROOKSVILLE  
COUNTY OF HERNANDO  
STATE OF FLORIDA

I, Jorge Lopez, the owner(s) in fee simple of the below described real property hereby appoint Nicholson Engineering as my (our) agent to file required petitions, sign required documents, make representations as to issues of fact and to appear, as may be necessary, before the appropriate City of Brooksville authority. My agent shall also have the authority to commit myself as owner to the necessary future performance conditions as may be directed by the appropriate City authority as a condition of granting my petition.

All of Lots 5 & 6, <sup>(Insert Legal Description Below)</sup> 11, and 12, together with the following contiguous roads, "C Street, "D" Street, the E 1/2 of John's Avenue and the west half of Abbey Avenue, all in Parson's addition to Brooksville, as per plat thereof, as recorded in Plat Book 3, Page 17, Pub. Records of Hernando County, FL.

Dated: 9-25-06

Signed in the presence of:

WITNESSES:

Signature [Signature]  
Print Name Jolga Betancourt

Signature [Signature]  
Print Name Jolga Betancourt

Signature [Signature]  
Print Name Claudia De la Cruz

Signature [Signature]  
Print Name Valanessa De la Cruz

LANDOWNER(S):

Signature [Signature]  
Print Name Jorge Lopez

**OWNER OR AGENT AFFIDAVIT**

CITY OF BROOKSVILLE  
COUNTY OF HERNANDO  
STATE OF FLORIDA

I, Jorge Lopez, being duly sworn, hereby depose and say  
Jorge Lopez for Garden Homes the owner of the herein described property to-wit:

(Insert Legal Description Below)

All of Lots 5 & 6, 11, and 12, together with the following  
contiguous roads, "C Street, "D" Street, the E 1/2 of John's  
Avenue and the west half of Abbey Avenue, all in Parson's  
addition to Brooksville, as per plat thereof, as recorded in Plat  
Book 3, Page 17, Public Records of Hernando County, FL

**ACKNOWLEDGMENT**

All information submitted within this Petition is in all respects true and correct to the best of my knowledge and belief.

Witness Signature: *[Handwritten Signature]*

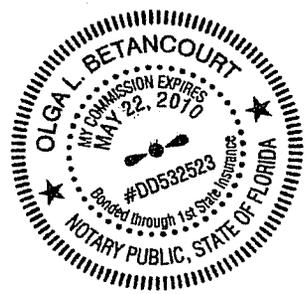
Owner/Agent Signature: *[Handwritten Signature]*  
Jorge Lopez

STATE OF FLORIDA  
COUNTY OF DADE

THE FOREGOING INSTRUMENT WAS ACKNOWLEDGED BEFORE ME THIS 9  
DAY OF 25 APRIL BY THE ABOVE PERSON(S) Jorge Lopez  
WHO IS PERSONALLY KNOWN TO ME OR WHO HAS PRODUCED  
FIA D/L AS IDENTIFICATION AND WHO (DID) (DID NOT) TAKE AN  
OATH.

*[Handwritten Signature]*  
SIGNATURE OF NOTARY

*[Handwritten Name]*  
PRINTED NAME OF NOTARY



Prepared by and return to:  
Stephen Daniel Hayman, Esq.  
Attorney at Law  
Rhoton & Hayman, P.A.  
412 E. Madison Street, Suite 1111  
Tampa, FL 33602  
813-226-3138  
File Number: 05-60  
Will Call No.:

Doc# 2005073706  
Hernando County, Florida  
08/24/2005 9:31AM  
KAREN NICOLAI, Clerk

RECORDING FEES \$ 27.00  
DEED DOC STAMP \$ 2,609.00  
08/24/2005 Deputy Clk

R

[Space Above This Line For Recording Data]

### Warranty Deed

This Warranty Deed made this 15<sup>th</sup> day of August, 2005 between LLE Southwest Properties, LLC, a Florida Limited Liability Company whose post office address is 10613 Hatteras Drive, Tampa, FL 33615, grantor, and Garden Homes LLC, a Florida Limited Liability Company whose post office address is 3400 Coral Way 600, Miami, FL 33145, grantee:

(Whenever used herein the terms "grantor" and "grantee" include all the parties to this instrument and the heirs, legal representatives, and assigns of individuals, and the successors and assigns of corporations, trusts and trustees)

Witnesseth, that said grantor, for and in consideration of the sum of TEN AND NO/100 DOLLARS (\$10.00) and other good and valuable considerations to said grantor in hand paid by said grantee, the receipt whereof is hereby acknowledged, has granted, bargained, and sold to the said grantee, and grantee's heirs and assigns forever, the following described land, situate, lying and being in Hernando County, Florida to-wit:

**Parcel 1:**

Lots 13 and 14, together with vacated contiguous streets described as South 1/2 of "C" Street, all of "B" Street, N 1/2 of "A" Street, E 1/2 of John's Avenue, West 1/2 of Abbey Avenue, all in Parsons Addition to the City of Brooksville, as per plat thereof, as recorded in Plat Book 3, Page 17, Public Records of Hernando County, Florida.

**Parcel 2:**

Lot 4, less the South 42 feet thereof, all of Lots 5 and 6, 11 and 12, together with the following contiguous roads, "C" Street, "D" Street, the E 1/2 of John's Avenue and the W 1/2 of Abbey Avenue and the East 1/2 of Abbey Avenue, all in Parsons Addition to the Town of Brooksville, as per plat thereof, as recorded in Plat Book 3, Page 17, Public Records of Hernando County, Florida.

Parcel Identification Numbers: R27/222/19/3010/0000/0130 and R27/222/19/3010/0000/0050 and R27/222/19/3010/0000/0110 and R27/222/19/3010/0000/0040.

Subject to taxes for 2005 and subsequent years; covenants, conditions, restrictions, easements, reservations and limitations of record, if any.

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.

And the grantor hereby covenants with said grantee that the grantor is lawfully seized of said land in fee simple; that the grantor has good right and lawful authority to sell and convey said

Initials SM L O DJ

land; that the grantor hereby fully warrants the title to said land and will defend the same against the lawful claims of all persons whomsoever; and that said land is free of all encumbrances, except taxes accruing subsequent to December 31, 2004.

In Witness Whereof, grantor has hereunto set grantor's hand and seal the day and year first above written.

Signed, sealed and delivered in our presence:

LLE Southwest Properties, LLC, a Florida Limited Liability Company

By: [Signature]  
Emmanuel I. Mekowulu, Managing Member

[Signature]  
Witness Name: Stephen Hayman

[Signature]  
Witness Name: Anne Marie Hayman

By: [Signature] M.D.  
Leo C. Egbujiobi, Managing Member

[Signature]  
Witness Name: Ann Spanton

[Signature]  
Witness Name: Roxanne Murwin

By: [Signature]  
Louis Okonkwo, Managing Member

[Signature]  
Witness Name: Stephen Hayman

[Signature]  
Witness Name: Anne Marie Hayman

State of Florida  
County of Hillsborough

The foregoing instrument was acknowledged before me this 15<sup>th</sup> day of August, 2005 by Emmanuel I. Mekowulu, Managing Member of LLE Southwest Properties, LLC, a Florida Limited Liability Company, on behalf of said firm. He/she  is personally known or  has produced a driver's license as identification.

