



**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).

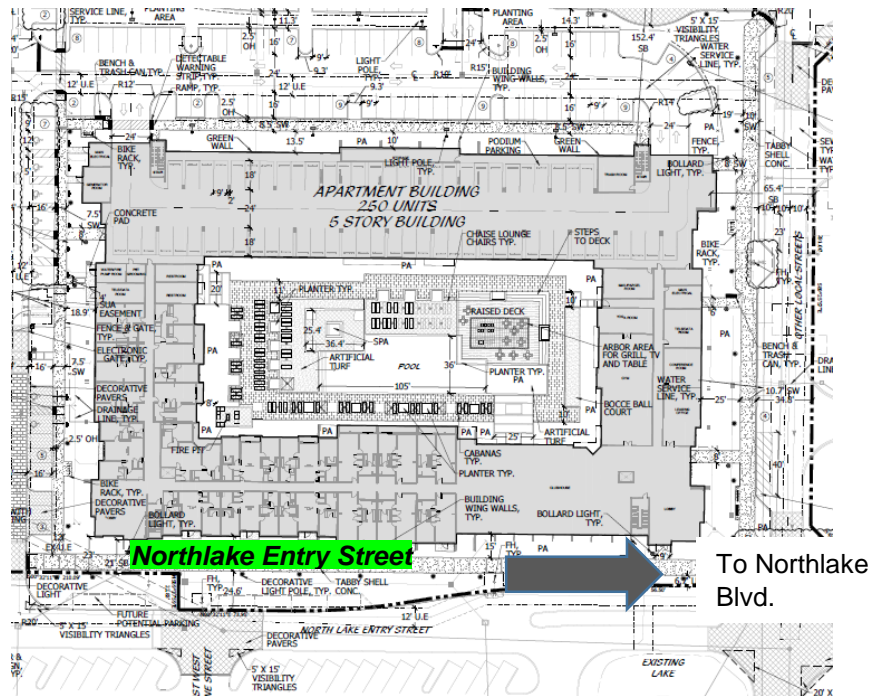
III. BACKGROUND AND SUMMARY OF REQUEST

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.

