

# Mills, Short & Associates

CIVIL | STRUCTURAL | SURVEYING | ENVIRONMENTAL

CERTIFICATION OF AUTHORIZATION 30698

March 11, 2024

Ms. Tania Ramos  
Senior Planner  
City of Palm Bay  
120 Malabar Road SE  
Palm Bay, FL 32907

RE:    **Project Name:**                      The Palms Apartments  
         **Application Number:**              SP23-00044  
         **Site address/Location:**            2071 Agora CIR SE Palm Bay, FL 32909

Dear Ms. Ramos:

Please accept this letter as our formal request for a variance from the City's Ordinance Section 185.038.f.7.e, which mandates a minimum separation of 30 feet between two multi-family building structures located on the same property. We are requesting a variance to allow a 12-foot separation instead of the required 30 feet. Below, we provide justifications for each variance criterion

1. 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 land use category, zoning district or situation.

Justification:

Our property is uniquely impacted by the placement of Florida Power and Light's power lines and easement, which traverse directly through our land rather than along its perimeter. This unusual placement severely restricts our usable building area, necessitating access clearance for the power lines. Despite efforts to mitigate this issue, including proposals to bury or relocate the lines at our expense, our requests were denied. A reduction in the separation distance to 12 feet is vital to enable the construction of two distinct structures, thereby aligning with Florida Building Code requirements without imposing undue limitations.

2. The special conditions and circumstances identified in paragraph (1) above are not the result of actions of the applicant.

Justification:

The constraints posed by the utility easement and the positioning of the power lines were not influenced by any actions or decisions made by us, the applicant

3. Literal interpretation and enforcement of the Land Development Code regulations would deprive the applicant of rights commonly enjoyed by other properties in the same land use category, zoning district or situation, and would result in unnecessary and undue hardship on the applicant.

Justification:

Adhering strictly to the 30-foot separation requirement, given our unique circumstances, would necessitate treating the two buildings as a single structure. This classification would impose additional regulatory burdens, significantly elevating construction costs and potentially rendering the project infeasible.

4. The variance, if granted, is the minimum variance necessary to make possible the reasonable use of the land, building or structure.

Justification:

The requested reduction to a 12-foot separation is the least deviation needed to facilitate the pragmatic and efficient use of our property, allowing for the development of two separate structures within the constraints imposed by the existing easement.

5. Granting of the variance request will not confer on the applicant any special privilege that is denied by the development code to other lands, buildings or structures in the same land use category, zoning district or situation.

Justification:

The variance sought does not bestow any unique advantages upon us; it merely provides a necessary adjustment to accommodate the specific challenges of our property, ensuring parity with the opportunities available to other properties not similarly encumbered.

6. The granting of the variance will be in harmony with the general intent and purpose of this code, and will not be injurious to the surrounding properties or detrimental to the public welfare.

Justification:

The proposed variance is in alignment with the overarching objectives of the code, designed to facilitate reasonable property development while maintaining aesthetic coherence and compliance with other code requirements. It will not adversely affect neighboring properties or the broader community.

7. The variance represents a reasonable disposition of a claim brought under the Bert J. Harris Private Property Rights Protection Act, chapter 95-181, Laws of Florida, that a development order of the city has unreasonably burdened the applicant's property, based upon the recommendations of the special master appointed in accordance with the act, or the order of a court as described in the act.

Justification:

To date, we have not initiated a claim under the Bert J. Harris Private Property Rights Protection Act. The request for this variance is a proactive measure to address the unique constraints of our property and is not contingent upon a claim under the act.

Should you require further information or wish to discuss this request in more detail, please do not hesitate to reach out to us.

Sincerely,

MILLS, SHORT & ASSOCIATES, LLC.

A handwritten signature in blue ink, appearing to read "J. Wesley Mills", is written over a light gray rectangular background.

J. Wesley Mills, P.E.  
Principal