



## Staff Report

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**File #:** LN-391

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Zoning Board of Appeals  
Meeting Date: January 19, 2023

### **VARIANCE - Atlantic Urban Village HOA**

<b>Request:</b>	Variance
<b>P&amp;Z#</b>	22-11000020
<b>Owner:</b>	Atlantic Urban Village HOA
<b>Project Location:</b>	2300 NE 2 <sup>nd</sup> Street
<b>Folio Number:</b>	4843 31 46 0220
<b>Land Use Designation:</b>	ETOC- East Transit Oriented Corridor
<b>Zoning District:</b>	Transit Oriented (TO)-East Overlay District (EOD)
<b>Agent:</b>	Erika Zuniga
<b>Project Planner:</b>	Scott Reale

### **Summary:**

Applicant Landowner is requesting a VARIANCE from Section §155.4302(B)(2)(g) [Prohibited Location of Accessory Structures] and §155.4303(JJ)(3)(a)(i) of the Pompano Beach Zoning Code, in order to allow AC condensing unit equipment to be located in front of a principal structure and within 18 inches from a public right-of-way in common HOA area rather than setback behind a principal structure and not within a required setback as required by code.

The property is located in the East CRA, along the south side of NE 2<sup>nd</sup> Street, between NE 23<sup>rd</sup> Avenue and NE 24<sup>th</sup> Avenue.

### **ZONING REGULATIONS**

#### **155.4302. GENERAL**

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#### **B. General Standards for All Accessory Uses and Structures**

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#### **2. Prohibited Location of Accessory Uses and Structures**

Unless otherwise provided for in Section 155.4303 (Standards for Specific Accessory Uses and Structures), accessory uses and structures shall not be located within the following:

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**f. A required yard setback;**

**g. In front of the principal structure;**

## 155.4303. STANDARDS FOR SPECIFIC ACCESSORY USES AND STRUCTURES

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**JJ. Mechanical Equipment and Similar Features****1. Districts Where Permitted**

RS-1	RS-2	RS-3	RS-4	RS-L	RD-1	RM-7	RM-12	RM-20	RM-30	RM-45	MH-12	B-1	B-2	B-3	B-4
A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A

M-1	CR	I-1	I-IX	OIP	M-2	TO	PR	CF	PU	T	BP	RPUD	PCD	PD-TO	LAC	PD-1
A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A

**2. Definition**

Exterior mechanical equipment and similar features, whether mounted on a building or on the ground, include electrical and gas-powered mechanical equipment and power systems equipment (e.g., permanent electrical generators, refrigeration equipment and ductwork, swimming pool pumps, back-flow prevention devices), heating, ventilating, and air conditioning equipment, tanks, and ductwork (e.g., air conditioning condensers and compressors, heat pump condensers and evaporators). Roof or wall-mounted antennas, vent openings, tower and blades, bottled gas tanks, a small wind energy system, or the solar panels or modules of a solar energy collection system shall not be considered exterior mechanical equipment for purposes of these screening standards.

**3. Standards**

Mechanical Equipment and similar features are subject to the following standards:

**a. Setback**

i. Mechanical Equipment and similar features may be located within an interior side yard setback or a rear yard setback, but shall be located at least three feet from a side or rear lot line.

**b. Height Limitation**

Roof mounted mechanical equipment may be permitted to extend above the applicable maximum height limit for the zoning district provided they:

- Cover not more than 25 percent of the roof area of the structure to which they are attached; and
- Extend above the applicable maximum height limit by no more than 25 percent of the height limit (unless otherwise allowed in this Code).

c. Mechanical Equipment and similar features shall be screened in compliance with applicable screening requirements for mechanical equipment and appurtenances in Section 155.5301, Screening.

**PROPERTY INFORMATION**

- On 6/25/2003, the Planning & Zoning Board granted a development order for the construction of 21 fee simple townhomes via PRA 03-2615. At the time, the property was zoned General Business (B-3), but was subsequently rezoned to Transit Oriented (TO) and within the East Overlay District (EOD) as part of the East Transit Oriented Corridor transformation.
- The approved site plan shows many AC condensing unit equipment across the interior drive aisle and not located on the individual townhouse unit lot, which is a bit unorthodox for HVAC equipment in multi-family developments.

3. The applicant's narrative contends contractors are reluctant to deal with buried / underground refrigerant lines to handle the Freon leak. Staff has reviewed the approved plans and concurs relocation of the condenser units to the common area in front of the townhouse facades and close to the public right-of-way is the most logical and appropriate location. This relocation requires relief from the referenced zoning code provisions.
4. While the owner of one townhouse unit the property at the development initiated the application, staff believes this issue may ultimately affect other unit owners. Therefore, if the Variance is granted, staff requests the same relief should be granted to any of the affected townhouse units at Atlantic Urban Village. As a condition of approval, condenser units shall comply with all mechanical equipment screening requirements.