[Notary Seal]



[Signature]  
Notary Public  
Printed Name: Stephen Hayman  
My Commission Expires: 3-17-06

Initials \_\_\_\_\_

State of Wisconsin  
County of Rock

The foregoing instrument was acknowledged before me this 12<sup>th</sup> day of August, 2005 by Leo C. Egbujiobi, Managing Member of LLE Southwest Properties, LLC, a Florida Limited Liability Company, who  is personally known or  has produced a driver's license as identification.

Shannon Pearson  
Notary Public

Printed Name: Shannon Pearson

My Commission Expires: 6-29-08

[Notary Seal]  
NOTARY PUBLIC  
STATE OF FLORIDA  
County of Hillsborough

The foregoing instrument was acknowledged before me this 15<sup>th</sup> day of August, 2005 by Louis Okonkwo, Managing Member of LLE Southwest Properties, LLC, a Florida Limited Liability Company, who  is personally known or  has produced a driver's license as identification.

Stephen D. Hayman  
Notary Public

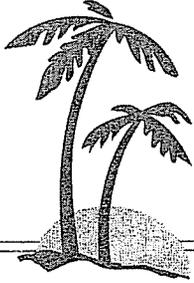
Printed Name: Stephen Hayman

My Commission Expires: 3-17-06

 Stephen D. Hayman  
MY COMMISSION # DD03359 EXPIRES  
March 17, 2006  
BONDED THRU TROY FARM INSURANCE, INC.

[Notary Seal]

Initials Em L L



# NICHOLSON ENGINEERING ASSOCIATES, INC.

P.O. Box 12230 ~ Brooksville, FL 34603 • 7468 Horse Lake Rd.

Phone: 352-799-0170 • Fax: 352-754-9167

www.nicholson-engineering.com

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February 2, 2007

City of Brooksville  
201 Howell Avenue  
Brooksville, FL 34601

Re: Revised Cover Letter for Special Exception  
For Lopez Property on Hale Avenue

To Whom It May Concern:

We are requesting a special exception for the portion of the Lopez property that is located in the City of Brooksville. The special exception would allow the owner to develop the property based on the current zoning. This project has been postponed from the January Planning & Zoning to the March Planning & Zoning meeting.

Proposed on the subject property are two multifamily buildings. The multifamily buildings would have 18 units each for a total of 36 residential units.

Proposed setbacks are 50' west, 40' north, 15' east and 0' south. A 50' buffer will remain to the west in a natural condition. Also, an 8' block wall will be constructed on the west and east property lines. Traffic generation will be approximately 36 peak hour trips.

The special exception would allow the developer to "get started" with building the portion of the project that is already zoned property.

Thank you for your consideration.

Sincerely,

Nicholas W. Nicholson, P.E. 37862  
President, Cert. of Authorization No. 7455

Received: 2-5-07

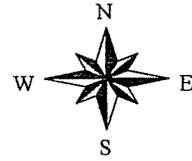
NWN:sad

Enclosures-Revised Site Plan/11 x 17 Plan





SE2007-01  
Garden Homes, LLC  
Dr. MLK, Jr., Boulevard  
March 14, 2007



**Legend**

-  Garden homes special exception.shp
-  City Boundary (12/05/2005)

Prepared by  
City of Brooksville  
Community Development Department  
March 14, 2007

**NOTICE OF APPEAL**

In accordance with Section 137-43(d) of the City of Brooksville Code, I do hereby file with the City Clerk this Notice of Appeal regarding the decision made by the City of Brooksville Planning & Zoning Commission on March 14, 2007, concerning the matter of Petition #VR2007-02.

**Appellant's Name:** Frankie Burnett

**Board/Individual whose Decision is being Appealed:** Planning & Zoning Commission

**Petition Reference Number:** VR2007-02

**Petitioner:** Clara A. Suske

**Subject of Petition:** Requesting a variance to reduce the minimum lot size, minimum front yard setback and the minimum rear yard setback requirements.

**Location of Petition Request:** 602 Ellington Street, Brooksville, FL 34601

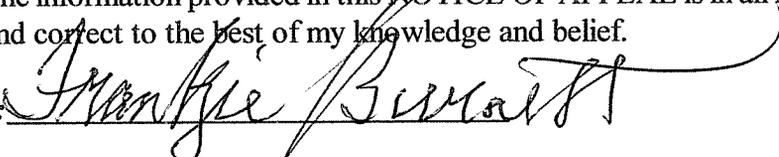
**Action Being Appealed:** At their meeting on March 14, 2007, the Planning and Zoning Commission made the determination that Petition number VR2007-02 satisfactorily met the criteria stipulated in the City of Brooksville Code Section 101-36, consistent with findings stated within the staff report for said petition, and subsequently approved variances for the referenced property as follows:

1. Minimum Lot size reduced from 12,000 to 11,000 square feet
2. Minimum Lot width from 75' to 50'
3. Minimum Front Yard setback from Ellington Avenue from 25' to 12'
4. Minimum Rear Yard setback (West property line) from 20' to 12'

In conjunction with approving the variances listed, the Commission also stipulated a performance condition for the petitioner to construct and maintain a six-foot opaque privacy fence along the western property line to within 10 feet of the north and south property lines.

**Specific Reasons for Appeal:** The Appellant resides adjacent to the subject site, and was determined by the Planning & Zoning Commission to have standing to Intervene as a Party in this case. The variance petitioner, Clara Suske, is proposing the construction of a duplex on the subject property. Most of the existing properties in this area are single-family residences. It is understood that even a proposal to place a single family structure on this property would require variance consideration since the property is only 50' deep and has frontage setbacks to three public rights-of-way. It is the Appellant's feeling that a single-family structure with a 15' setback from the western property line would be more appropriate for the neighborhood (than the duplex proposed), and would more closely meet the criteria for granting the "Minimum" variance necessary for the property owner to have reasonable use of their land.

**Appellant Affidavit:** The information provided in this NOTICE OF APPEAL is in all respects true and correct to the best of my knowledge and belief.

**Signature of Appellant:** 

*(For office use only below this line)*

**Date Notice of Appeal filed with City Clerk:** March 15, 2007

**Date scheduled for City Council Consideration:** APRIL 2, 2007

**Date for Special Meeting for Appeal (if approved by City Council):** \_\_\_\_\_

*4/2/07 agenda*



require submission of plans for their review and approval. The applicant for this land use request should contact the local association (if there is one) and review the Public Records for all restrictions that may be applicable to this property.

This report does not include the perspective of adjacent landowners, who may be present at the public meeting to address and present questions and comment.

**\*\*VR2007-02 - CLARA A. SUSKE, REPRESENTED BY ANA TRINQUE**

Petition request to reduce the minimum lot size, minimum lot width and setbacks.

The City Attorney explained that this is a quasi-judicial proceeding and asked anyone who would like to be recognized as an intervening party to the proceeding or who would like to be sworn as an expert witness to come forward.

Commission swore in and accepted by consensus Mr. Frankie Burnett as an intervening party because he lives right next door to the subject property, and Ana Trinique, representing the petitioner, Clara A. Suske.

Commission accepted Bill Geiger by consensus as an expert witness in land use planning, development, and zoning, and his qualifications are on file in the Community Development Department.

