

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



**ADMINISTRATIVE VARIANCE – TYPE 1B - STAFF PUBLIC MEETING
STAFF REPORT
1/25/2018**

AGENDA ITEM	CODE SECTION	REQUIRED	PROPOSED	VARIANCE
AVB-2017- 02339	Article 5.B.1.A.2.f Fences Walls and Hedges Non- Residential Districts	maximum 8 foot high wall	12 foot high wall	4 feet
SITUS ADDRESS:	1926 Skees Road West Palm Beach 33411			
AGENT NAME & ADDRESS:	Joseph Verdone Carlton Fields, P.A. 525 Okeechobee Boulevard West Palm Beach, FL 33401			
OWNER NAME & ADDRESS:	1926 Skees Road LLC 2101 NW 110th Ave Miami FL 33172			
PCN:	00-42-43-27-03-001-0243			
ZONING DISTRICT:	General Industrial (IG)			
BCC DISTRICT:	02			
PROJECT MANAGER:	Melissa Matos, Senior Site Planner			
LEGAL AD:	Carlton Fields, P.A., Agent, for 1926 Skees Road LLC, Owner, to allow a proposed wall to exceed the maximum height. Location: 1926 Skees Road approximately 400 feet south of Okeechobee Boulevard in the General Industrial (IG) Zoning District. (Control No. 1985-00161)			
LAND USE:	Industrial (IND)	S/T/R: 27-43-42		
PETITION #:	1985-00161			
LOT AREA:	11.39 acres			
LOT DIMENSIONS:	Approximately 977 feet x 693 feet			
CONFORMITY OF LOT:	Conforming			
CONFORMITY OF ELEMENT:	Non-conforming			
TYPE OF ELEMENT:	Perimeter wall			
ELEMENT SIZE:	Approximately 12 feet in height x 470 linear feet.			
BUILDING PERMIT #:	N/A			
NOTICE OF VIOLATION:	C-2016-04260001			
CONSTRUCTION STATUS:	Proposed			
APPLICANT REQUEST:	To allow a wall to exceed the maximum height.			

STAFF SUMMARY

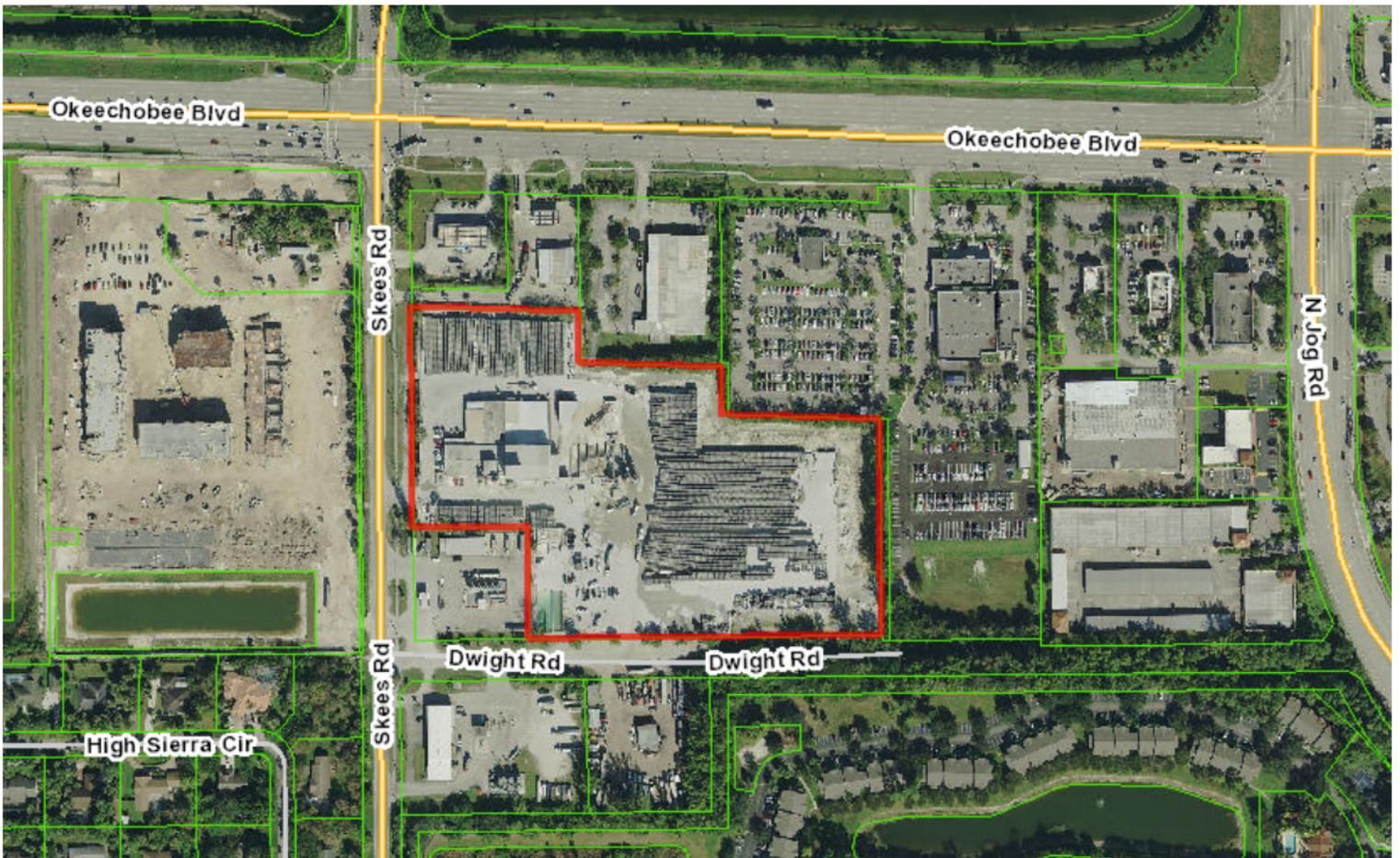


Figure 1 – Aerial View

The subject property is located at 1926 Skees Road, approximately 400 feet south of Okeechobee Boulevard, within the General Industrial (IG) Zoning District. The parcel also has a Future Land Use (FLU) Designation of Industrial (IND).

