



**TOWN LAKE OF PARK
PLANNING AND ZONING BOARD
JOINT MEETING WITH THE
VILLAGE OF NORTH PALM BEACH
Meeting Date: May 2, 2024
Agenda #: PZ-24-02**

DESCRIPTION:

VARIANCE REQUEST (QUASI JUDICIAL). VARIANCE APPLICATION, FOR PARCELS 36 - 43 - 42 - 21 - 32 - 010 – 0000 AND 36 - 43 - 42 - 21 - 32 - 009 – 0000 WITHIN THE C-3 TWIN CITIES MIXED-USE DISTRICT, FROM BUILDING FRONTAGE REQUIREMENTS DUE TO UTILITY EASEMENT CONFLICTS.

Project: Northlake Promenade Apartments

Applicant: Northlake Promenade Shoppes LLC (McKenna West, Coteleur Hearing- Agent)
Owner: Northlake Promenade Shoppes LLC
Owner Address: 3200 N. Military Trail Boca Raton, FL

Property Information

Net Acreage: 9.07 acres

Legal Description: Parcels 9 and 10, Northlake Promenade Shoppes PUD Replat #1.

Property Control #: 36 - 43 - 42 - 21 - 32 - 010 – 0000, 36 - 43 - 42 - 21 - 32 - 009 - 0000

Future Land Use: Twin Cities Mixed Use

Existing Zoning: C-3 Twin Cities Mall Mixed Use District

Adjacent Zoning

North: C-3
South: C-3
East: C-3
West: R-2

Adjacent Existing Land Use

North: Twin Cities Mixed Use
South: Twin Cities Mixed Use
East: Twin Cities Mixed Use
West: Residential Medium Density

Location



I. VARIANCE REQUEST

The applicant is seeking site plan approval for a project that includes a seven story, 279 unit multi-family building, known as Northlake Promenade Apartments, which is on the Board's agenda. *Please refer to site plan report for details on this project.*

To effectuate the plan the applicant is requesting a variance from Code Section 78-73 (e) (1) of the C-3 Twin Cities Mixed Use District that requires new buildings to be "designed to address the street and facilitate easy pedestrian access appropriate for an urban, mixed-use setting." **Specifically, section 78-73 (e) (1) b. requires "A minimum of 60 percent of a building frontage shall abut any other street setback" (other than the frontage street).**

As the building is considered a courtyard building, per section 78-73 "Table 4: Courtyard Building Type A", there is a required **minimum 10 ft. setback. Therefore a minimum of 60% of the building would be required to be within 10 feet of the street.**

The variance is requested to allow the entire building to be set back 137.2 feet from the Northlake Entry Street, due to FPL easements which contain existing underground FPL lines that preclude the building from being able to front the street.

I. VARIANCE REVIEW

Section 55-63 (2) of the Town Code vests the Planning and Zoning Board with final authority regarding variances. Section 78-185 of the Town Code establishes criteria which must be met to entitle an applicant to a variance. **The Board must find that each of the 7 criteria have been met to entitle an applicant to the requested variance relief. The report that follows addresses each of the specific criteria.**

In evaluating these criteria, Courts have placed emphasis on criteria # 4, which states “A literal interpretation of the land development regulations would deprive the Owner of rights commonly enjoyed by other properties in the same zoning district” by holding the Owner/applicants for variance relief and the governing board evaluating the application, to the rigorous standard of whether the denial of the variance would render the Property virtually unusable. (Bernard v. Town of Palm Beach, 569 So. 2d 853 (Fla. 4th DCA 1990).)

