

TO: Board of Adjustment

Item Number: 2

FROM: Planning Department Staff

DATE: Monday, February 13, 2017.

SUBJECT: Petition BA-17-02 VAR

CHW Inc., (Craig Brashire), agent for Albert and Carmen Fosmoe, et al, owners. Request for a variances in accordance with Sec. 30-354(d) (3) and Sec. 30-65.1(d) of the Land Development Code to allow reduction of the north, street side setback from 20 feet to 10 feet for construction of a four-story, multi-family residential building with a parking structure. Zoned UMU-1 (8 - 75 units/acre Urban Mixed Use 1). Located at 1115 SW 13th Street.

Background and Explanation:

This petition is a request for a variance to reduce the street side setback from 20 feet to 10 feet along SW 11th Avenue to allow construction of a four-story, multi-family development containing 220 dwelling units and 631 bedrooms. The development includes 159,797 square feet of floor area and a seven-level parking structure with 409 spaces. It is located at the southeast corner of SW 13th Street and SW 11th Avenue; the primary frontage is along SW 13th Street and the side of the building is along SW 11th Avenue (See Map 1.).

The development has a 272-foot façade along South 13th Street which is a Central Corridor arterial and a 440-foot façade along SW 11th Avenue, which is a local street. The development is also within the SW 13th Street Special Area Plan and is impacted by the building placement standards of that district. It is also subject to the adjacent Central Corridor and the UMU-1 zoning district. The SW 13th Street standards require a build-to line of 15 feet from the property line for 70 percent of the building façade. It also requires a maximum building length of 100 feet but the building stretches along SW 13th Street for a distance of 272 feet. During development plan review, staff determined that the proposed development was not in compliance with the build-to line and the building length standards but the Development Review Board granted waivers to allow the design as proposed.

The development as proposed is also not in compliance with the street side setback along SW 11th Avenue; the street side setback along SW 11th Avenue is 20 feet. Since the Development Review Board is not authorized to grant a waiver to that requirement, the applicant elected to request a variance before the BOA instead of shifting the building to meet setback requirements.

