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**Proposed Publix Super Market**  
**Request for Variances**  
**2985 N. Ocean Boulevard, Fort Lauderdale, Florida**

**Introduction**

The Applicant, Publix Super Markets, Inc., is proposing to construct a new grocery store (the "Project") on property located at 2985 N. Ocean Boulevard, south of Oakland Park Boulevard and west of A1A at the southwest corner of NE 30th Street and N. Ocean Boulevard (A1A) on Fort Lauderdale Beach (the "Property"). The Property, which stretches from A1A to NE 33rd Avenue, is irregular in shape and consists of five platted lots totaling 61,650 square feet or 1.42 acres.

Publix has been looking for a Property on Fort Lauderdale Beach for 10 years and finally found a site that was suitable for a grocery store. However, there are special circumstances and conditions that affect the Property, as we will discuss below. The Property is currently an underutilized site, mostly vacant, but for a small empty retail structure, that formerly housed a medical office, a restaurant and a surface parking lot. The Project will revitalize this area by bringing a much needed and desired Publix Super Market to the Property and creating active uses and pedestrian friendly streetscape to encourage pedestrian activity along A1A, NE 30<sup>th</sup> Street and NE 33<sup>rd</sup> Avenue. The Project, located on three rights-of-way, incorporates perimeter buffers, wide sidewalks, a corner plaza and landscaping around the Property.

Publix will be presenting a smaller, urban footprint of approximately 29,495 square foot unique to this beach location and will provide the residents and visitors in this area a long overdue alternative for grocery shopping. The Property is one of the smallest designs for Publix and with the special conditions and circumstances that affect the Property, Publix is requesting minor setback variances to make this project successful. Residents and visitors will no longer have to cross the Intracoastal bridge to shop for food, and due to its close proximity to beach neighborhoods and condominiums, neighbors will be able to conveniently walk to the store for their grocery needs, thereby cutting down on traffic.

**Application / Requests**

The Applicant is seeking the following relief from ULDR Section 47-6.20, setback requirements of the CB – Community Business zoning district:

Setbacks	Required	Proposed	Variance Request
Front (30 <sup>th</sup> Street)	5'	1.6'	3.6'
Rear	15'	10'	5'
Corner (A1A)	5'	0'	5' (only because of the 10' ROW dedication)

The Applicant has encountered several unique hardships attributable to the land and therefore, the above referenced variances are being requested. The Applicant submits that the criteria to granting variances established by Section ULDR Section 47-24.12.A.4 are satisfied as demonstrated below:

**a. That special conditions and circumstances affect the property at issue which prevent the reasonable use of such property**

The Property is made of five parcels surrounded by three streets – A1A, NE 30<sup>th</sup> Street and NE 33<sup>rd</sup> Avenue, and it has several special conditions and circumstances which prevent the reasonable use of the Property. The Property is irregularly shaped, has a significant elevation change from east to west, requiring ADA and flood compliance, requires a 10-foot required dedication along A1A, and has an existing concrete wall adjacent to the rear of the Property. These special circumstances are unique to the Property and prevent its reasonable use, without relief from the Code.

The elevation along the Property's east side (A1A) at the highest crown of road is approximately 6.55 feet, where the elevation along the Property's west side (NE 33<sup>rd</sup> Avenue) at the lowest crown of road is approximately 3.01 feet. City flood and sea level rise regulations require the proposed Project to be one foot above the highest crown of road, or 7.55 feet. *See*, Plan Sheet PGD-1. This significant grade change of 4.54 feet from A1A to NE 33<sup>rd</sup> Avenue requires that the Property be graded to the highest elevation and that the grocery store be elevated above flood/FEMA levels. Because of this large elevation discrepancy, stairs and ADA ramps must be incorporated to allow customers to enter the store. Stringent ADA widths, grades and regulations prevent the project from meeting the setback requirements along A1A and NE 30<sup>th</sup> Street. In addition, A1A is on the Trafficways Plan and therefore, the Applicant is required to dedicate 10 feet of property along the entire east side of the Property (approximately 1,240 square feet of Property). The Property line moves 10 feet and the Applicant loses that property, creating a hardship for the Applicant. Due to the Property's irregular shape, flood and ADA requirements, and dedications, these special conditions are preventing the reasonable use of the Property.