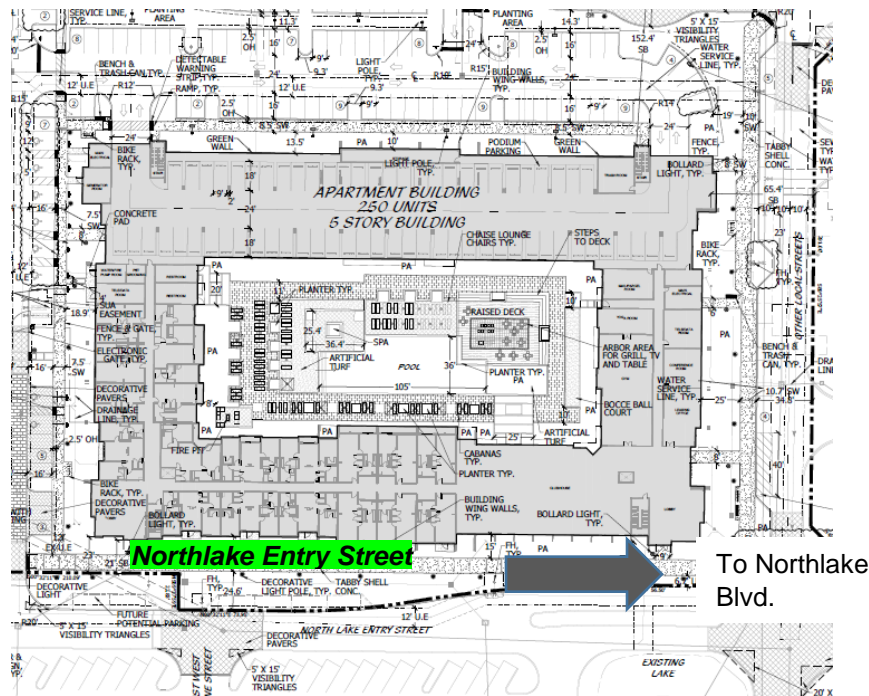
III. BACKGROUND AND SUMMARY OF REQUEST

The applicant initially designed the building to front both the Northlake Entry Street and the local street. (See original site plan, next page) It wasn't until after the building design had been well developed that additional research revealed the existence of the FPL easements, which had not shown up on the initial survey. The easements are for major underground FPL lines that serve neighborhoods to the north, and the cost to relocate the lines was determined not to be feasible by the applicant.

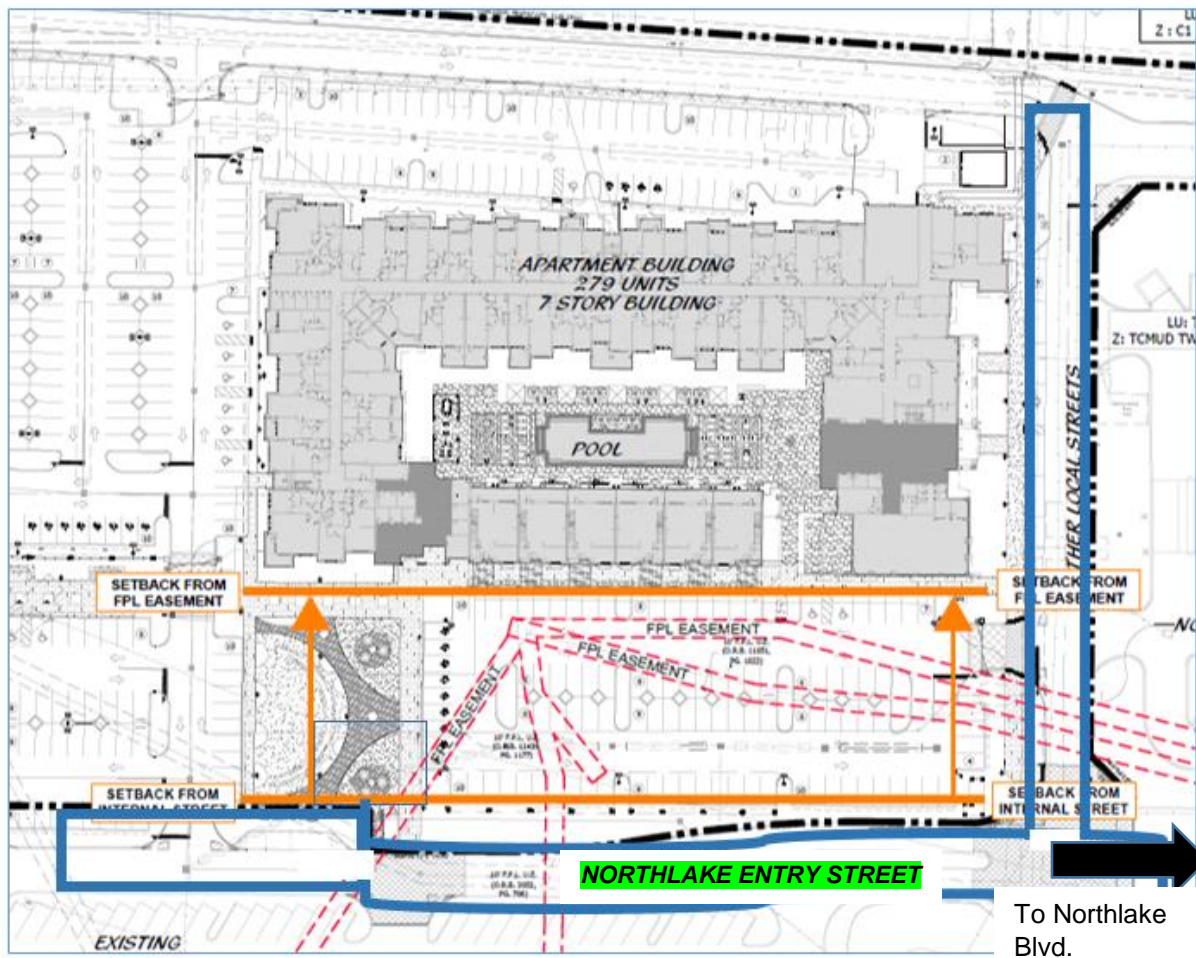
As no permanent structures can be placed on the easement, the applicant redesigned part of the site, to place the structure outside the easement and place parking within the easement.

