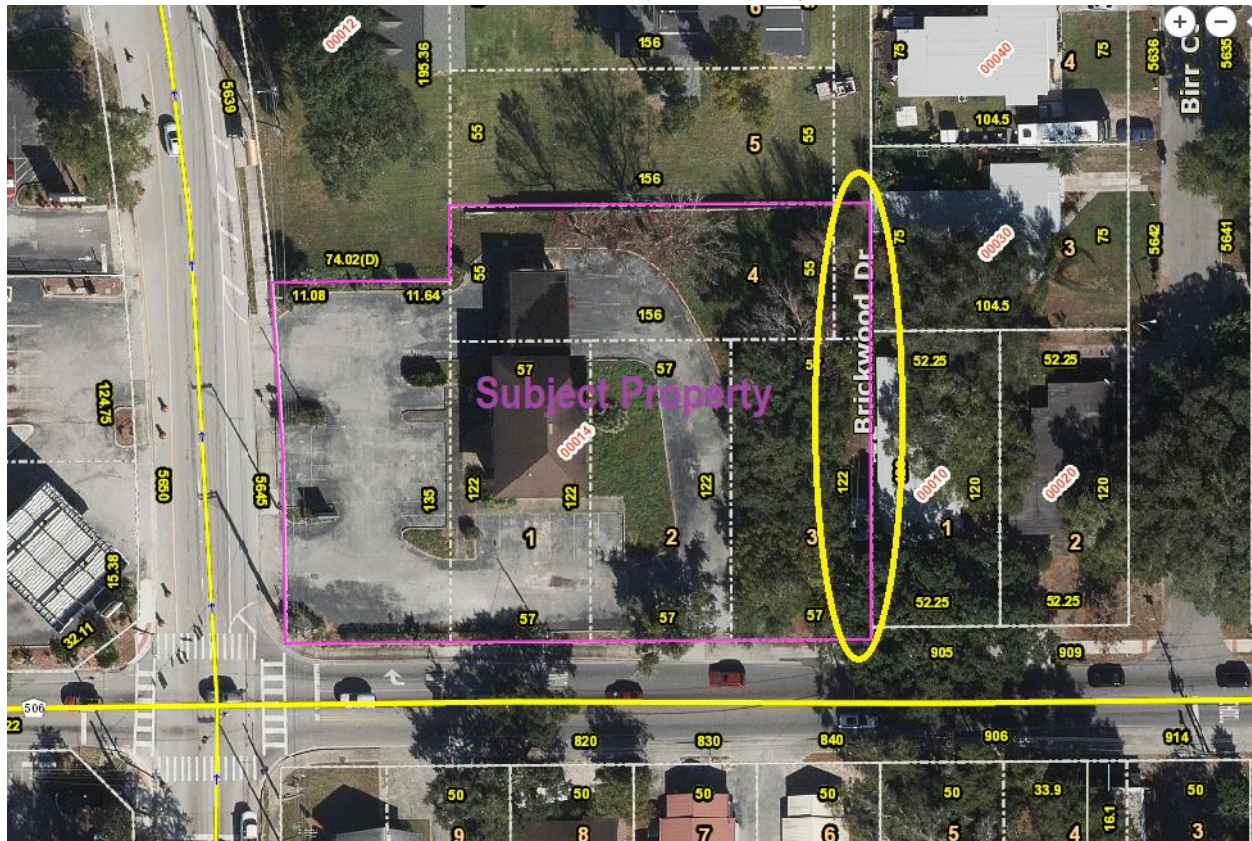


Date: January 26, 2023
 To: Planning and Zoning Board
 From: Ellen Hardgrove, City Planning Consultant
 XC: Sandy Riffle, City Clerk
 Brett Sollazzo, Administrative Assistant
 Drew Smith, City Attorney
 Re: Waiver for wall Mecato's Bakery and Café 5645 Hansel Avenue

Request/Analysis:

This agenda item is a request to waive the ECD required 7 feet high brick wall on the shared property line of an ECD zoned property and a property with a low density residential future land use designation, the east side of the subject property, as circled in Exhibit 1. The waiver is necessary due to a required easement.

Exhibit 1 – Subject Property



At the time the Mecato's site plan was approved, the presence of an Orange County 4" sewer force main located ±4 feet from the east property line was unknown; it was discovered during building permit application/County review of utilities. In order to hook-up to the County's sewer system, the County is requiring dedication of a 20 feet wide easement along the east property

line and requires the property owner to agree “not to build, construct, or create, nor permit others to build, construct, or create any buildings or other structures on the herein granted easement that may interfere with the normal operation or maintenance of the utility facilities installed thereon.” The County has stated a wall will not be permitted; however, a fence is acceptable. The request is to substitute a six (6) feet high fence that looks like stone in lieu of the required brick wall as shown in Exhibit 2; the look of brick was not found to be available. The stone-looking fence would complement the planned stone wall along Hoffner and Hansel Avenues used to buffer the parking.

Exhibit 2



Code Section 134-475 allows for approvals of waivers from the minimum ECD standards based upon substantial competent evidence that strict application of such standards would create an illogical, impossible, impractical or unreasonable result on the property owner. The following factors are to be considered when reviewing the application for the waiver.

- (1) The history of the subject property, including the date of purchase and the history of uses on the subject property;
- (2) The location of the subject property;
- (3) The configuration of the subject property;
- (4) The impact of the requested waivers on adjacent properties;
- (5) All measures proposed by the applicant to comply with the spirit or intent of the provisions from which waiver is sought; and
- (6) All measures proposed by the applicant to prevent, reduce, or offset any adverse impact the grant of the requested waiver would have on surrounding properties.

Approval requires a finding that,

- (1) That the granting of the proposed waiver will not have the effect of nullifying the intent and purpose of the standard that is the subject of the requested waiver;
- (2) That the granting of the proposed waiver will serve the health, safety and welfare of the city;
- (3) That any waiver granted is the minimum waiver that will reasonably eliminate or reduce the illogical, impossible, impractical, or unreasonable result caused the applicable standard contained in this division; and
- (4) That any waiver granted will not adversely impact the use or property values of adjacent properties.

The situation with the necessary 20 feet wide easement along the shared property line of the ECD and the low density residential designated land meets the criteria for approval; a condition detailing a substitution for the required brick wall can provide the safety, security, and aesthetics intended for physical dividing line between the two uses.

Recommendation:

Approval conditioned on the provision of a six (6) feet high composite fence that provides the appearance of a stone wall as was presented at the meeting.