### **LAND USE PATTERNS**

Subject property (Zoning District | Existing Use):

- TO-EOD | 21-unit townhouse development (Atlantic Urban Village)

Surrounding Properties (Zoning District | Existing Use):

- North: TO-EOD | multi-family dwellings
- South: TO-EOD | parking lot
- West: TO-EOD | multi-family dwellings
- East: TO-EOD | office building or pool contractor and marketing group

### **VARIANCE REVIEW STANDARDS**

A Variance application shall be approved only on a finding that there is competent substantial evidence in the record that all of the following standards are met:

- a) There are extraordinary and exceptional conditions (such as topographic conditions, narrowness, shallowness, or the shape of the parcel of land) pertaining to the particular land or structure for which the Variance is sought, that do not generally apply to other lands or structures in the vicinity;
- b) The extraordinary and exceptional conditions referred to in paragraph a., above, are not the result of the actions of the landowner;
- c) Because of the extraordinary and exceptional conditions referred to in paragraph a., above, the application of this Code to the land or structure for which the Variance is sought would effectively prohibit or unreasonably restrict the utilization of the land or structure and result in unnecessary and undue hardship;
- d) The Variance would not confer any special privilege on the landowner that is denied to other lands or structures that are similarly situated.
- e) The extent of the Variance is the minimum necessary to allow a reasonable use of the land or structure;
- f) The Variance is in harmony with the general purpose and intent of this Code and preserves its spirit;
- g) The Variance would not adversely affect the health or safety of persons residing or working in the neighborhood, be injurious to property or improvements in the neighborhood, or otherwise be detrimental to the public welfare; and
- h) The Variance is consistent with the comprehensive plan.

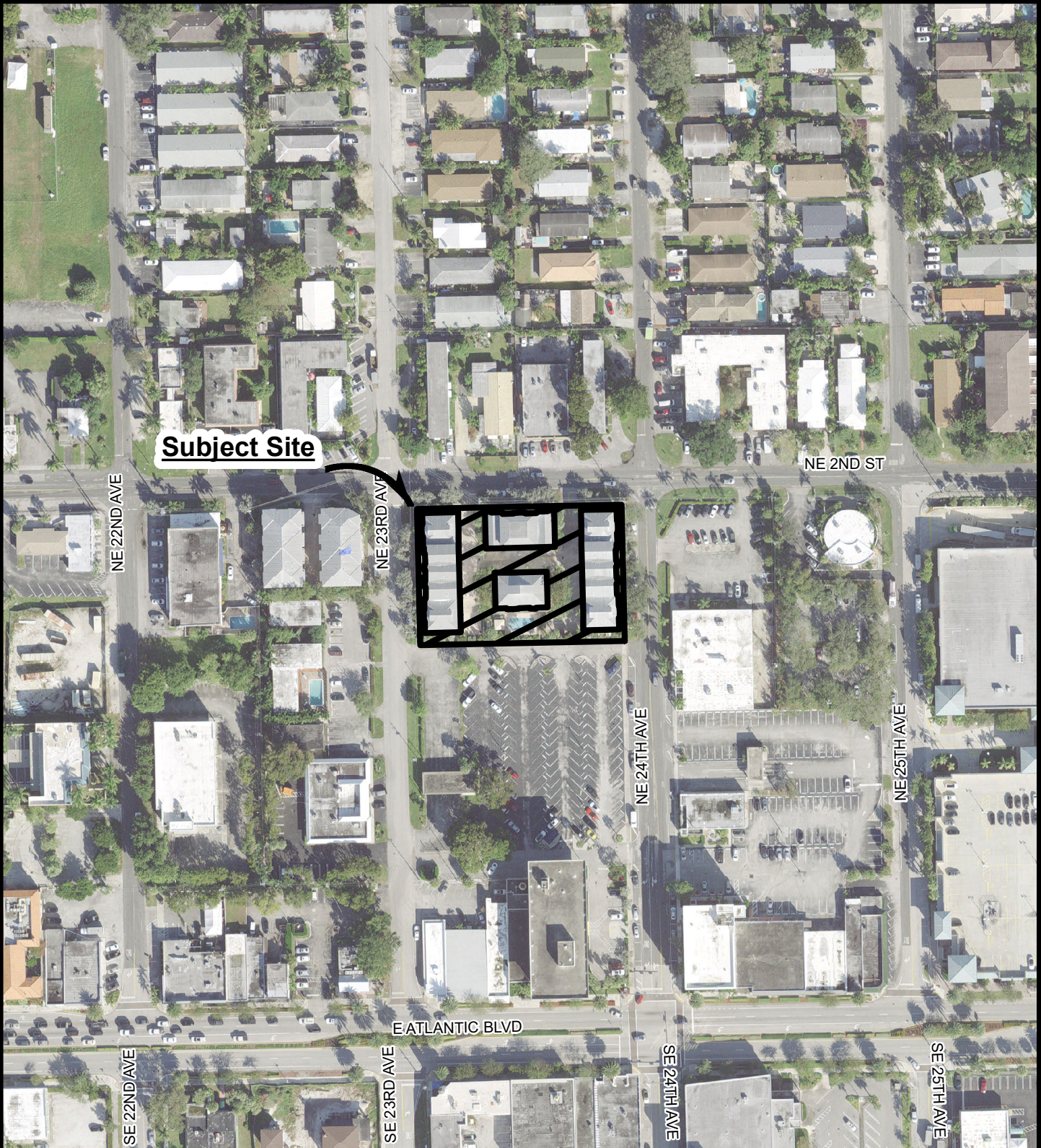
**Staff Conditions:**

Should the Board determine that the applicant has provided competent substantial evidence to satisfy the eight Variance review standards, staff recommends the Board include the following conditions as a part of the Order:

1. Obtain all necessary governmental permits and approvals including building and zoning compliance permits.
2. Air conditioning condensing units in common area shall be screened in compliance with applicable screening requirements for mechanical equipment and appurtenances in Section 155.5301, Screening.
3. Equipment shall be located a minimum of 18 inches from a public right-of-way, as depicted on the conceptual site plan included with this Variance.



CITY OF POMPANO BEACH  
AERIAL MAP



1 in = 167 ft

PREPARED BY:  
DEPARTMENT OF  
DEVELOPMENT SERVICES