In essence the building was shifted 137 feet west from the street r-o-w. so that it was no longer in the easements. ***Please refer to applicant's justification for greater detail.***

Original Site Plan (Partial)- showing building location fronting Northlake Entry Street



Current Site Plan with Requested Setback Variance.



IV. ANALYSIS OF CRITERIA AND FINDINGS FOR VARIANCE

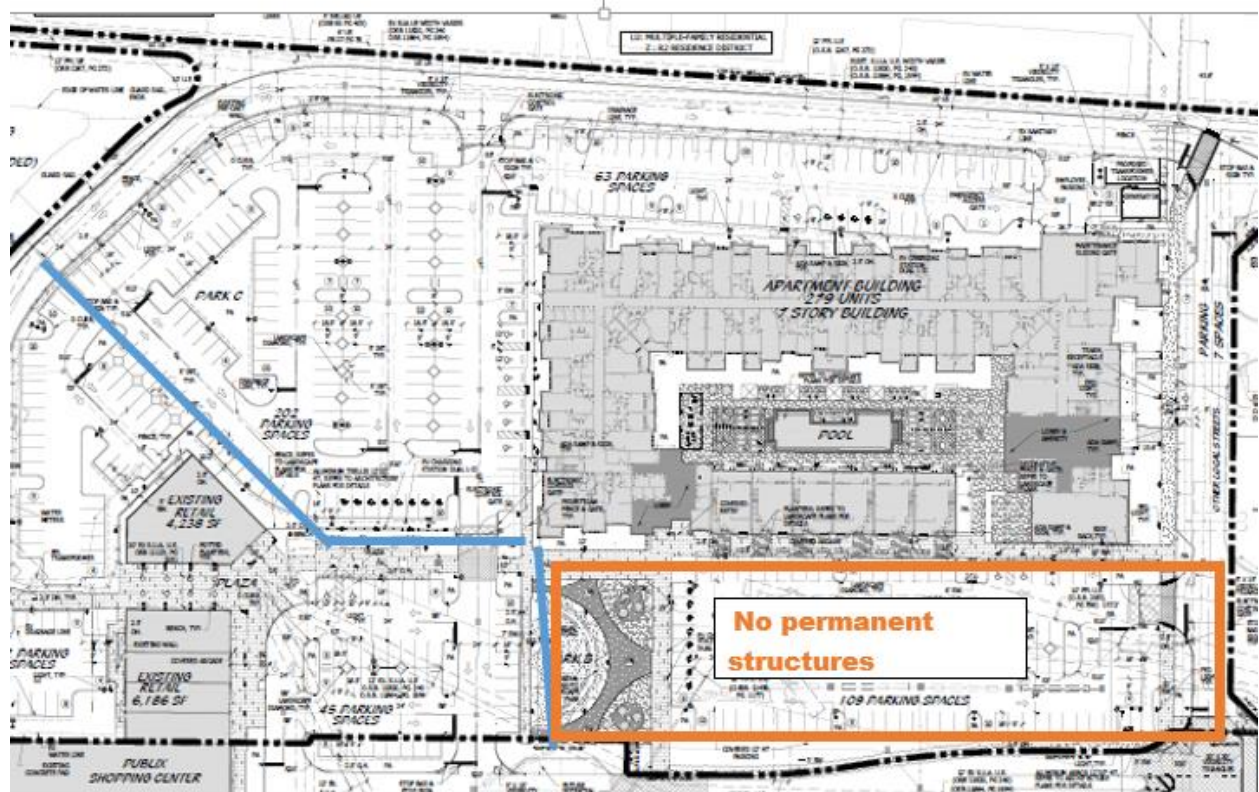
Below are listed the seven (7) variance criteria from Code Section 78-185 which all must be met before a variance can be granted.