Director Geiger requested that the staff report be entered into the record in its entirety, as follows:

**SUMMARY REQUEST - GENERAL INFORMATION:**

The petitioner is specifically requesting a reduction in the City's minimum lot width at building line from the required 75 feet to 50 feet, the minimum front yard setback from the required 25 feet to 12 feet, the minimum rear yard setback from the required 20 feet to 12 feet and the minimum lot size from 12,000 square feet to 11,000 square feet. The petitioner has indicated a hardship in meeting the City of Brooksville Code requirements based on these lots being only 50' x 220' combined (each lot 50' x 110') and abutting three streets.

**LAND USE/ZONING:**

The subject property and surrounding properties are zoned R-3 (multi-family residential), and have a Multi-family Residential Future Land Use Map designation in the City of Brooksville Comprehensive Plan.

**STAFF FINDINGS:**

The subject parcel can not meet all the R-3 (Multi-Family Residential District) performance standards for either multi-family or single family residential development unless variances to code standards are considered.

In accordance with City Code Section 101-36 (Ordinance No. 629), the following is a synopsis of the findings that the City's Planning & Zoning Commission must make (accompanied by staff findings/comments related to this specific petition request) in order to approve the variance requests:

1. **Special conditions.** That special conditions and circumstances exist which are peculiar to the land, structure or building involved and which are not applicable to other lands, structures or buildings in the same zoning district and that the special conditions and circumstances do not result from the actions of the applicant. *Staff Review Comments (SRC) - The majority of the lots in this subdivision are 50 feet in width. Historically, lots in this area were either developed prior to the establishment of zoning standards in the City, or were combined to be large enough to meet the standards once they were in place. The Petitioner did not create the conditions related to the size of this parcel.*



2. **No special privilege.** That the granting of the variance(s) requested will not confer on the applicant any special privilege that is denied by the Code of the City of Brooksville, Florida, to other lands, buildings or structures in the same zoning district. *SRC - In granting the variances requested, no special privilege will be conferred to the applicant. All other code standards will be adhered to that would be expected of other lands, buildings or structures in the same zoning district.*
3. **Hardship.** That literal interpretation of the provisions of the Code of the City of Brooksville, Florida, would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district under the terms of the Code and would work an unnecessary and undue hardship on the applicant. *SRC - The petitioner has indicated that the width of the parcel creates a hardship in that it would be impossible to comply with the dimensions and area regulation for residential, either multi-family or single family districts in regards to the minimum lot size, the minimum lot width at the building line and the required minimum setbacks. This lot, by itself, may not be used to construct a multi-family or single-family residence, unless the Commission grants a variance from the required minimum lot size, the minimum lot width at the building line standard and the minimum setback requirements. The petitioner does not own the lots on either side of these vacant lots.*
4. **Minimum variance.** That the variance granted is the minimum variance that will make possible the reasonable use of the land, building or structure. *SRC - This appears to be the minimum variance necessary to enable the Petitioner to construct a duplex or single-family residence on these parcels.*
5. **Purpose and intent; public interest.** That the granting of the variance will be in harmony with the general intent and purpose of the Code of the City of Brooksville, Florida, and that such variance will not be injurious to the area involved or otherwise detrimental to the public welfare. *SRC - It is staff's opinion that in granting these variances, development of these parcels would be in harmony with the general intent and purpose of the Code of the City of Brooksville, Florida, and that such variance will not be injurious to the area involved or otherwise detrimental to the public welfare.*

Section 101-36 of the City's Land Development Code (Reference Ord. No. 629) provides specific authority to the Planning and Zoning Commission to consider granting a dimensional variance in this circumstance to allow the owner the reasonable use of the premises.

This report does not include the perspective of adjacent landowners, who may be present at the public meeting to address and present questions and comment.

**STAFF RECOMMENDATION:**

Staff recommends that the Planning & Zoning Commission find that the variances requested satisfactorily meet the criteria stipulated in City of Brooksville Code Section 101-36, consistent with City Staff findings/comments as stated within this report, and subsequently approve the variances as follows:

1. Minimum Lot size reduced from 12,000 to 11,000 square feet
2. Minimum Lot width from 75' to 50'
3. Minimum Front Yard setback from Ellington Avenue from 25' to 12'
4. Minimum Rear Yard setback (West property line) from 20' to 12'

If deemed appropriate, the Commission may condition approvals for variance requests. Such conditions may include adding stipulations for additional buffering and/or modifying the scope of the variances requested.

**NOTE: Any appeal of the Commission's decision must be filed with the City Clerk within ten calendar days of the date of the Commission's decision. If the**



*petition is approved by the Commission and no appeals are filed within the specified time frame, this variance, including any attached conditions or restrictions, shall be recorded at the expense of the applicant in the Hernando County office of the Clerk of the Circuit Court.*

Ana Trinqué, real estate agent representing Clara A. Suske, came forward and stated that they agreed with the staff report and recommendations. She just wanted to comment that she has had this property for sale for over two years, and during that time only three parties have indicated interest. The first two wanted to build a triplex, but both times staff advised that would probably not be approved. They attempted to try and start this process last summer with the second party, but after staff strongly indicated that a triplex probably wouldn't work, that fell apart. They are here again with this third party, and this party is wanting to build a duplex, has paid for all of the filing fees, and has complied with everything that is required. However, the main problem as Director Geiger had mentioned is that because the property is only a 50-foot wide lot, even a single family home would need a variance. The lot is plenty long at 220 feet, but the width can't accommodate anything based on City zoning codes. She explained that Mrs. Suske is now 92 years old, and she just went into an assisted living facility the day before. She has been wanting to get rid of this property for a long time but has been unable to. Ms. Trinqué said she has been doing everything she can as a real estate agent to try and comply with all the requirements and to accommodate Mrs. Suske and help her out, and the current buyer seems very willing to work with the City and do what is necessary to get this thing done.

Frankie Burnett, 310 Duke Street, came forward and stated that he was here tonight with several other people in the audience, and they were asking that the Board deny the staff's recommendation for approval of the variance request. He explained the reason is that where the petitioner wants to place the house is only 12 feet off of the property line up to 310 Duke Street. They feel that is too close, and when he uses the terminology "we" he wants the Board to understand that all of the property owners who live in that area have been polled, along with the church organizations, and 100% of them agree that the Board should deny the requested variance. Also, coming down there on Ellerton Street, where they are already having traffic problems, they didn't think a setback of only 12 feet off of that road is justified. Also, with the conformity of the homes that are already there, to allow the proposed house to be built with the requested variances, it would not be uniform with the surrounding houses.

In response to a question by Commissioner Korbis regarding how wide his lot on Duke Avenue is that is right next door to the subject property on the west side, Mr. Burnett replied that it is twice as big as that lot, and all the rest of the lots there are, too. They own two lots on that side and one across the road. In response to another question by Commissioner Korbis regarding how far it is from the side of the east side of his house, Mr. Burnett said it bumps up there and that is why they want that 12-foot variance, and they are all saying no to that. The building on his lot is approximately 20 feet from his property line. Commissioner Korbis clarified that if the proposed structure was allowed to be built where requested, there would be 20 feet from his house to his property line plus the 12 feet from the property line to the new structure, for a total of 32 feet between the two buildings. Mr. Burnett did not agree with looking at it that way, and he went on to explain that from where his property line is, the petitioner is asking for a 12-foot variance from his property line. Commissioner Korbis said there are several homes right in that area now that are 15 feet off the property line.