Map 1 Location of Subject Property

THE NINE: PROPOSED MULTI-FAMILY RESIDENTIAL DEVELOPMENT

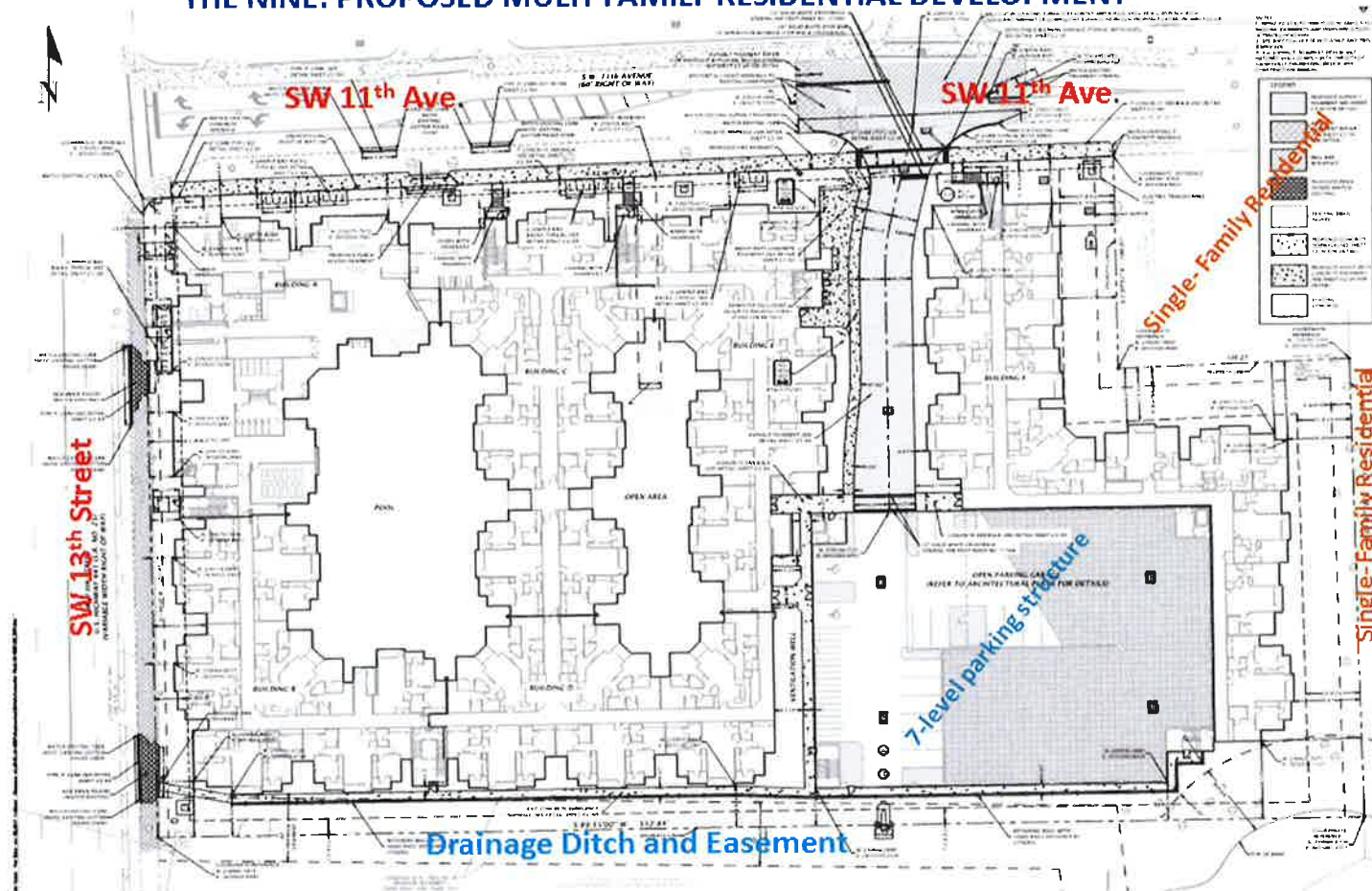


Table 1

DIMENSIONAL REQUIREMENTS FOR THE URBAN MIXED-USE DISTRICT (UMU-1)

(d) *Dimensional requirements.* All principal and accessory structures shall be located and constructed in accordance with the following requirements:

(1) *Nonresidential and vertically mixed-use buildings.*

Minimum lot area	5,000 sq. ft.
Minimum lot width	50 sq. ft.
Minimum lot depth	90 ft.

Minimum yard setbacks:	
Front	The average of the distance (up to a maximum of 20 ft.) between street right-of-way and principal structures on the two adjacent lots. For this calculation, any vacant adjacent lot shall be assigned a distance of 20 ft.
Side (interior)	7.5 ft., or 25 ft. when abutting property designated single-family or residential low-density on the future land use map.
Side (street)	The average of the distance (up to a maximum of 20 ft.) between street right-of-way and principal structures on the two adjacent lots. For this calculation, any vacant adjacent lot shall be assigned a distance of 20 ft.
Rear	20 ft., or 25 ft. when abutting property designated single-family or residential low-density on the future land use map.
Maximum lot coverage	None

- (2) *Single-family dwellings.* These structures shall be located on lots meeting the minimum dimensions as shown below. This section is specifically designed to allow for zero lot line housing and other unique single-family designs, as well as conventional single-family housing. It allows for smaller, relatively narrow lots, as compared to other districts permitting single-family use, and provides for flexibility in design concepts, which are compatible with existing uses in the area.

a. *Minimum lot area:* 3,600 square feet.

b. *Minimum lot depth:* 90 feet.

c. *Minimum yard setbacks:*

1. *Side:* Five feet (except that, where adjoining lots are developed at the same time under single ownership, one side of each lot may have no yard setback if the setback for the adjoining yard is at least ten feet).