CRITERIA 1: That the 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.

APPLICANT RESPONSE: Any proposed building on this particular parcel would be unable to meet the requirement set forth by the C-3 code, for 60% of a building's frontage to abut the minimum setback line on the east. This is due to the existence of the major FPL easements in which infrastructure is already in place.

STAFF RESPONSE: The location of the FPL easements present a unique situation. There are no other parcels in the C-3 Twin Cities Mixed Use District that have easements to this extent. Almost one acre of the site is precluded from having any building on it.

Criteria 1 met



CRITERIA 2: That the special conditions and circumstances do not result from the actions of the applicant

APPLICANT RESPONSE: The FPL easement and infrastructure have been in place for decades, prior to the owner's acquisition of the property and prior to the adoption of the C-3 Code.

STAFF RESPONSE: While the request to some extent is triggered by the owner's preference to have one major building, short of a major redesign of the site and building, which could involve separate buildings and/or the inclusion of a parking garage or creating additional streets, it is impossible to meet the code section. The project becomes cost prohibitive according to the owner. The location of the easements do present a condition not caused by the applicant.

Staff is satisfied that Criteria 2 is met

CRITERIA 3: That granting the variance requested will not confer on the applicant any special privilege that is denied by the Land Development Regulations to other lands, buildings, or structures in the same zoning district.

APPLICANT RESPONSE: Granting the requested variance due to the presence of the unalterable easements does not confer a special privilege, as it simply enables compliance with zoning regulations and intent of the code, under circumstances beyond the applicant's control. Allowing the variance maintains parity with the treatment of other properties facing similar constraints within the same zoning district. Any other property facing comparable constraints would have the opportunity to seek similar relief through the variance process.

STAFF RESPONSE: Agreed. Any other property facing comparable constraints would have the opportunity to seek similar relief through the variance process.

Criteria 3 met

CRITERIA 4: That literal interpretation of the provisions of this chapter would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district under the terms of this chapter and would work unnecessary and undue hardship on the applicant.

APPLICANT RESPONSE: Strict adherence to the provision from which we are seeking relief would impose undue hardship on the applicant, given that the presence of the easements prevents the proposed building from meeting the specified requirement.

Furthermore, granting the variance allows the applicant to exercise rights granted to other properties in the same district, to develop quality form and function by facilitating the proximity and connectivity between uses, enhancing the overall livability of the area.

STAFF RESPONSE: This is the only property with easements adjacent to an existing street. No other properties are limited to the extent that this parcel is. Literal interpretation of the code would cause a hardship unique to this parcel.

Criteria 4 met

CRITERIA 5: That the variance granted is the minimum variance that will make possible the reasonable use of the land, building, or structure.

APPLICANT RESPONSE: The variance sought is the minimum necessary to enable the optimal use of the land to meet the intent and literal interpretation of all other C-3 Zoning district regulations

STAFF RESPONSE: The requested variance is the minimum necessary to pull the building out of the easements.