Commissioner Korbis asked if there are any houses in that area which are any closer than 20 feet apart, and Mr. Burnett confirmed that most of the houses are a little bit further apart.

In response to a question by Commissioner Weaver, Mr. Burnett replied that his



house sits back about 14-16 feet from Duke Street.

In response to a question by Vice-Chairman Wanat, Mr. Burnett said that there is an existing house next to this property on Armstrong Street on a single lot that lines up with all the rest of the houses.

Ms. Trinqué came forward again and directed the Board's attention to the copy of the property plat that was included in their packets. She stated that she was told that there had been a structure on that property at one time, years and years ago. She said she understands what Mr. Burnett is saying, but she feels a hardship exists because nothing can be built on the property that will meet the City's codes, and she thinks it's unfair to the party who is now attempting to develop the property. She reiterated that the three parties who have been interested in the property all had this same type of purpose in mind, and she felt it wasn't fair to expect the property owner to just let the property stay undeveloped because of such strict codes.

Commissioner Korbis asked if we went by normal setbacks on this property, how wide of a building could be placed there. Director Geiger replied that the property has three street frontages, so front yard setbacks have to be met for all three streets, i.e., you've got 25 feet from each of the street right-of-ways, so 25 feet with a 50-foot deep lot pushes you back to next to nothing. You've got half the lot left, but then the remaining lot line where you have a property that abuts streets on three sides is your rear lot line, and the rear setback is 20 feet, so that leaves five feet of building area, which would be virtually impossible to build. Commissioner Korbis said that no matter what you do in this instance, they were going to have to do some kind of variance, no matter what it is.

Director Geiger stated that what the Board needs to consider is that normally you look at what the property owner can do with the property with the least variance request, and the logical step would be maybe one single family residence configured on the property in some way to effect that. However, as Ms. Trinqué had stated, she was addressing it from a marketing perspective and whether anyone will realistically come forward and propose a single family residence on the property. It's not just the marketing real estate aspect of it, but there are many other considerations that go with the value of the property. What she is talking about is that it is difficult to do that, but she has someone who is proposing a duplex, which is why this proposal is before the Board for their consideration as to whether or not that use would be appropriate at this point. The Board has received input from the public, and it comes back to the Board to make the hard decision on whether or not it is appropriate.

Commissioner Korbis explained that he was beginning to realize that even if they made the building a different size, it wouldn't help because it actually wasn't going to help no matter what was done with the building.

Director Geiger said that they might be able to come up with something that might be a little bit better, compromising the setbacks on both sides, but it would be very difficult with only 50 feet to work with.

Commissioner Korbis asked Mr. Burnett if, on his side and probably the person behind him, if they gave the owner the variance and they put a fence up in between there in addition to putting up this building, would he be amenable to that. Mr. Burnett said no, that would not be satisfactory to him or any of the people he was speaking for. He reiterated that 100% of the property owners in the area, as well as the church organizations, do not agree with the variance request. He said the rules have been made, and as far as he was concerned, when people buy property they ought to be aware of what they can build on it or what they cannot. That came up in the discussions about the variance to be placed there, and all 100% said no.



Vice-Chairman Wanat asked Mr. Burnett what he suggested should be built on that property, because it wasn't reasonable to expect it to stay vacant. Mr. Burnett said he couldn't answer that because he isn't the owner of that property.

Commissioner Korbus explained that the Board cannot deny a property owner the use of this property; they've got to be able to use property otherwise the property is worthless. The Board had to come to some kind of solution. He asked Mr. Burnett what he thought was a reasonable amount between the proposed building and his property line. Mr. Burnett said that they were requesting the regular setback variance already set in the policy. Commissioner Korbus said that because it's on a corner, that just isn't possible because they would be looking at a 5-foot wide building, which is not buildable, and then the property is rendered not worth anything, and somebody has been paying taxes on the property for years for no good reason. Mr. Burnett said that the property owner has been paying taxes on the property for years, but it has been vacant for many years and the people in the area have actually been keeping it up.

Commissioner Wever said that the possibility is that the front door of the one facing Duke Street would be looking at Mr. Burnett's back door, and Mr. Burnett agreed.

The Commissioners and staff spent a few minutes discussing among themselves the plot plan and trying to come up with an alternative solution.

Director Geiger said that there is the small chance that a lesser request could come before the Board, but whether a lesser request would ever be presented because of the economics involved, he couldn't say.

Commissioner Korbus said that there are a number of 50- and 55-foot lots around Brooksville, whereas there weren't many in the past. But in recent years because of the price of land and things like that, a lot of lots have come up that are 50 and 55 feet, and they're putting houses on them but they have smaller side setbacks. And a lot of them have even come before the Board and asked for 7-1/2 foot setbacks, so he did not feel 12 feet was unreasonable when compared with others. He tried to put the issue in perspective for Mr. Burnett by explaining that because he and his neighbors have lived there for many years, they are comfortable with 20 feet, and 20 feet on the other side of the property line which gives them a 40 foot buffer, but nowadays with the price of land people are trying to get things a little bit closer. He was sympathetic to them not wanting to look out their windows and see whoever was living in the new structure up close and personal, but it's a very hard thing to work out because the Board can't really tell a property owner that they can't use their property, and then the owner will go to the Property Appraiser's Office and say they've been paying taxes on it all these years but now couldn't do anything with it, and want all their money back.

Mr. Burnett indicated he understood what Commissioner Korbus was saying, and said that with all due respect, a full 100% of his neighbors and the church organizations all agreed they didn't want the variances granted.

Commissioner Korbus asked about fencing in the area, and Mr. Burnett said that the only fence currently there is the 4-foot chain-link fence that he and the neighbor on the south side have on their property lines. Director Geiger commented that the Board could recommend a performance condition that required higher fencing, up to the 6-foot maximum allowed in the code. Mr. Burnett stated they didn't want any barriers of any type.

Director Geiger added that he knows the Board has considered variances for other properties that were 50 feet wide before, but they didn't have the three street frontages and that is what makes this property particularly difficult to develop. The three street frontages really squeeze the buildable area of this property down.



The City Attorney said that the funny thing about this property is that it is actually two separate lots. If each lot were developed individually for a single family home, the lot line that's the longest one (alongside Mr. Burnett's property) would be a sideyard with a 10-foot setback. Director Geiger clarified that it would actually be a 12-foot setback in the R-3 zoning district that it's located in. The City Attorney pointed out that would be exactly what the variance request is for now. Director Geiger said that if they split the lot and it was two single family residential properties, it would still have the 25-foot front setbacks from both of the street frontages, but it would be only two street frontages now, and the rear setback would be the 20 feet, which would actually leave more buildable area to consider building a home as an alternative. There could be two single family residences, but they would be very small.

The City Attorney emphasized that the point he was trying to make was that the setback on that side lot line would be 12 feet without any variance.