2. *Rear:* 20 feet.

d. *Minimum yard setbacks for accessory structures:* Five feet for rear; same as principal building for sides.

- (3) *Two-family dwellings and rowhouses.*

	<i>Rowhouses</i>	<i>Two-Family Dwellings</i>
1. Minimum lot depth	90 ft.	90 ft.
2. Minimum lot area	1,800 sq. ft. per unit	3,150 sq. ft.
3. Minimum yard setbacks:		
i. Side	10 ft. on ends of row	
ii. Rear	15 ft.	20 ft.
4. Minimum yard setbacks for accessory structures	5 ft. for rear; same as principal building for sides	5 ft. for rear; same as principal building for sides

- (4) *Multi-family dwellings.*

Allowable density	8 to 75 units per acre; an additional 25 units per acre may be added by special use permit. Lots that existed on November 13, 1991 as recorded in the planning and development services department and that are less than or equal to 0.5 acres in size are exempt from minimum density requirements.
Minimum lot area	5,000 sq. ft.
Minimum lot width	50 sq. ft.
Minimum lot depth	90 ft.
Minimum yard setbacks:	
Front	The average of the distance (up to a maximum of 20 ft.) between street right-of-way and principal structures on the two adjacent lots. For this calculation, any vacant adjacent lot shall be assigned a distance of 20 ft.
Side (interior)	7.5 ft., or 25 ft. when abutting property designated single-family or residential low-density on the future land use map.
Side (street)	The average of the distance (up to a maximum of 20 ft.) between street right-of-way and principal structures on the two adjacent lots. For this calculation, any vacant adjacent lot shall be assigned a distance of 20 ft.
Rear	20 ft., or 25 ft. when abutting property designated single-family or residential low-density on the future land use map.
Maximum lot coverage	80%

(5) *Accessory structures.*

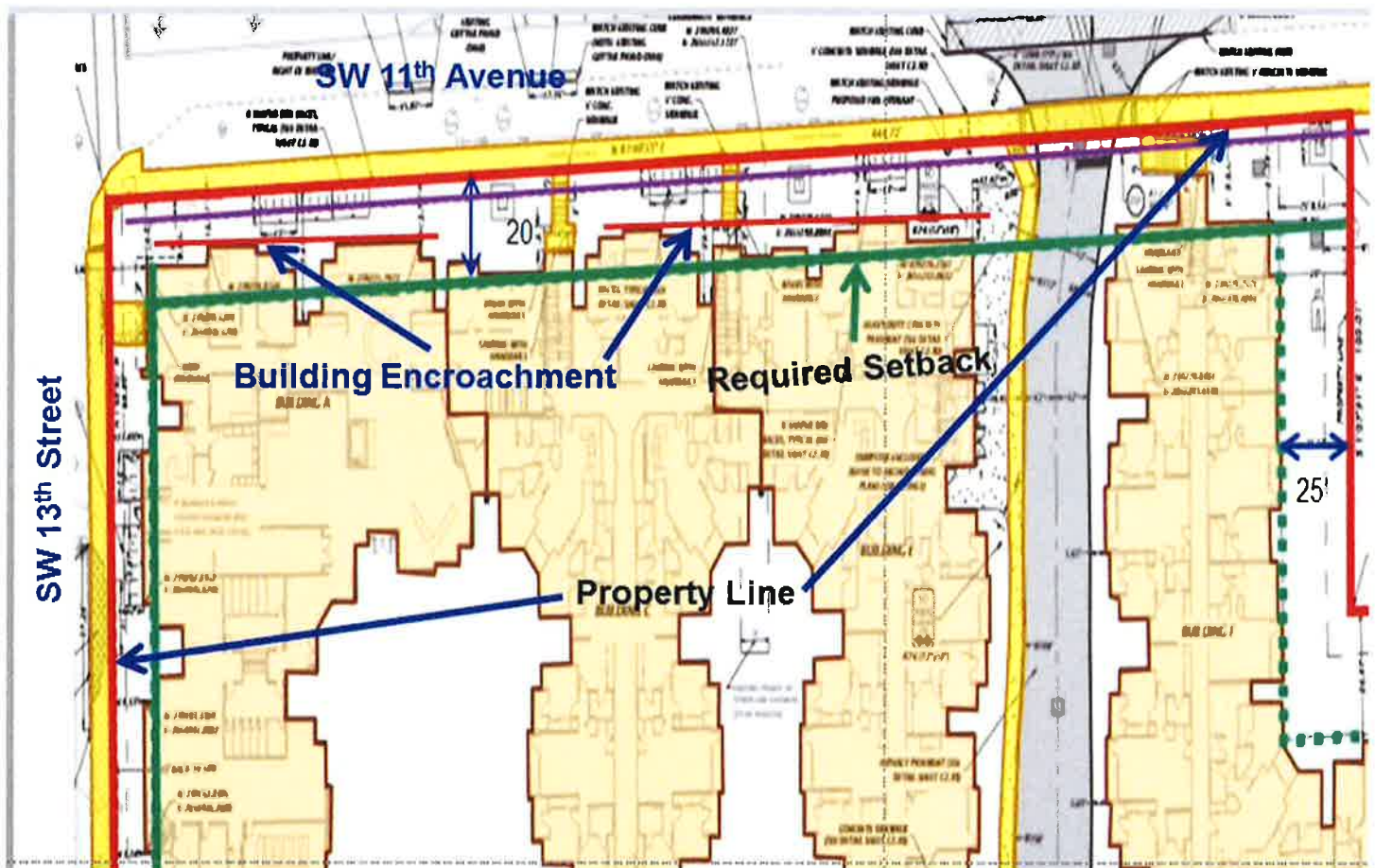
Minimum setbacks (excluding walls and fences):	
Front	Same requirement as for principal structure
Side (interior)	5 ft., or 25 ft. when abutting property designated single-family or residential low-density on the future land use map.
Side (street)	5 ft.
Rear	5 ft., or 25 ft. when abutting property designated single-family or residential low-density on the future land use map.
Maximum building height	35 ft.

