

**PALM BEACH COUNTY  
PLANNING, ZONING AND BUILDING DEPARTMENT  
ZONING DIVISION**



**ADMINISTRATIVE VARIANCE – TYPE 1B - STAFF PUBLIC MEETING  
STAFF REPORT  
4/27/2017**

AGENDA ITEM	CODE SECTION	REQUIRED	PROPOSED	VARIANCE
AVB-2017- 00254	Article 5.B.1.A.2 Accessory uses and structures: Fences, walls & hedges	6 feet high maximum	10 feet high	4 feet
SITUS ADDRESS:	15414 S State Road 7 Lot 307, 308 and 309 Delray Beach, FL 33446			
AGENT NAME & ADDRESS:	Gladys DiGirolamo G.L. Homes 1600 Sawgrass Corporate Parkway Sunrise, FL 33323			
OWNER NAME & ADDRESS:	441 Acquisition, LLC 333 SE 2nd Avenue Miami, FL 33131			
PCN:	00-42-46-19-01-000-0170 00-42-46-19-01-000-0210			
ZONING DISTRICT:	Agricultural Reserve District Planned Unit Development (AGR-PUD)			
BCC DISTRICT:	05			
PROJECT MANAGER:	Melissa Matos, Senior Site Planner			
LEGAL AD:	GL Homes, Agent, for 441 Acquisition LLC, Owner, to allow a proposed wall to exceed the maximum allowed height. Location: Adjacent to SR 7 approximately 0.481 miles east of Half Mile Road within the Sussman Agricultural Reserve Planned Unit Development Zoning District. (Control 2000-00032)			
LAND USE:	Agricultural Reserve (AGR)	S/T/R: 19-46-42		
PETITION #:	2000-00032			
LOT AREA:	Approximately 107.89 acres			
LOT DIMENSIONS:	Approximately 2,026 ft. x 1,724 ft.			
CONFORMITY OF LOT:	Conforming			
CONFORMITY OF ELEMENT:	Non-conforming			
TYPE OF ELEMENT:	Perimeter wall			
ELEMENT SIZE:	10 feet high			
BUILDING PERMIT #:	N/A			
NOTICE OF VIOLATION:	N/A			
CONSTRUCTION STATUS:	Proposed			
APPLICANT REQUEST:	To allow a wall to exceed the maximum height.			

**STAFF SUMMARY**



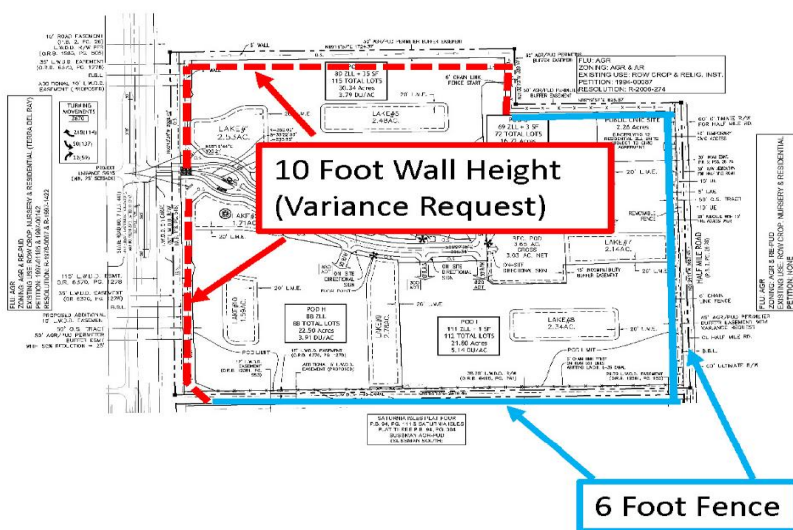
**Figure 1 – Aerial of Sussman North AGR-PUD**

The subject 112.77 acre site is located between State Road 7 and Half Mile Road, approximately 680 feet south of Atlantic Avenue within the Sussman Planned Unit Development (PUD). The site has a Future Land Use (FLU) Designation of Agricultural Reserve (AGR) and a Zoning Designation of Agricultural Reserve PUD (AGR-PUD). Sussman-North approval supports 387 residential dwelling units.

The western property line is adjacent to State Road 7 and the northern property line is directly south of an existing farming operation. This variance request is to increase the height of the proposed wall within the north and the west perimeter buffers in an effort to mitigate the anticipated noise generated by traffic on the west and mitigate the pollution impacts of the farming operation on the north and to also comply with request from the Florida Department of Transportation (FDOT) to the Palm Beach County Commission requesting that new projects abutting a state road be required to mitigate noise generated by traffic by installing walls within their buffers. Also there were studies that have shown that even with the increased buffer that includes the Lake Worth Drainage Canal (E-1Canal), it has been determined that the additional separation provided by the canal and the open space / buffer is not sufficient to mitigate the traffic noise.