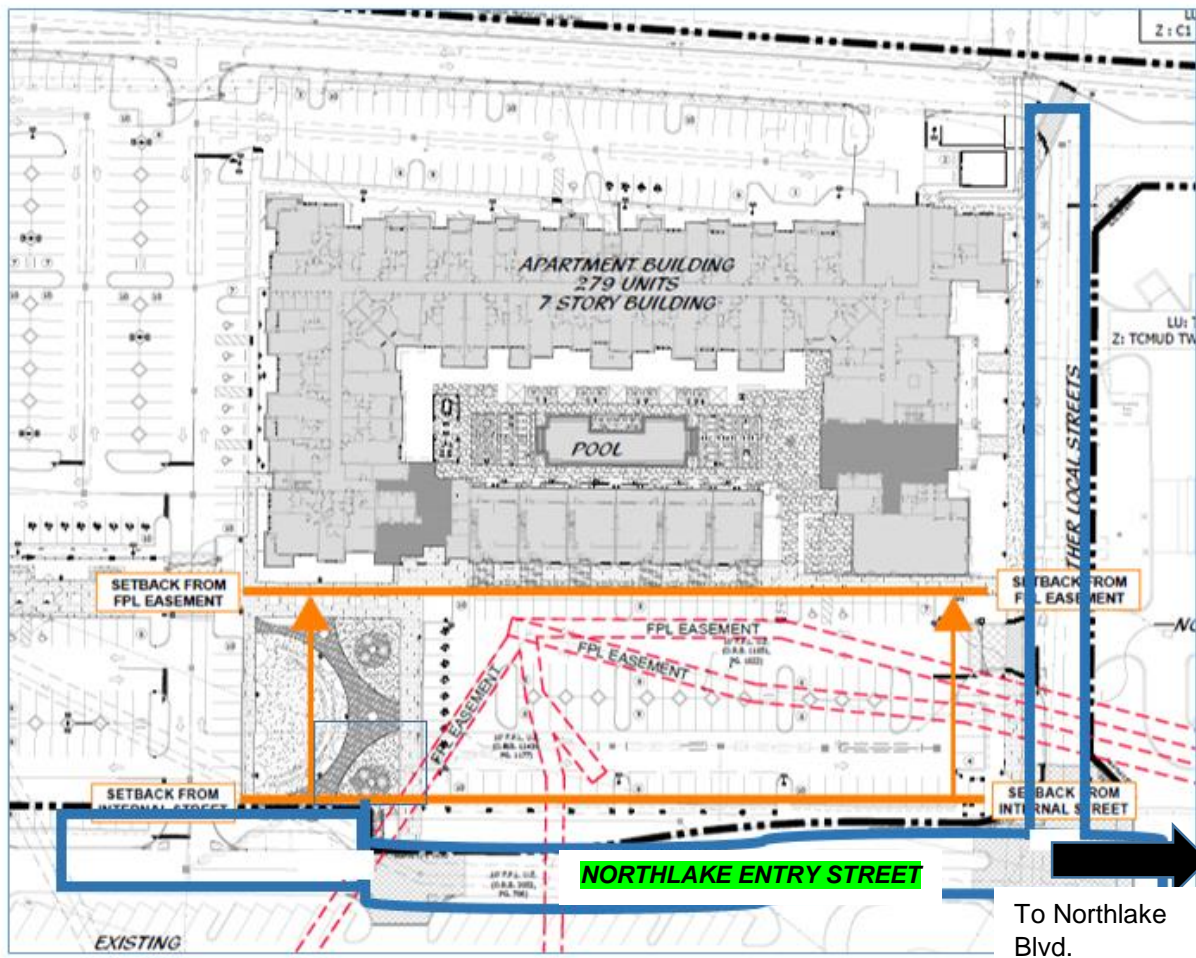
As no permanent structures can be placed on the easement, the applicant redesigned part of the site, to place the structure outside the easement and place parking within the easement.

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

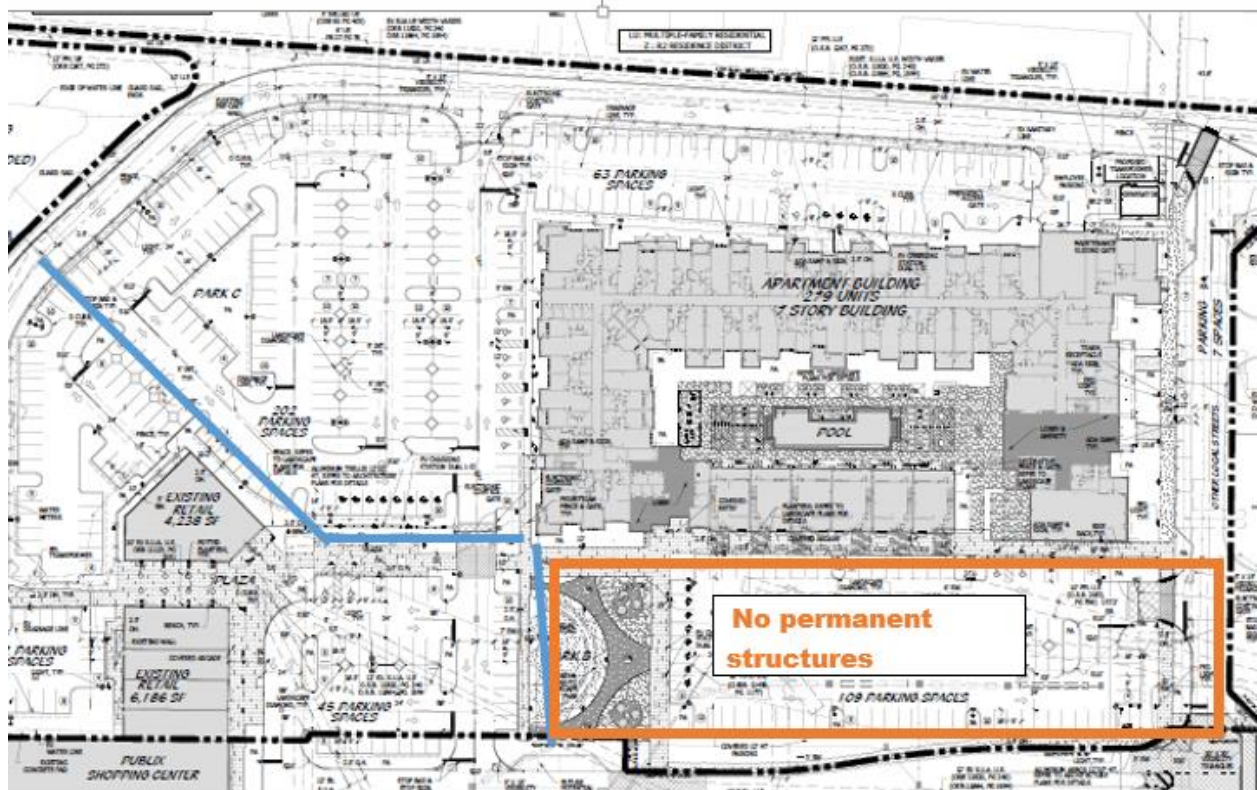
Below are listed the seven (7) variance criteria from Code Section 78-185 which all must be met before a variance can be granted.