(6) *Building height.* All principal buildings shall have a maximum height of 78 feet and a maximum height of six stories. All new non-single-family principal buildings shall have a minimum height of 24 feet.

(e) *Additional requirements.*

- (1) *General conditions.* All structures and uses within this district shall also comply with the applicable requirements and conditions of section 30-67 and article IX.
 - (2) *When the development is located in a special area plan overlay district.* If the provisions of the special area plan conflict with the underlying zoning, the provisions of the special area plan shall govern and prevail. The effect of the classification is that the special area plan is the applicable set of regulations. The underlying zoning and provisions of the land development code shall apply when the special area plan does not address a requirement.
 - (3) *Projections over right-of-way.* Projections may project over any public right-of-way used for sidewalks or other pedestrian walkways when in conformance with the Florida Building Code and when permitted by the public entity responsible for the right-of-way by the granting of an easement or other appropriate property right.
- (f) *General requirements.* All structures and uses within this district shall also comply with the applicable requirements and conditions of section 30-67 and article IX.

Building Encroachment



Analysis of request:

Staff has reviewed this petition in the context of Section 30-354(d) (3) and Sec. 30-Sec.30-65.1 of the Land Development Code. Those sections of the code set development standards, defines a variance and authorize the Board of Adjustment to grant variances from certain provisions of the code. It places restrictions on granting these variances, and outlines the general requirement for granting a variance. This request to reduce the north, street side yard setback, classifies as a type of variance that may be authorized by the Board of Adjustment.