Pursuant to Article 5.B.1.A.2 walls located in the AGR-PUD Zoning District are limited to a maximum height of six feet. The applicant is requesting a variance due to the unique circumstances surrounding this site. The variance request is to construct a 10 foot high perimeter wall along 190 feet of the east and north property lines as depicted in Figure 2. The variance would allow a four foot increase to ensure the noise and pollution impacts are mitigated for the residents of Sussman-North community.

Furthermore, there are several existing developments in the direct vicinity, and along State Road 7, that also exceed the height requirement to mitigate noise and to comply with FDOT request. Staff has determined that the request meets the seven standards outlined in Article 2 of the ULDC and will be consistent with the surrounding area.



**Figure 2 – Perimeter wall location at Sussman North AGR-PUD**



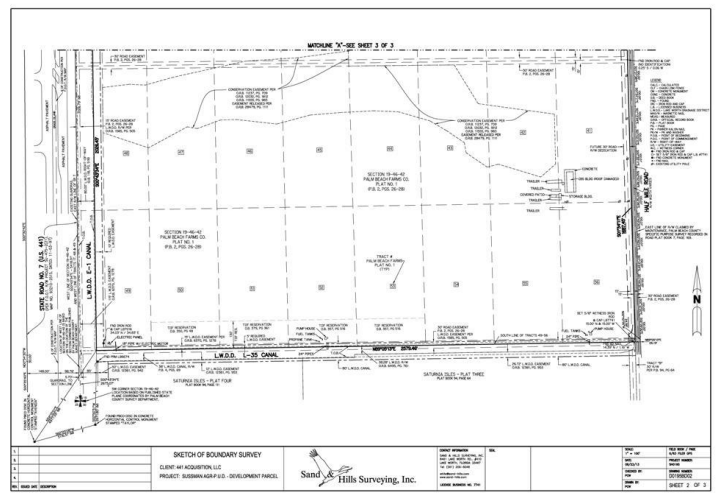
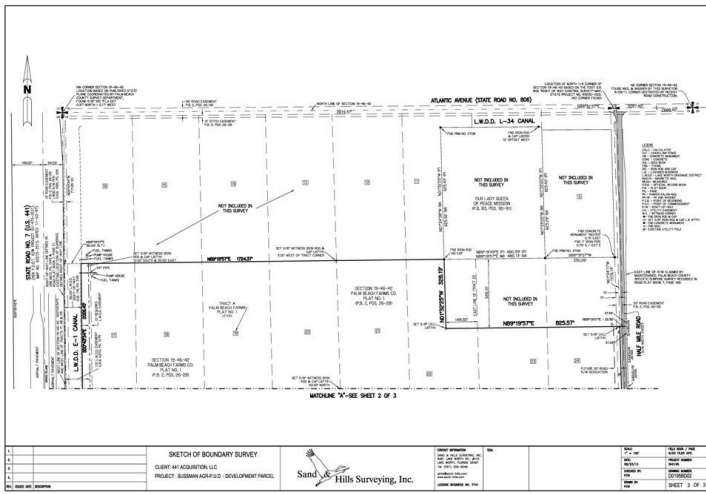


Figure 3 – Surveys (page 1 and 2)

**STAFF RECOMMENDATIONS**

Staff recommends **approval with conditions** of the Type 1B Variance based upon the following application of the standards enumerated in Article 2, Section 2.D.3 of the Palm Beach County Unified Land Development Code (ULDC), which a petitioner must meet before the Administrative Variance Public Meeting Staff may authorize a variance.

**ANALYSIS OF ARTICLE 2, SECTION 2.D.3.G.2 VARIANCE STANDARDS**

1. SPECIAL CONDITIONS AND CIRCUMSTANCES EXIST THAT ARE PECULIAR TO THE PARCEL OF LAND, BUILDING OR STRUCTURE, THAT ARE NOT APPLICABLE TO OTHER PARCELS OF LAND, STRUCTURES OR BUILDINGS IN THE SAME ZONING DISTRICT:



Figure 4 – Proposed wall along the E-1 Canal

Yes. Special circumstances and conditions exist that are peculiar to this parcel of land and are not applicable to other parcels of land within the same zoning district. The special conditions that is peculiar to this parcel of land is proximity to other conditions that will greatly impact the environment inside the new Sussman North community. There are several other AGR-PUDs approved and built in proximity to Sussman North, also adjacent to the State Road 7 (U.S. 441). All of these projects include perimeter walls that exceed the 6 foot height limitation imposed by Article 5.B.2.E. which provide a buffering system to mitigate the noise generated by the traffic on the State Road. This need is also concurred by the Department of Transportation requesting that new projects abutting this roadway be required to perform mitigation

methods for the noise generated by traffic. The Applicant is also requesting to increase the height of the wall along the northern buffer, in an effort to mitigate the impacts associated with the current farming operation which may generate dust and pollution during the dryer seasons and when the fields are not in production.