Director Geiger added that if the Board was looking at possibly approving this variance request, they could consider adding additional performance standards to address issues related to the issue regarding setbacks from neighboring properties, i.e., maybe increasing buffers, types of buffers, fences, etc. Commissioner Korbis said that a buffer would make the problem worse because if you get into buffers, they are already down to 12 feet now, and if they required a buffer on top of that, then they would be cutting into the size of the building again. Director Geiger said that the type of buffer he was referring to would be like an enhanced vegetative buffer; there are more types of buffers than just fences. Commissioner Korbis commented that maybe a six-foot opaque fence could possibly be a compromise solution so that at least Mr. Burnett wouldn't be looking out the back door of his house into the new neighbor's front door, or whatever it may be.

Director Geiger clarified that as far as a performance condition in a variance consideration, the Board could specify that a privacy fence be placed up to, for example, within 10 feet of the end of the property line and then be dropped to four feet from that point to the front for sight visibility issues.

Commissioner Weaver was concerned about visibility out of the driveway, and he suggested that the 6-foot high privacy fence start 10 feet from Duke Street and end 10 feet from Armstrong Street.

**Motion:**

Commissioner Korbis made a motion, seconded by Commissioner Weaver, to approve the variance request, with all the conditions as set forth in the staff report, with the additional requirement that the developer must install a 6-foot opaque masonry wall or wooden privacy fence along the western property line, spanning the length of the building from within 10' of Duke Street to within 10' of Armstrong Street. Motion carried 3-0.

Director Geiger explained that if Mr. Burnett and/or his neighbors wanted to appeal the Commission's decision to the City Council, they could do so by filing a petition with the City Clerk's office within the next 10 days. It would then be put on the City Council's agenda for either their next regularly scheduled meeting of April 2, 2007, or one very soon thereafter, and the City Council will determine whether or not to entertain the petition for an appeal and will set a date for hearing the appeal if they decide to do so.

**\*\*RZ2007-02 and SE2007-02 - CROSLAND, INC - PRESENTED BY COASTAL ENGINEERING**

Request for Rezoning from City and County Agricultural Zoning District to Planned Development Project (PDP) with a Special Exception for a Residential Planned Development Project and Master Plan Approval.

Director Geiger informed the Commission that an e-mail had been received from the



# City of Brooksville



(352) 544-5400 (Phone)

(352) 544-5424 (Fax)

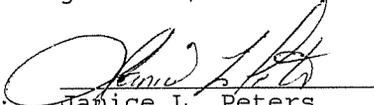
(352) 544-5420 (TDD)

## NOTICE OF PUBLIC HEARING

NOTICE is hereby given that the City Council of the City of Brooksville, Florida, will hold a public hearing on April 16, 2007 at 6:00 p.m., in the City Council Chambers, 201 Howell Ave. (located at the corner of Howell Ave. and Ft. Dade Ave.) for the appeal of Planning and Zoning Commission Decisions (Variance for property located at 602 Ellington Street). The transcript and documents in its entirety may be inspected at the office of the City Clerk during regular working hours.

All persons wishing to be heard, please take notice and govern yourselves accordingly. You are further advised that if a person decides to appeal any decision with respect to any matter considered at these proceedings, he will need a record of the proceedings, and that, for such purpose, he may need to ensure that a verbatim record of the proceedings is made which record includes the testimony and evidence upon which the appeal is to be based.

Persons with disabilities needing assistance to participate in any of these proceedings should contact the City Clerk's office 48 hours in advance of the meeting at 352/544-5407.

By:   
Janice L. Peters  
Deputy City Clerk

PUBLISH: Friday, April 13, 2007

FILE: 2007-12

NOTICE TO PAPER: Please run smallest legal ad possible in Hernando Section only and provide two (2) affidavits of publication upon completion.

Please bill the petitioner: Mr. Frankie Burnett  
201 Howell Avenue  
Brooksville, FL 34601

G:\WP\_WORK\ClerkOffice\nOTICES\APPEAL NOTICE OF HEARING - Suske Property.wpd



✓ Nathaniel & Vera Chester  
P. O. Box 10152  
Brooksville, FL 34605

Donald & Julie Ravenell  
5039 Ayrshire Dr  
Spring Hill, FL 34609

Debra A. Everett  
100 Mockingbird Dr  
Phenix City, AL 36869-3456

Beatrice Bell  
855 Josephine St  
Brooksville, FL 34601

Annie M. Elliott  
306 Duke St  
Brooksville, FL 34601

Margaret L. Clarke  
620 Dire Dawa Ave  
Brooksville, FL 34601

Mildred Drake  
5411 Hendricks Ave  
Brooksville, FL 34601

Ernest Lee & Pearlina Drake  
307 Armstrong St  
Brooksville, FL 34601

Pauline Wells  
309 Armstrong St  
Brooksville, FL 34601

Willie J. Brooks Ttees  
P. O. Box 1292  
Brooksville, FL 34605

James P. Anderson  
P. O. Box 545  
Wildwood, FL 34785-0545

Naomi Davison  
705 S. Brooksville Ave  
Brooksville, FL 34601

Estate of Elizabeth Williams  
62 McLedon Rd  
Fort Mitchell, AL 36856-5400

Barbara J. Mason  
322 Duke St  
Brooksville, FL 34601

Elizabeth Boyle  
40 Mount Rainer Dr  
Toms River, NJ 08753-1424

Doris Henry  
311 Armstrong St  
Brooksville, FL 34601

The New Jerusalem Church  
748 Carter St  
Orlando, FL 32805-3209

Estate of Woody Everleen  
309 Armstrong St  
Brooksville, FL 34601

Bethlehem Progressive Baptist  
P. O. Box 1292  
Brooksville, FL 34605

Estate of David Johnson  
304 Duke St  
Brooksville, FL 34601

Emma White Rembert  
P. O. Box 3382  
Fort Pierce, FL 34948-3382



Chester B. James  
403 Armstrong St  
Brooksville, FL 34601

Pauline Lane  
309 Armstrong St  
Brooksville, FL 34601

Estate of Ida Lee Stubbs  
4138 Sheridan Meadows Dr  
Florissant, MO 63034-3485

Karen E. Washington  
308 Armstrong St  
Brooksville, FL 34601

Eddie Baylor  
8100 WPA Rd  
Brooksville, FL 34601

Fred Fletcher  
P. O. Box 1544  
Brooksville, FL 34601

Bill & Rebecca Pope  
719 S. Brooksville Avenue  
Brooksville, FL 34601

Gloria Washington Harris  
509 Sharon St  
Brooksville, FL 34601

David C. Stewart  
829 Twigg St  
Brooksville, FL 34601

Estate of Willie L. Gaynor  
311 E. Dr. M. L. King, Jr., Blvd  
Brooksville, FL 34601

Mildred Sims  
306 Armstrong St  
Brooksville, FL 34601

Lillian Scriven Hampton  
2409 Teri St  
Auburndale, FL 33823-4835

Clara A. Suske  
3288 Gulfview Dr  
Hernando Beach, FL 34607-3033

Ana Trinqué, GRI  
Re/Max Showcases  
13103 Spring Hill Drive  
Spring Hill, FL 34609

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City of Brooksville  
MEMORANDUM

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**To:** Planning & Zoning Commission Members  
**Via:** Bill Geiger, Community Development Director   
**From:** Patricia J. Jobe, Planning and Zoning Coordinator  
**Subject:** VR2007-02 - Requesting a variance to reduce the minimum lot size, minimum front yard setback and the minimum rear yard setback requirements.  
**Petitioner:** Clara A. Suske , Represented by Ana Trinique - Agent  
**Location:** 602 Ellington Street  
**Date:** March 14, 2007

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**SUMMARY REQUEST - GENERAL INFORMATION**

The petitioner is specifically requesting a reduction in the City's minimum lot width at building line from the required 75 feet to 50 feet, the minimum front yard setback from the required 25 feet to 12 feet, the minimum rear yard setback from the required 20 feet to 12 feet and the minimum lot size from 12,000 square feet to 11,000 square feet. The petitioner has indicated a hardship in meeting the City of Brooksville Code requirements based on these lots being only 50' x 220' combined (each lot 50' x 110') and abutting three streets.