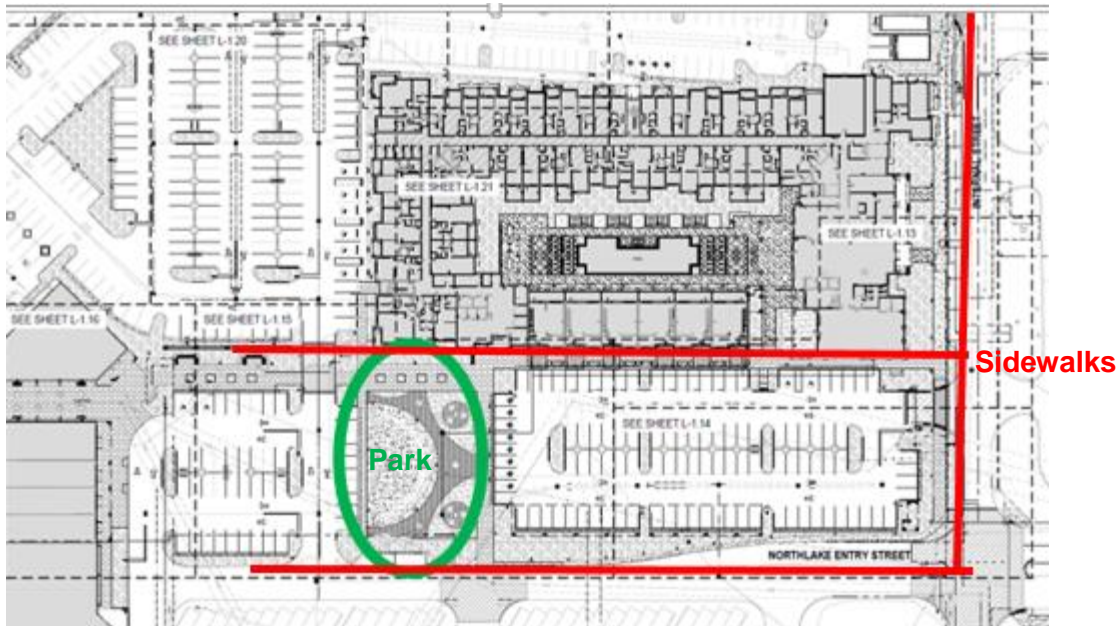
Criteria 5 met

CRITERIA 6: That the grant of the variance will be in harmony with the general intent and purpose of the land development regulations of the Code, and that the variance will not be injurious to the area involved or otherwise detrimental to the public welfare.

APPLICANT RESPONSE: Granting the requested variance will align with the overarching intent and objectives of the land development regulations outlined in the Code. The variance will not result in any harm to the surrounding area nor pose any detriment to public welfare.

STAFF RESPONSE: The intent of the section requiring direct building frontage is to encourage visual and pedestrian connections between buildings and streets for an urban mixed use design. While the building cannot front the street, the applicant has created a small public park area to provide a public connection between the building and the street, and to tie into the adjacent commercial uses. The sidewalk directly adjacent to the building is also open to the public and connects to the commercial area, as shown below.

Criteria 6 met.



CRITERIA 7:

That the variance would not be contrary to the comprehensive plan of the Town.

APPLICANT RESPONSE: Granting the variance would ensure consistency with the long-term vision for development and facilitate development within the C-3 district, ensuring compatibility between the proposed project and the broader planning framework for the Twin Cities area.

STAFF RESPONSE: The variance would not be contrary to the purpose goals expressed in the Future Land Use Element of the Comprehensive Plan relating to redevelopment of the Twin Cities Mall site. Specifically, Objective 11 states:

“Redevelopment of Twin Cities Mall Site: The Twin Cities Mixed Use Future Land Use Classification is established to facilitate the redevelopment of the land formerly developed and known as the Twin Cities Mall, which encompasses land which is located within the boundaries of the Village of North Palm Beach and the Town. This land use category is established to enable a vibrant mixed-use place that will combine residences, businesses, and civic spaces; enhance the public realm through public plazas, green or open space areas or pocket parks; provide an urban form of integrated land use combinations with balanced densities and intensities; achieve the safe interconnectivity of vehicular, pedestrian and other non-motorized movement, and promote sustainability.”

Criteria 7 met

STAFF FINDING: STAFF FINDS THAT ALL SEVEN CRITERIA NECESSARY TO GRANT THE VARIANCE HAVE BEEN MET.

RECOMMENDED MOTION:

BASED ON THE TESTIMONY PROVIDED, THE BOARD FINDS THAT ALL SEVEN CRITERIA FOR GRANTING A VARIANCE HAVE BEEN MET AND SO APPROVES THE REQUESTED VARIANCE FOR THE NORTHLAKE PROMENADE APARTMENTS.

Attachments:

Application for Variance

Applicant Justification



**TOWN OF LAKE PARK
COMMUNITY DEVELOPMENT DEPARTMENT**

APPLICATION FOR ZONING VARIANCE

APPLICANT INFORMATION

Owner

Name: Northlake Promenade Shoppes, LLC Phone: 561-989-2240
Address: 3200 N. Military Trail, 4th Floor City: Boca Raton State: FL Zip: 33431
Email
Address: styriver@woolbright.net (REQUIRED)

Agent (if applicable)

Name: McKenna West Phone: 561-747-6336
Address: 1934 Commerce Lane, Suite 1 City: Jupiter State: FL Zip: 33458
Email
Address: mwest@cotleur-hearing.com (REQUIRED)

PROPERTY INFORMATION

1. Property Location/Address: Not addressed
2. Property Control Number(s): 36 - 43 - 42 - 21 - 32 - 010 - 0000
Property Control Number(s): 36 - 43 - 42 - 21 - 32 - 009 - 0000
3. Zoning District: C3 Twin Cities Mixed Use

PROJECT INFORMATION

Variance(s) requested: **78-73 (e) Performance Standards**
b.A minimum of 60 percent of a building frontage shall abut any other street setback
Brief description of work proposed (use additional sheets if necessary):
Applicant proposes to build a 279-unit residential project. The subject site is 9.07 acres. The
proposed development will integrate with existing retail uses on site, together with public open
space, to create a vibrant mixed-use project that aligns with the regulations set forth for the C-3 Zoning
district.