In addition, the required rear yard setback is 15 feet, which includes a 10-foot landscape bufferyard. The adjacent property owner to the south (Vantage View) has a 5-foot concrete wall, with a 6-foot chain link fence on top, which sits 5 feet south of its property line. Between the wall and its property line is a 5-foot wild, unmaintained landscaped strip. Because there is already an existing concrete wall and fence, Applicant is proposing to create a 15-foot bufferyard (where only 10 feet is required) by installing additional landscaping in the area north of the wall and within the Applicant's landscape bufferyard. This will provide additional screening for the neighbors. Putting up another wall, will only create a space for unlawful activities and for homeless to camp. This would be in violation of the City's Crime Prevention Through Environmental Designs (CPTED) principals. These special

conditions and circumstances create a hardship for the Applicant and prevent the reasonable use of the Property, unless variances are granted.

- b. **That the circumstances which cause the special conditions are peculiar to the property at issue, or to such a small number of properties that they clearly constitute marked exceptions to other properties in the same zoning district.**

The special conditions and circumstances are peculiar to this Property and constitute marked exceptions to other properties in the CB zoning district. This Property is 1.42 acres on the barrier island, surrounded by three streets and has a 4.5-foot elevation discrepancy from one side of the Property to the other. This significant elevation change, the loss of property due to dedication and the existing concrete wall to the south of the Property, all create a hardship for the Applicant that clearly constitute marked exceptions to other properties in the district. But for these special conditions, the Applicant would comply with the provisions of the ULDR and no variances would be needed.

- c. **That the literal application of the provisions of the ULDR would deprive the applicant of a substantial property right that is enjoyed by other property owners in the same zoning district. It shall be of no importance to this criterion that a denial of the variance sought might deny to the owner a more profitable use of the property, provided the provisions of the ULDR still allow a reasonable use of the property.**

Literal application of the City's Code would deprive Applicant of rights enjoyed by other property owners in the same zoning district. The Property is located within the CB zoning district, where grocery stores are permitted uses. This use is compatible with other property owners in the CB district and in the surrounding area. The variances are being requested due to the special conditions and circumstances of the unique Property, and but for these special conditions, no variances would be needed. The intent of the Code is being met, as setbacks are to provide space between adjoining properties and rights-of-way. The Property is surrounded by three street fronts and even with the minor variances there are generous separations from adjacent properties, which satisfy the intent of the requirement. The Applicant also meets the intent of the Code for the rear setback as there is 15 feet of landscape bufferyard that will be densely planted to add additional screening. Not granting the variances would deprive the Applicant of a substantial property right that other property owners enjoy, as the reason the variances are needed are due to the special conditions and circumstances that affect the Property.

- d. **That the unique hardship is not self-created by the applicant or his predecessors, nor is it the result of mere disregard for, or ignorance of, the provisions of the ULDR or antecedent zoning regulations.**

The unique hardship is not created by the Applicant, but because of the conditions and circumstances which affect the Property. The Property is unique in that it has a significant elevation change (4.5 feet) from east to west, whereby the Property must

be elevated to comply with Federal, State, County and City flood and sea level regulations. This requires bulky, wide ramps in compliance with ADA rules and stairways on the outside of the building, which are considered part of the structure and creates a hardship for the Applicant, which is not self-created. Additionally, 10 feet of the Applicant's property is being taken by the County/FDOT along the east side for future right-of-way, also which is not self-created. The existing wall on the adjacent property to the rear creates a non-self-imposed hardship. The wall will remain in place and the Applicant will create a lush, large landscape bufferyard between the properties which meets, and in fact, exceeds the intent of the Code by having a 15-foot landscape bufferyard between the properties (only a 10-foot bufferyard is required by Code). The hardship is unique, not self-created and is not the result of disregard for or ignorance of the provisions of the City's Code.

- e. **That the variances are the minimum variances that will make possible a reasonable use of the property and that the variances will be in harmony with the general purposes and intent of the ULDR and the use as varied will not be incompatible with adjoining properties or the surrounding neighborhood or otherwise detrimental to the public welfare.**

The requested variances are the minimum variances necessary to make possible a reasonable use of the Property. Because of the elevation and flood requirements, the loss of property due to the dedication on A1A, and due to the existing concrete wall at the rear of the Property, the Property and right-of-way setbacks were minimally reduced. However, the variances requested are in harmony with the general purposes and intent of the ULDR and will not be incompatible with adjoining properties or the surrounding neighborhood or be detrimental to the public welfare. As stated above, the intent of the setback provisions is to provide adequate separation from properties and rights-of-way. With the large sidewalks and landscape buffers around the Property, the intent and purposes of the ULDR are met. The use as a grocery store, with minimally varied setbacks, is a compatible use with the adjoining properties and the surrounding neighborhood and is not detrimental to the public welfare.