**LAND USE/ZONING**

The subject property and surrounding properties are zoned R-3 (multi-family residential), and have a Multi-family Residential Future Land Use Map designation in the City of Brooksville Comprehensive Plan.

**STAFF FINDINGS**

The subject parcel can not meet all the R-3 (Multi-Family Residential District) performance standards for either multi-family or single family residential development unless variances to code standards are considered.

In accordance with City Code Section 101-36 (Ordinance No. 629), the following is a synopsis of the findings that the City's Planning & Zoning Commission must make (accompanied by staff findings/comments related to this specific petition request) in order to approve the variance requests:

1. **Special conditions.** That special conditions and circumstances exist which are peculiar to the land, structure or building involved and which are not applicable to other lands, structures or buildings in the same zoning district and that the special conditions and circumstances do not result from the actions of the applicant. *Staff Review Comments (SRC) - The majority of the lots in this subdivision are 50 feet in width. Historically, lots in this area were either developed prior to the establishment of zoning standards in the City, or were combined to be large enough to meet the standards once they were in place. The Petitioner did not create the conditions related to the size of this parcel.*
2. **No special privilege.** That the granting of the variance(s) requested will not confer on the applicant any special privilege that is denied by the Code of the City of Brooksville, Florida, to other lands, buildings or structures in the same zoning district.



*SRC - In granting the variances requested, no special privilege will be conferred to the applicant. All other code standards will be adhered to that would be expected of other lands, buildings or structures in the same zoning district.*

3. **Hardship.** That literal interpretation of the provisions of the Code of the City of Brooksville, Florida, would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district under the terms of the Code and would work an unnecessary and undue hardship on the applicant. *SRC - The petitioner has indicated that the width of the parcel creates a hardship in that it would be impossible to comply with the dimensions and area regulation for residential, either multi-family or single family districts in regards to the minimum lot size, the minimum lot width at the building line and the required minimum setbacks. This lot, by itself, may not be used to construct a multi-family or single-family residence, unless the Commission grants a variance from the required minimum lot size, the minimum lot width at the building line standard and the minimum setback requirements. The petitioner does not own the lots on either side of these vacant lots.*
4. **Minimum variance.** That the variance granted is the minimum variance that will make possible the reasonable use of the land, building or structure. *SRC - This appears to be the minimum variance necessary to enable the Petitioner to construct a duplex or single-family residence on these parcels.*
5. **Purpose and intent; public interest.** That the granting of the variance will be in harmony with the general intent and purpose of the Code of the City of Brooksville, Florida, and that such variance will not be injurious to the area involved or otherwise detrimental to the public welfare. *SRC - It is staff's opinion that in granting these variances, development of these parcels would be in harmony with the general intent and purpose of the Code of the City of Brooksville, Florida, and that such variance will not be injurious to the area involved or otherwise detrimental to the public welfare.*

Section 101-36 of the City's Land Development Code (Reference Ord. No. 629) provides specific authority to the Planning and Zoning Commission to consider granting a dimensional variance in this circumstance to allow the owner the reasonable use of the premises.

This report does not include the perspective of adjacent landowners, who may be present at the public meeting to address and present questions and comment.



VR2007-02  
Clara A. Suske  
602 Ellington Street  
Page 3  
March 14, 2007

**STAFF RECOMMENDATION:**

Staff recommends that the Planning & Zoning Commission find that the variances requested satisfactorily meet the criteria stipulated in City of Brooksville Code Section 101-36, consistent with City Staff findings/comments as stated within this report, and subsequently approve the variances as follows:

1. Minimum Lot size reduced from 12,000 to 11,000 square feet
2. Minimum Lot width from 75' to 50'
3. Minimum Front Yard setback from Ellington Avenue from 25' to 12'
4. Minimum Rear Yard setback (West property line) from 20' to 12'

If deemed appropriate, the Commission may condition approvals for variance requests. Such conditions may include adding stipulations for additional buffering and/or modifying the scope of the variances requested.

***NOTE: Any appeal of the Commission's decision must be filed with the City Clerk within ten calendar days of the date of the Commission's decision. If the petition is approved by the Commission and no appeals are filed within the specified time frame, this variance, including any attached conditions or restrictions, shall be recorded at the expense of the applicant in the Hernando County office of the Clerk of the Circuit Court.***

Enclosures: (1) Petition  
(2) Letter from Ana Trinique, agent for Clara A. Suske (dated January 12, 2007)  
(3) Conceptual site plan for a duplex  
(3) Vicinity Map



# PETITION FOR VARIANCE OF LAND USE REGULATIONS

TO THE CITY OF BROOKSVILLE, FLORIDA  
PLANNING & ZONING COMMISSION

The undersigned Petitioner/Property Owner hereby submits this Petition for a Variance of Land Use Regulations for the following described property, to wit:

*(Insert typewritten legal description)*

T. S. RICE SUB Lots 20, 31  
ORB 359 PG 754

Subject Property Address:

602 Ellington Ave  
Brooksville, FL 34601



**PETITIONER IS SPECIFICALLY REQUESTING VARIANCES FROM THE FOLLOWING:**

We wish the Council to consider the double Lot as one whole Lot of 50 x 220. We are requesting 12' ft set backs for front & back, the sides would be 67', Ample Amount for driveway & parking.

~~3/1/07~~

Property has a future land use of: Multi - Single Family Residential  
Property is zoned as: R-3 Multi Family

Petitioner requests that this Land Use Regulations Variance be granted to provide for a less restrictive proposed usage of above said property.

It is in the opinion of the Petitioner that such variance, if granted, will not be materially detrimental to the Public Welfare, nor to the persons or properties located in the immediate area.

Wherefore, the Petitioner requests that the City of Brooksville, Florida, Planning and Zoning Commission convene to hear and take jurisdiction over the subject matter of this petition.

Petitioner's Name Clara A. Suske (Ana Tringue-Agent)  
Street Address 3288 Gulfview Dr.  
City/State/Zip Hernando Bch, FL 34607



# OWNER OR AGENT AFFIDAVIT

*CITY OF BROOKSVILLE  
COUNTY OF HERNANDO  
STATE OF FLORIDA*

I, David R. Corder Esquire, being duly sworn, hereby depose and say  
Clara A. Suske, A Single person is the owner of the herein described property to-wit:

(Insert Legal Description Below)

T.S. RICE SUB Lots 20, 31  
ORB 359, PG 754



# APPOINTMENT OF AGENT

**CITY OF BROOKSVILLE  
COUNTY OF HERNANDO  
STATE OF FLORIDA**

I, CLARA A. SUSKE, the owner(s) in fee simple of the below described real property hereby appoint ANA TRINGUE as my (our) agent to file required petitions, sign required documents, make representations as to issues of fact and to appear, as may be necessary, before the appropriate City of Brooksville authority. My agent shall also have the authority to commit myself as owner to the necessary future performance conditions as may be directed by the appropriate City authority as a condition of granting my petition.