In December 1985 the 11.39 acre site was rezoned to the General Industrial Zoning District with a Special Exception to allow a Planned Industrial Development (PID), with a Concrete Manufacturing Plant, at the request of Tri-County Concrete. Generally the property is surrounded by similar industrial uses. In October of 2014 the property ownership changed hands to Adonel Concrete to continue using the site as a concrete manufacturing plant.

Over the past years the property owner has received numerous noise complaints from the Home Owners Association of High Sierra Subdivision, a residential development located over 280 feet to the south-west. These complaints have led to the property being cited by Code Enforcement for various technical code violations. The property owner has already corrected, and is in the process of finalizing the required permits necessary to correct the violations to comply with code. Palm Beach County Code Enforcement Division has determined that decibel levels emanating from the property are within the required limits of the Unified Land Development Code (ULDC).

The property owner has voluntarily requested a variance to support a 12 foot high wall within the side setback, as shown in Figure 3, to assist in mitigating noise associated with the existing vested 24 hour Industrial use. The proposed wall will be located directly adjacent to another Industrial use at the corner of Skees and Dwight Roads.

Pursuant to Article 5.B.1.A.2 of the ULDC the maximum height of a fence or wall within the side setback for a non-residential development is eight feet. The Applicant is requesting a four-foot variance in an effort to mitigate or eliminate any noise encountered by the High Sierra development.

Staff has determined that the request is reasonable and in compliance with the purposes and objectives of the Comprehensive Plan and the ULDC. The request meets the seven Standards as outlined in Article 2 of the ULDC and any impacts of the variance will be positive for the surrounding area.

STAFF RECOMMENDATIONS

Staff recommends **approval with conditions** for a Type 1B Variance request, 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 – Site proximity to residential

YES. 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. The existing parcel is vested for a manufacturing plant use since 1985, and is adjacent to other industrial uses. Yet the subject parcel is over 280 feet away from a residential zoned development that has complained about noise stemming from the use. The applicant has voluntarily requested the variance for a 12 foot wall within the setback to mitigate the concerns of the nearby single family development.

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

YES. Special circumstances and conditions do not result from the actions of the Applicant. In fact as previously mentioned the Applicant is willing to provide the wall to mitigate noise concerns of an adjacent residential development to the south west. The need for a wall higher than the maximum allowed per the ULDC is an effort to assist the residential community by directly addressing sound transmission.

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. Granting the variance shall not confer upon the applicant any special privilege. Mitigation of sound transmission is often resolved with the construction of perimeter walls. As mentioned above, these walls will help alleviate the complaints of the adjacent residential development. Granting the variances to construct the walls as requested shall not confer any special privilege denied by the comprehensive plan and the code to other parcels of land, buildings or structures in the same zoning district.

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:



Figure 5 – Location of wall

YES. 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. A literal interpretation of the ULDC would only allow a six-foot-high wall around the perimeter of the development, which would not adequately diminish noise from the parcel. The increase to a 12 feet high wall is in to attempt to address the complaints.

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

YES. Grant of the variance is the minimum variance that will make possible the reasonable use of the parcel of land, building or structure. The requested height of 12 feet is least possible height to reasonably attempt to mitigate noise concerns, as previously mentioned. Granting this variance will make possible the reasonable use of the land and structures.

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

YES. Grant of the variance will be consistent with the purposes, goals, objectives, and policies of the comprehensive plan and this code. One of the primary goals and objectives of the Plan and the ULDC is to permit the reasonable use of land by residents, including protection from noise intrusions.

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

YES. The grant of the variance will not be injurious to the area involved or otherwise detrimental to the public welfare. The variance request is intended to alleviate conditions that are of concerns for an adjacent development. It is for this reason that the property owner has requested a variance for a 12 foot high wall, which would not be injurious, but beneficial to the public.

DEVELOPMENT ORDER

The development order for this particular variance shall lapse on January 25, 2019, one year from the approval date. (DATE: MONITORING: Zoning)

ADMINISTRATIVE VARIANCE – TYPE 1B – STAFF PUBLIC MEETING CONDITIONS

1. On or prior to March 26, 2018, the Property Owner shall have completed an Administrative Amendment to the Final Site Plan to reflect this Type 1B Variance Approval. (DATE/DRO: ZONING - Zoning)
2. At time of application for a Building Permit for the wall, the Property Owner shall provide a copy of the Variance Approval Letter, related plans, and documents to the Building Division. (BLDG/PMT: BUILDING DIVISION – Building Division)
3. On or prior to January 25, 2019 the Property Owner shall have received the Final Inspection and the Certificate of Completion (CC) for the wall. (CC/DATE: BUILDING DIVISION – Building Division)