2. SPECIAL CIRCUMSTANCES AND CONDITIONS DO NOT RESULT FROM THE ACTIONS OF THE APPLICANT:

Yes. Special circumstances and conditions are not the result from the actions of the applicant, in contrary they are circumstances that are driven by the location of the project in close proximity to State Road 7. The only available noise mitigation opportunity that can be utilized in this case is the ability to increase the height of the wall within the perimeter buffer. As previously mentioned, other residential developments that were adjacent to State Roads similarly utilized a taller wall within their perimeter buffers.

3. GRANTING THE VARIANCE SHALL NOT CONFER UPON THE APPLICANT ANY SPECIAL PRIVILEGE DENIED BY THE COMPREHENSIVE PLAN AND THIS CODE TO OTHER PARCELS OF LAND, BUILDINGS OR STRUCTURES IN THE SAME ZONING DISTRICT:

Yes. The granting of this variance does not confer any special privilege denied by the Comp Plan or the ULDC to other parcels of land in the same zoning district and will not be disruptive to the surrounding area. As previously mentioned, Sussman North is seeking a higher perimeter wall along State Road 7 and adjacent to the existing farming operation by allowing a taller wall to mitigate the noise to an allowable level for a residential community and reduce any impacts associated with farming. As noted previously, the approval of this variance will confer upon the owner / developer the same privilege that has already been approved for other communities which abut the State Road.

4. LITERAL INTERPRETATION AND ENFORCEMENT OF THE TERMS AND PROVISIONS OF THIS CODE WOULD DEPRIVE THE APPLICANT OF RIGHTS COMMONLY ENJOYED BY OTHER PARCELS OF LAND IN THE SAME ZONING DISTRICT, AND WOULD WORK AN UNNECESSARY AND UNDUE HARDSHIP:

Yes. As previously noted, the literal interpretation and enforcement of the terms and provisions of the Code would indeed create an unnecessary hardship to the Applicant if the perimeter wall was not increased. The requirement for a six foot wall high along the west property lines will allow significant traffic noise and noise from the farming machinery and significant seasonal dust from the north property line. It has previously been determined by the Department of Transportation that noise mitigation was necessary along this state roadway and the Applicant is attempting to preempt the impacts from the adjacent farming operations to the north.



Figure 5 – From Site looking at SR-441

5. GRANT OF VARIANCE IS THE MINIMUM VARIANCE THAT WILL MAKE POSSIBLE THE REASONABLE USE OF THE PARCEL OF LAND, BUILDING OR STRUCTURE:

Yes. The granting of the variance will make possible the reasonable use of the parcel of land for a residential community and to provide future homeowners within the Sussman North community. Reasonable use of a residential community with the homebuyers who may not immediately know of what impacts the State Road and the adjacent farming parcel would have on them until they have lived in the home for some time. It is not unusual for these residents to want the comforts of a residential community without the impacts of noise or pollution for the surrounding area.

6. GRANT OF THE VARIANCE WILL BE CONSISTENT WITH THE PURPOSES, GOALS, OBJECTIVES, AND POLICIES OF THE COMPREHENSIVE PLAN AND THIS CODE:



Figure 6 – Pictometry view of Sussman North

Yes. The Goals, Objectives and Policies of the Comprehensive Plan are consistent with the granting of this variance. The granting of the variance will provide future home owners within Sussman North significant relief from the traffic noise associated with State Road 7 and the adjacent farm operation. As previously mentioned there are also several other residential communities that have also sought relief for the same variance request.

7. THE GRANT OF THE VARIANCE WILL NOT BE INJURIOUS TO THE AREA INVOLVED OR OTHERWISE DETRIMENTAL TO THE PUBLIC WELFARE:

Yes. The granting of the variance will not be injurious to the area or detrimental to the public welfare. There are several other residential communities in the vicinity who also have been granted this variance request to protect and provide a benefit to their community with a higher perimeter wall.

#### DEVELOPMENT ORDER

The development order for this particular variance shall lapse on April 27, 2018, one year from the approval date. (DATE: MONITORING: Zoning)

#### ADMINISTRATIVE VARIANCE – TYPE 1B – STAFF PUBLIC MEETING CONDITIONS

1. At time of application for a Building Permit, the Property Owner shall provide a copy of the Variance Result Letter, copies of the final approved plans and related documents to the Building Division. (BLDG PERMIT/DATE: BUILDING DIVISION – Building Division)
2. On or prior to April 27, 2018 the Property Owner shall have received the Final Building Inspection and the Certificate of Completion for the north and west perimeter wall. (CC/DATE: BUILDING DIVISION – Building Division)