(Insert Legal Description Below)

T.S. RICE SUB Lots 20, 31  
ORB 359 PG 754

Parcel Key # 00013283

Dated: 7-1-05

Signed in the presence of:

WITNESSES:

Signature Gail Gagliardi  
Print Name Gail Gagliardi

Signature [Signature]  
Print Name AK [Signature]

Signature \_\_\_\_\_  
Print Name \_\_\_\_\_

Signature \_\_\_\_\_  
Print Name \_\_\_\_\_

LANDOWNER(S):

Signature Clara A. Suske  
Print Name Clara A. Suske

Signature \_\_\_\_\_  
Print Name \_\_\_\_\_



# ACKNOWLEDGMENT

All information submitted within this Petition is in all respects true and correct to the best of my knowledge and belief.

Witness Signature: Gail Gagliardi

Owner/Agent Signature: Clara A. Suske

STATE OF FLORIDA  
COUNTY OF Hernando

The foregoing instrument was acknowledged before me this 1<sup>st</sup> day of July 2005, ~~19~~ by the above person(s) Clara A. Suske who is personally known to me ~~or who~~ has produced ~~\_\_\_\_\_~~ as identification and who ~~(did)~~ (did not) take an oath.

  
SIGNATURE OF NOTARY



J R DeMint Reynolds  
MY COMMISSION # DD083050 EXPIRES  
January 9, 2006  
BONDED THROUGH TROY FAIR INSURANCE, INC.



Prepared by: Hernando County Clerk's Office  
Debra P. Ellinghuysen, Deputy Clerk  
20 N. Main St., Room 215  
Brooksville, FL 34601

10.50

**\*\* OFFICIAL RECORDS \*\***  
**BK: 1558 PG: 1095**

**FILE# 2002-044585**  
**HERNANDO COUNTY, FLORIDA**

**TAX DEED NUMBER 2002-0175**  
**PROPERTY I.D. NUMBER R26 122 19 0790 0000 0200**

**RCD 08M 07 2002 12:33pm**  
**KAREN NICOLAI, CLERK**

TAX DEED

STATE OF FLORIDA, COUNTY OF HERNANDO

The following Tax Sale Certificate Numbered **95-0150** issued on **MAY 24, 1995** was filed in the office of the Tax Collector of this county and application made for the issuance of a tax deed, the applicant having paid or redeemed all other taxes or tax sale certificates on the land described as required by law to be paid or redeemed, and the costs and expenses of this sale, and due notice of sale having been published as required by law, and no person entitled to do so having appeared to redeem said land; such land was on the **07 day of August 2002**, offered for sale as required by law for cash to the highest bidder and was sold to:

**R**

Chester C. and or Clara A. Suske  
3288 Gulfview Drive  
Hernando Beach, FL 34607

**DEED DDC STAMPS 31.50**  
**08/07/02** *[Signature]* **Deputy Clk**

being the highest bidder and having paid the sum of his bid as required by the Laws of Florida.

Now, this **07 day of August, 2002**, the County of Hernando, State of Florida, in consideration of the sum of **(\$4,497.47)** being the amount paid pursuant to the Laws of Florida does hereby sell the following lands situated in the County and State and described as follows:

**T S RICE SUB LOTS 20 31 ORB 359 PG 754**



*T.C. Shurmut*  
Witness T.C. SHURMUT

*Jo Ann Pilgrim*  
Jo Ann Pilgrim, Deputy Clerk

*Joan E. Pinkard*  
Witness JOAN E. PINKARD

KAREN NICOLAI  
Clerk of Circuit Court  
Hernando County, Florida

**\*\* OFFICIAL RECORDS \*\***  
BK: 1558 PG: 1096

State of Florida  
County of Hernando

On this 7th day of August 2002, before me appeared JOANN PILGRIM, Deputy Clerk, for KAREN NICOLAI, Clerk of Circuit Court in and for the State and this county personally known to me to be the person described in, and who executed the foregoing instrument, and acknowledged the execution of this instrument to be her own free act and deed for the use and purposes therein mentioned, and who did not take an oath.

Witness my hand and official seal date aforesaid.

*Tracey Cremata*  
Notary Signature







JAN 25 2007

*Above  
the  
Crowd!*

January 12, 2007

City of Brooksville, FL  
Planning and Zoning Commission

Dear Commissioners;

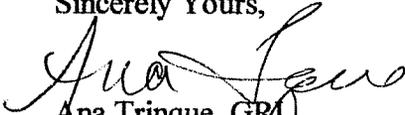
Clara A. Suske, a widow along with Donald Ravenell, purchaser, are petitioning to have a change in variance on 602 Ellington Ave, Ms. Suske's property. I am representing Ms. Suske as her agent in this matter. The property is zoned R-3 for either a single family or multi-family home. Most of the surrounding area is made up of like properties; duplexes, triplexes, and single-family homes.

Unfortunately, due to the property dimension, after set back requirements, and total square foot, the property does not qualify for putting anything for what it is zoned. Whether it is a duplex or a single-family home, this property would require a variance either way. We are asking for two considerations; 1) front and rear setbacks should be 20 & 25 ft respectively, our diagram shows 12 & 12 ft, 2) total square feet of area should be 12,000 and the 50 x 220 lot is only 11,000 sf. This is not a very deep lot, just long.

Ms. Suske has been trying to sell this property a number of years now. Our only Buyers have been individuals wanting to put a duplex or triplex on this property. This would require a variance.

We do not believe building a duplex would negatively impact this area. It would be an increase in tax revenue to the city. We currently have an executed contract on this property by Mr. Ravenell contingent on this variance being approved. Ms. Suske would be most grateful for your consideration to this matter.

Sincerely Yours,

  
Ana Trinque, GRI  
Re/Max Showcase  
352-585-3297 Cell

**RE/MAX® Showcase**

13103 Spring Hill Dr. Brooksville, FL 34609  
The Trinque Team  
Ana & Art Trinque  
Office: 352-688-6888  
Ana's Cell 352-585-3297  
Art's Cell 352-398-6552