VARIANCE CRITERIA

In order to authorize any variance from the requirements of the Land Development Regulations, the Planning and Zoning Board must conduct a quasijudicial hearing, and must make findings of fact that all of the following criteria have been satisfied:

(Respond to each item below)

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.
Please see Justification Statement.

2. Actions of Applicant: That the special conditions and circumstances do not result from the actions of the applicant.
Please see Justification Statement.

3. Special Privilege: That granting the variance requested will not confer on the applicant any special privilege that is denied by the Land Development Regulations to other lands, buildings or structures in the same zoning district.
Please see Justification Statement.

4. Literal Interpretation: That literal interpretation of the provisions of this chapter would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district under the terms of this chapter, and would work unnecessary and undue hardship on the applicant.
Please see Justification Statement.

5. Minimum Variance: That the variance granted is the minimum variance that will make possible the reasonable use of the land, building or structure.
Please see Justification Statement.

6. Public Interest/Harmony with Code: That the grant of the variance will be in harmony with the general intent and purpose of the land development regulations of the Code, and that the variance will not be injurious to the area involved or otherwise detrimental to the public welfare.
Please see Justification Statement.

7. Harmony with Comprehensive Plan: That the variance would not be contrary to the comprehensive plan of the Town.
Please see Justification Statement.

LIST OF REQUIRED DOCUMENTS

- Map showing property subject to this application
- Six copies of Site Plan(s), if necessary
- Building plans of structures to be erected, if necessary
- Certified survey of property (no more than 1 year old)
- Notarized Town of Lake Park Agent Authorization form, if applicable

FEES

Application Fee:
\$1,000 nonresidential;
\$750.00 residential
Minimum Escrow Deposit:
\$1,500.00*

**Unused portion of escrow
is refundable – additional
costs will be recovered in
advance*

SIGNATURE

The undersigned states that the above is true and correct as s/he is informed and believes:

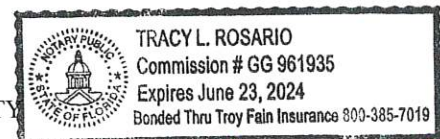
Signature of Owner or Agent

Soraya TyRiver

Print Name

STATE OF FLORIDA
PALM BEACH COUNTY

(Seal)



Tracy L. Rosario

SWORN TO OR AFFIRMED before me this 9th day of April, 2024. By: Soraya TyRiver
☐ who has produced as identification ☒ whom I know personally

PLEASE DO NOT DETACH FROM APPLICATION.

SIGNATURE REQUIRED BELOW.



Please be advised that Section 51-6 of the *Town of Lake Park Code of Ordinances* provides for the Town to be reimbursed, in addition to any application or administrative fees, for any supplementary fees and costs the Town incurs in processing development review requests.

These costs may include, but are not limited to, advertising and public notice costs, legal fees, consultant fees, additional Staff time, cost of reports and studies, NPDES stormwater review and inspection costs, and any additional costs associated with the building permit and the development review process.

For further information and questions, please contact the Community Development Department at 561-881-3318.

I, Soraya TyRiver, have read and understand the regulations above regarding cost recovery.



Property Owner Signature
North Lake Promenade Shoppes LLC

4-9-2024
Date



Northlake Promenade Apartments

Variance Application

Justification Statement

April 9, 2024

INTRODUCTION

Northlake Promenade Shoppes, LLC, owner, and applicant is seeking a variance for the project known as “Northlake Promenade Apartments.” The project proposes a 279-unit residential project along with public open space and upgraded landscape and hardscape, integrated with existing retail. As discussed more fully in the application for site plan approval, the project was designed based on the Town’s vision for the property and according to the regulations set forth by the Town’s C-3 zoning district.

REQUEST

The Applicant, in partnership with AvalonBay Communities, is seeking approval for a variance on the subject property to enable the development of a transformative rental project. The request is warranted due to the unique constraints posed by existing infrastructure, specifically the presence of Florida Power & Light easements, which restrict compliance with the specified setback requirement. The specific provision from which the applicant is requesting relief is: Sec. 78-73 (e) Performance Standards. b. A minimum of 60 percent of a building frontage shall abut any other street setback. The building’s setback from the eastern property line is 137.2 feet, just beyond the area that cannot be built upon due to the easements.

