

Toscana Park Villas, LLC Fence Variance Narrative and Justification

Toscana Park Villas, LLC (“Applicant”) owns the Toscana Luxury Apartments (“Toscana”) located at 3050 Toscana Lane West (“Property”) in the City of Margate (“City”) which is generally located at the southwest corner of NW 31st Street and State Road 7 in the Transit Oriented Corridor (“TOC”). Toscana is an upscale resort style apartment home community that offers an array of features and amenities such as a fitness center, spinning and yoga room, video game center, beautiful clubhouse with entertainment areas and pool cabanas, built in steel grills, children’s playground and a dog park. As part of the dog park amenity, Toscana is requesting a variance for a black decorative chain link fence. Pursuant to Section 3.14(16), chain link or other similar style fences are not permitted within the TOC zoning district. The Applicant will demonstrate below that the requested variance complies with the City’s established criteria for granting variances:

1. *That special conditions and circumstances exist which are peculiar to land, structures or buildings involved, and which are not applicable to other lands, structures or buildings in the same zoning district.*

There are special conditions and circumstances that exist which are peculiar to land, structures or buildings involved, and which are not applicable to other lands, structures or buildings in the same zoning district. The black chain link fence is requested for the safety of the dogs and residents as other types of fences pose a risk as other styles of fences do not provide the same type of security to keep small dogs properly enclosed. In order for the Applicant to provide a safe environment and to better serve the community by offering a safe fence alternative, the Applicant is requesting a variance from the Code to allow a decorative black coated chain link fence.

2. *That special conditions and/or circumstances do not result from actions of the applicant*

Special conditions and circumstances that exist are not a result of actions by the Applicant. The Applicant is unable to provide proper secure fencing for the dog park under the existing Code. The City’s Code does not have regulations that allow for the necessary type of fence contemplated for a dog park. Therefore, it is necessary for Applicant to request this variance which will permit the safest and most effective fence to secure the dogs. The variance request is

needed in order to provide safety measures to ensure that the dogs, especially the small dogs, are secure. The black coated chain link fence is an attractive decorative fence and it is not the standard silver metal fence that is typically used as temporary fencing for a construction site. This style of chain link is not distracting or visually obtrusive. In fact, it blends in with the other amenities. The relief requested from the strict interpretation of the Code will enhance the overall safety and general welfare of the community.

3. *That granting a variance will not confer a special privilege that is denied by the Code to other lands, buildings or structures in the same zoning district.*

The Property is located within the City's TOC with a zoning designation of TOC-G Gateway District ("TOC-G"). The TOC districts generally include properties that are abutting or proximate to State Road 7. As such, this particular Property abuts State Road 7. The purpose of the variance request is for safety and to avoid any potential hazardous condition. The proposed decorative black chain link fence will provide safety measures to prevent any of dogs from "getting stuck" in a standard fence or getting out of the dog park into the parking lot area or State Road 7. As this is a decorative fence, and not the standard chain link fence, it meets the spirit and intention of the Code. Except for this variance request, the proposed decorative chain link fence is in compliance with the requirements pursuant to the Code. Therefore, the Applicant's decorative chain link fence is in line with the intent of the TOC-G zoning district and will not confer a special privilege to the Applicant upon granting of the variance.

4. *That a literal interpretation of the regulations of the Code would deprive the applicant of rights shared by other property owners holding property in the same zoning district under the terms of the Code and would cause unnecessary and undue hardship on the applicant.*

A literal interpretation of the Code would deprive the Applicant from providing proper secure fencing on the Property which would impose undue hardship and would deprive the Applicant of rights shared by other property owners in the same zoning district. Except for this variance request, the decorative black chain link fence is in compliance with the requirements pursuant to the Code. Therefore, the Applicant's proposed decorative fence is in line with the intent of the TOC that is shared by other property owners in the TOC zoning district.

5. *That the variance being granted is the minimum variance that will make possible the reasonable use of land, building or structures.*

Allowing a black coated decorative chain link fence is the minimum variance that will allow the Applicant to provide a proper and secure fence on the Property as well as enhance the community.

6. *That the approval of the variance will be harmonious with the general intent and purpose of this chapter and that such variance will not degrade the area involved or be detrimental to public welfare.*

The approval of the variance will be harmonious with the general intent and purpose of this chapter and such variance will not degrade the area involved or be detrimental to public welfare. In fact, the proposed black decorative fence for the Toscana dog park will enhance the community with an attractive, appealing, and very compatible fence for the TOC-G zoning district. Except for this variance request, the fence is in compliance with the signage requirements pursuant to the Code. Therefore, the Applicant's fence is in line with the intent of the TOC-G zoning district and will not degrade the area involved or be detrimental to public welfare upon granting of the variance.

7. *That the variance does not serve to permit a use not permitted in the zoning district involved.*

The Property is located within the City's TOC-G zoning district. Fences are permitted under the TOC-G zoning regulations and except for this variance request, the proposed fence is in compliance with the requirements pursuant to the Code. Therefore, the proposed variance does not serve to permit a use not permitted in the TOC-G zoning district.

8. *Conditions and safeguards may be prescribed with the approval of a variance, the violation of which would be a violation of the Code. If necessary, a timeline may be established during which a variance may begin and shall be completed.*

The Applicant acknowledges that conditions and safeguards may be prescribed in connection with the approval of this variance.