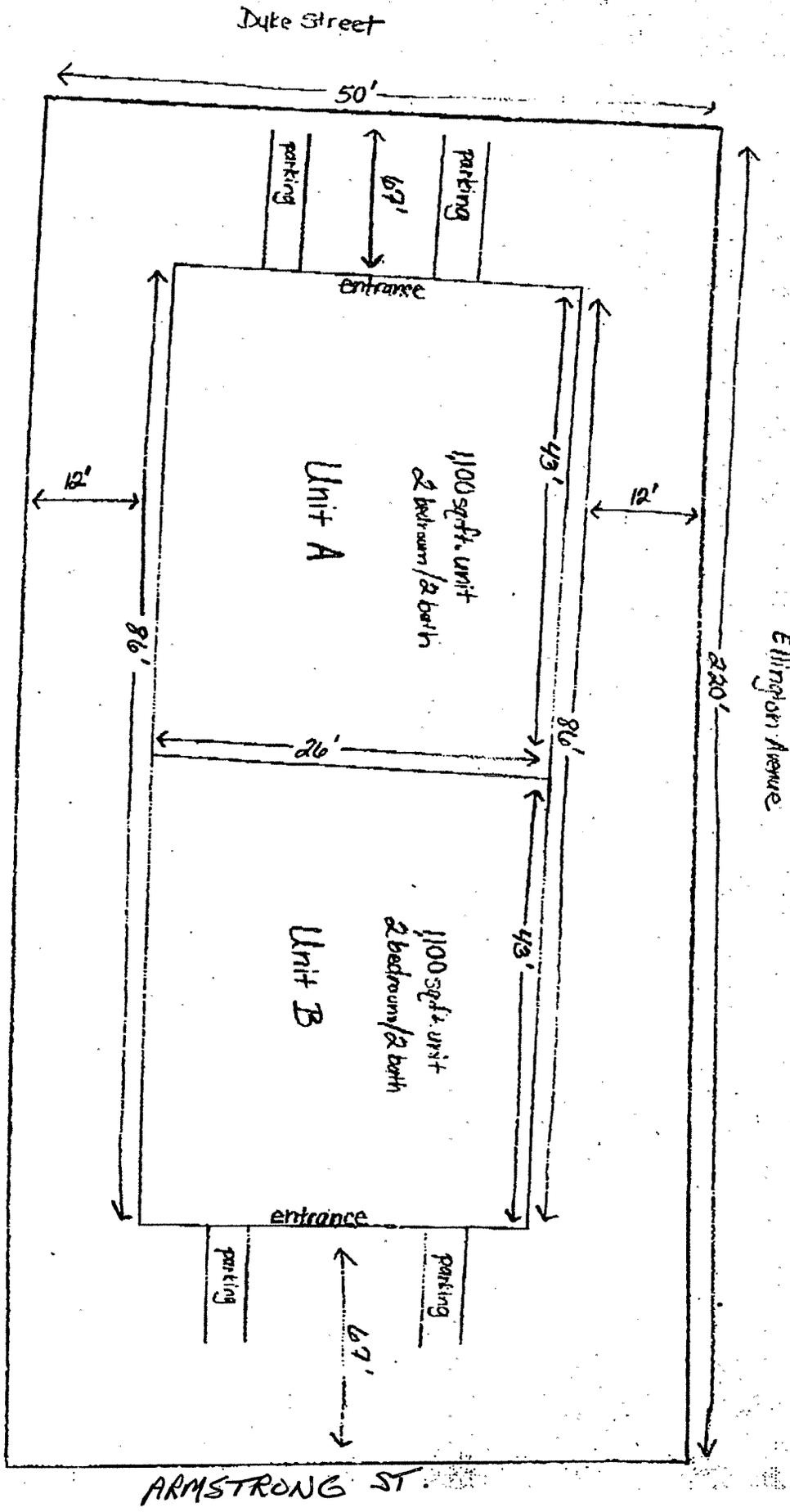




Total building size = 2,200 sq. ft.  
Total lot size = 11,000 sq. ft.



602 Ellington Avenue

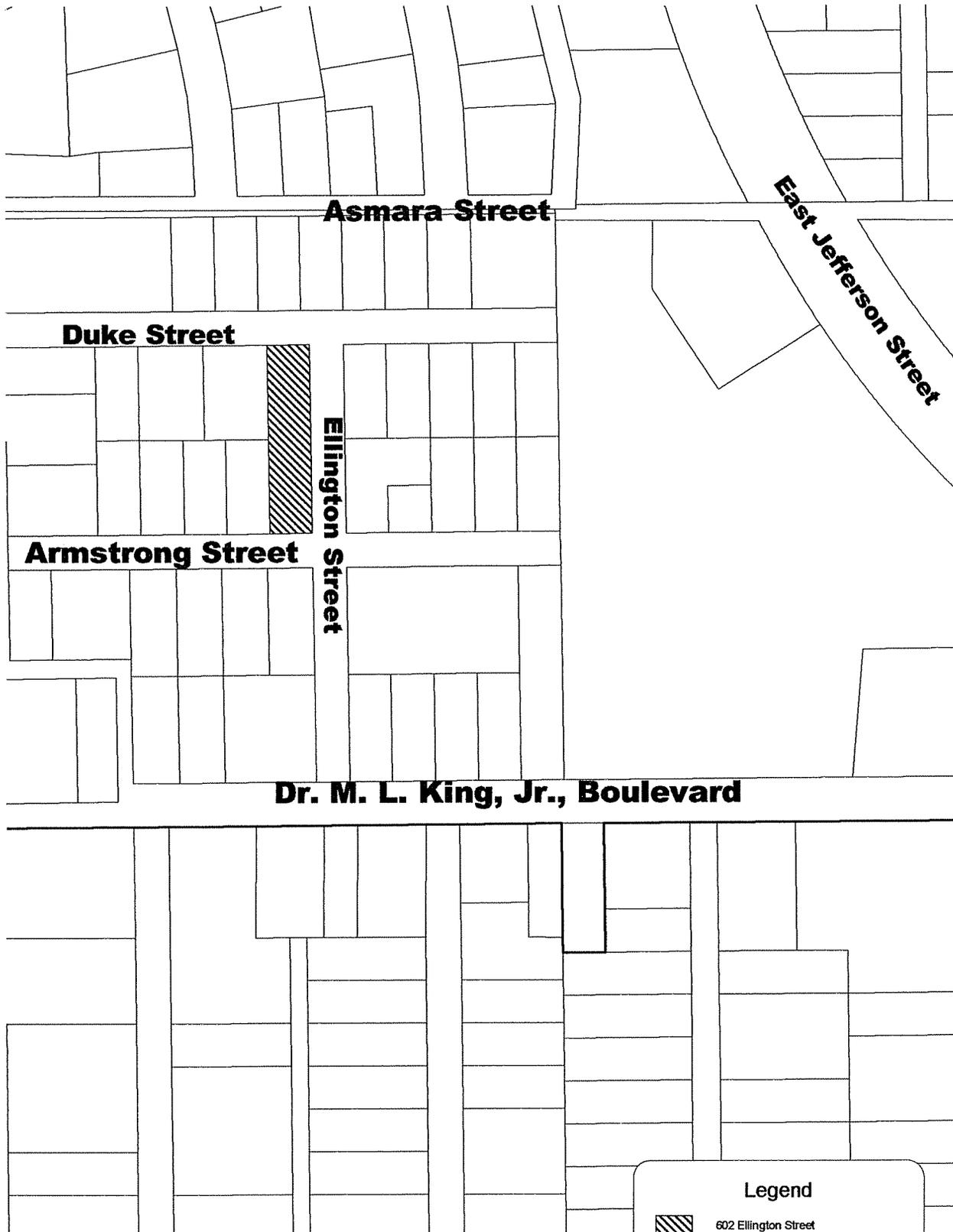


ARMSTRONG ST.





VR2007-02 - VARIANCE PETITION  
CLARA A. SUSKE  
602 ELLINGTON STREET  
MARCH 14, 2007



**Legend**

-  602 Ellington Street
-  City Boundary as of August 14, 2006

Prepared by  
City of Brooksville  
Community Development Department  
03/14/2007