An underground utility survey confirmed the presence of infrastructure in place within the easements. A review with representatives from FPL has determined that relocating the lines in order to abandon the easements is not economically feasible. Notably, this infrastructure serves as a critical power feeder, supplying electricity from the Lake Park substation to various neighborhoods to the north and east, including Lost Tree, Singer Island, neighborhoods across the Earman Canal, and extending all the way to PGA Boulevard.

Despite the challenge presented by the easements, the proposed project is designed to enrich the local community by introducing high-quality residential units, enhancing existing retail spaces, and fostering pedestrian-friendly amenities. The inclusion of on-street parking, open green spaces, and a variety of unit sizes aims to create a dynamic and inclusive urban environment that aligns with the broader goals of the Comprehensive Plan and demonstrates sustainable development practice within the Twin Cities area.

In addition to addressing the immediate needs of the site, the requested variance will facilitate the realization of this mixed-use environment, that enhances the overall livability and economic vitality of the district. As such, we believe that granting the variance is not only warranted but essential in achieving our shared vision for a thriving and connected urban landscape.

VARIANCE CRITERIA

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.

RESPONSE: Any proposed building on this particular parcel would be unable to meet the requirement set forth by the C-3 code, for 60% of a building's frontage to abut the minimum setback line on the east. This is due to the existence of the FPL easements in which infrastructure is already in place..

Actions of Applicant:

That the special conditions and circumstances do not result from the actions of the applicant.

RESPONSE: The FPL easement and infrastructure have been in place for decades, prior to the owner's acquisition of the property and prior to the adoption of the C-3 Code.

Special Privilege:

That granting the variance requested will not confer on the applicant any special privilege that is denied by the Land Development Regulations to other lands, buildings, or structures in the same zoning district.

RESPONSE: Granting the requested variance due to the presence of the unalterable easements does not confer a special privilege, as it simply enables compliance with zoning regulations and intent of the code, under circumstances beyond the applicant's control. Allowing the variance maintains parity with the treatment of other properties facing similar constraints within the same zoning district. Any other property facing comparable constraints would have the opportunity to seek similar relief through the variance process.

Literal Interpretation:

That literal interpretation of the provisions of this chapter would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district under the terms of this chapter and would work unnecessary and undue hardship on the applicant.

RESPONSE: Strict adherence to the provision from which we are seeking relief would impose undue hardship on the applicant, given that the presence of the easements prevents the proposed building from meeting the specified requirement. Furthermore, granting the variance allows the applicant to exercise rights granted to other properties in the same district, to develop quality form and function by facilitating the proximity and connectivity between uses, enhancing the overall livability of the area.

Minimum Variance:

That the variance granted is the minimum variance that will make possible the reasonable use of the land, building, or structure.

RESPONSE: The variance sought is the minimum necessary to enable the optimal use of the land to meet the intent and literal interpretation of all other C-3 Zoning district regulations.

Public Interest/Harmony with Code:

That the grant of the variance will be in harmony with the general intent and purpose of the land development regulations of the Code, and that the variance will not be injurious to the area involved or otherwise detrimental to the public welfare.

RESPONSE: Granting the requested variance will align with the overarching intent and objectives of the land development regulations outlined in the Code. The variance will not result in any harm to the surrounding area nor pose any detriment to public welfare.