Staff identifies the following key issues as directly related to the requested variance:

1. The parcel is the result of the aggregation of five lots occupied by single-family dwellings and a larger parcel used is developed as a cultural center.
2. The subject property is in a unique neighborhood, surrounded by high density and intensity multi-family developments, educational, office and medical uses.
3. The parcel is located on a corner and therefore must comply with setback standards for two roadways.
4. The proposed development on the subject parcel is a four-story building adjacent to established one-story single-family developments.
5. The parcel is adjacent to a regulated creek which has a setback of 35 to 150 feet but the building is placed at 35 feet from the break of slope of the creek.
6. The parcel is adjacent to a 30-foot wide drainage ditch which has a corresponding drainage easement.
7. The parcel is directly opposite to a similar development which has an actual building setback of more than 20 feet.

In considering a request for a variance, the code requires that the board establish findings that the request demonstrates the following:

1. *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 district.*

The Special conditions peculiar to the parcel are its location on a corner which requires compliance with two street setbacks. It is adjacent to a creek which requires a 35 to 150 feet setback but it is placed at 35 feet from the break of slope. South of the site is a drainage easement which requires clear separation. It is adjacent to single family development on the east which requires an additional 25 foot setback. Those characteristics of the site are unique and contribute to the need for the requested variance along SW 11th Avenue.

2. *That literal enforcement of the provisions of the Land Development Code or building chapters would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of the Land Development Code or Building code.*

Strict application of the zoning code will not deprive the applicant of development rights commonly enjoyed by other property owners. The literal enforcement of the provisions of the Land Development Code will limit the extent of development.

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

The existing site is currently improved with a cultural center and single family dwellings which will be demolished leaving the applicant with a vacant lot from which to design the project. The proposed design is intended to utilize the development opportunities available to the applicant.

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

Granting the variance request based on findings of fact will not confer upon the applicant any special privileges that are denied to other land, structures, or buildings in the same district. In reaching a decision on the requested variance, the board must consider the material facts and competent substantial evidence presented. The applicant has provided documentation illustrating reasons for the request which must be considered in reaching a decision. A variance based on the listed criteria establishes a sound basis for deviating from the zoning standards and is not considered a special privilege.

5. The evidence presented justifies the granting of the variance and that the variance is the minimum variance that will make possible the reasonable use of the land, building or structure.

The applicant has provided documentation addressing the findings of fact necessary to grant a variance. The evidence demonstrates the characteristics of the site and the existing limitations. The applicant is proposing a 50% encroachment into the 20 foot setback leaving a distance of 10 feet which is not unusual but must be considered relative to the massing of the building and the existing nearby developments. Staff cannot determine whether the requested variance is the minimum possible to make reasonable and functional use of the proposed expansion.

6. Granting of the variance will be in harmony with the general intent and purpose of the zoning or building chapters and will not be injurious to the neighborhood or otherwise detrimental to the public welfare.

The intent of the variance procedure is to provide relief to property owners who have demonstrated hardships in pursuing development in strict compliance with the Land Development regulations. To this end, the intent of the standards is to provide flexibility and to establish reasonable separation, adequate space and efficient operation of adjacent uses with the general public and adjacent public realm. Those factors relate to the overall character of the neighborhood, the pattern of developments in the area, neighborhood types, lifestyle, and cultural and socioeconomic factors. The development is proposed as a student housing facility and the north side is designed as the main entrance for automobiles into the parking garage. That street edge is also anticipated as an area of primary pedestrian activities between the building and the travel lanes; given a reasonable reduction of the setbacks it is not anticipated that the development will be detrimental to the public welfare. However, an excessive reduction will result in a congested area, conflicts between pedestrians and automobiles and may extend negative impacts to the site and immediate surrounding developments.

Given the above conditions and a determination that the proposed encroachment will not result in an incompatible relationship between the building and the public realm, it seems reasonable to conclude that granting the variance will not be injurious to the neighborhood.

February 13, 2017.

The petitioner must demonstrate compliance with the findings necessary to issue a variance and show restricting hardships.

Respectfully Submitted:

A handwritten signature in blue ink, appearing to be 'S. L. Jones', written over a horizontal line.

Signature:

Title: Lead Planner

Date: Monday February 13, 2017.

LDC: ldc

Attachment:

Attachment A: Application and Supporting Documents.

Attachment B: Some Relevant Land Development Code References.