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.

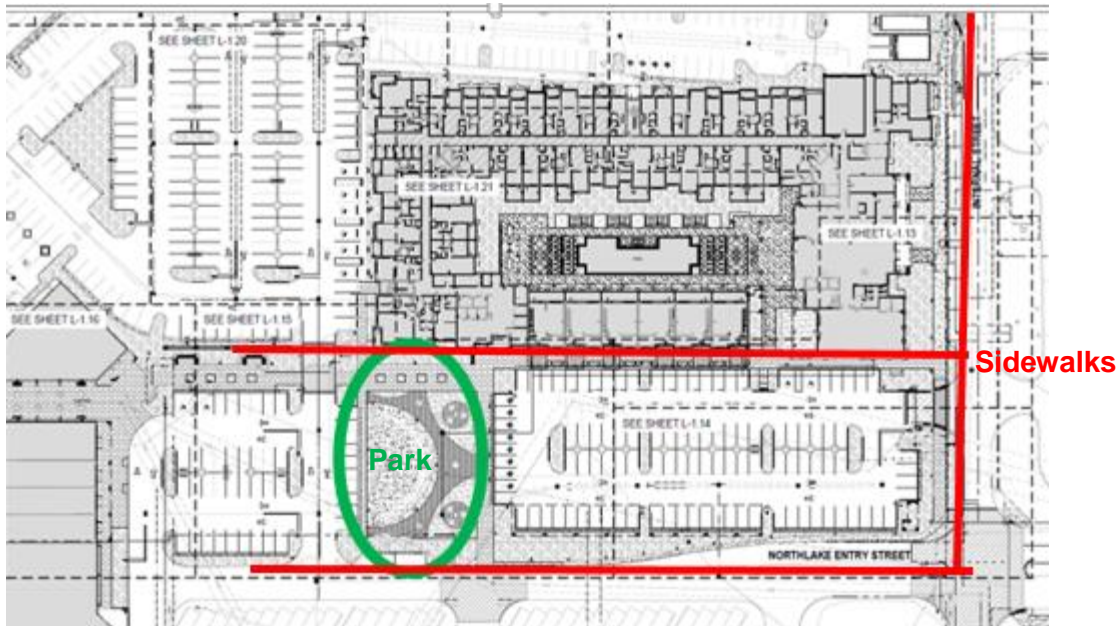
Criteria 5 met

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