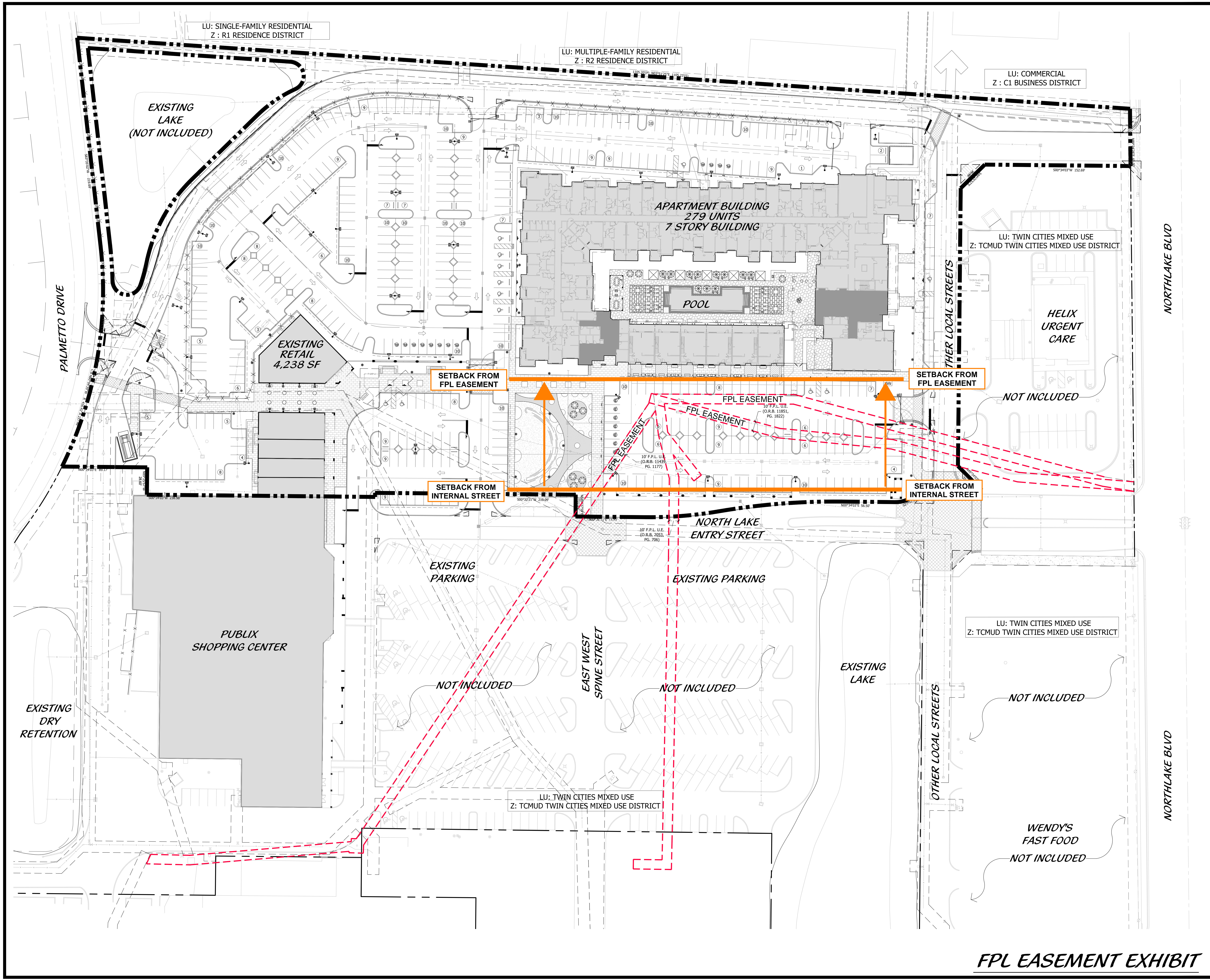
Harmony with Comprehensive Plan:

That the variance would not be contrary to the comprehensive plan of the Town.

RESPONSE: Granting the variance would ensure consistency with the long-term vision for development and facilitate development within the C-3 district, ensuring compatibility between the proposed project and the broader planning framework for the Twin Cities area.

CONCLUSION

We respectfully urge the Planning and Zoning Board to grant the variance request as it plays a vital role in facilitating the development of the subject site in alignment with the vision for the C-3 zoning district. The approval of the requested variance is essential for realizing the objectives outlined in the district regulations and comprehensive plan, given the unique challenges posed by the site's existing conditions. Working closely with design professionals, the applicant has diligently planned the site to ensure seamless integration with the street layout while avoiding any potential conflicts with the FPL easements.





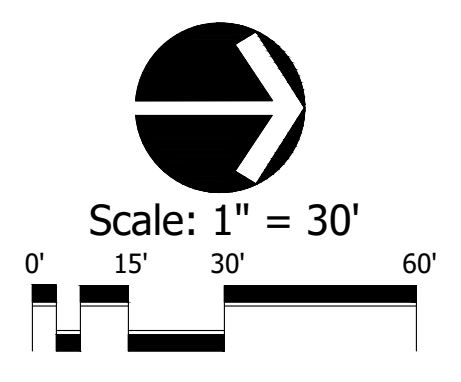
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Northlake Promenade Apartments

Lake Park, Florida



Scale: 1" = 30'

DESIGNED	DEH
DRAWN	RNK
APPROVED	DEH
JOB NUMBER	21-0521
DATE	11-16-23
REVISIONS	01-04-24
	01-10-24

February 28, 2024 2:46:48 p.m.
Drawing: 21-0521 SP.DWG

SHEET 1 OF 1

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These drawings are the property of the architect and are not to be used for extensions or on other projects except by agreement in writing with the architect. Immediately report any discrepancies to the architect.

FPL EASEMENT EXHIBIT