

BEFORE THE FLOIRDA HOUSING FINANCE CORPORATION

URBAN EDGE APARTMENTS, LTD
Petitioner,

vs.

APPLICATION NO:
2011-235C/2013-007C

FLORIDA HOUSING FINANCE CORP.
Respondent.

FHFC CASE NO: 2014-086VW

**PETITION FOR WAIVER FROM FLORIDA
ADMINISTRATIVE CODE RULE 67-48.004**

URBAN EDGE APARTMENTS, LTD (“Petitioner”), by and through its undersigned attorney, hereby petitions the Florida Housing Finance Corporation (the “FHFC”) for a waiver from a portion of Rule 67-48.004, Florida Administrative Code (“FAC”). This Petition is filed pursuant to Section 120.542, Florida Statutes and Chapter 28-104, Florida Administrative Code.

THE PETITIONER

1. The address, telephone and facsimile number of Petitioner is:

Urban Edge Apartments, Ltd.
200 East Canton Avenue, Suite 102
Winter Park, FL 32789
407-741-8500 (telephone)
(407) 643-2551 (facsimile)

2. The address, telephone and facsimile number of Petitioner’s attorney is:

Kerey Carpenter
AHG Group, LLC
700 West Morse Boulevard, Suite 220
Winter Park, Florida 32789
(407) 691-5605 (telephone)
(407) 371-6126 (facsimile)

3. Petitioner successfully applied for financing from the Housing Credits Program in the 2011 Universal Application Cycle that Florida Housing administers pursuant to Chapter 67-

48, Florida Administrative Code. Petitioner's Application Number is: 2011-235C and 2013-007C (forward allocation number assigned by Florida Housing) (the "Application"). Petitioner applied for Housing Credits to finance a portion of the costs to construct 85 affordable units in a 85-unit multifamily rental apartment community located in Pinellas County, Florida, to be known as Harbour's Edge f/k/a Urban Edge (the "Development").

THE RULE FROM WHICH A WAIVER IS SOUGHT

4. Petitioner requests a waiver from the portion of Rule 67-48.004 that adopts and incorporates by reference Part III.B.3.b of the Universal Application Package or UA 1016 (Rev. 2-11). The relevant portions of the Rule are as follows:

67-48.004 Application and Selection Procedures for Developments.

- (1) When submitting an Application, Applicants must utilize the Universal Application in effect at the Application Deadline.
 - (a) The Universal Application Package or UA1016 (Rev. 2-11) is adopted and incorporated herein by reference and consists of the forms and instructions available, without charge, on the Corporation's Website under the 2011 Universal Application link labeled Instructions and Application or from <http://www.org/Gateway/reference.asp?No=Ref-00703>, which shall be completed and submitted to the Corporation in accordance with this rule chapter in order to apply for the HOME and HC Program(s).

2011 Universal Application, Part III.B.3.b

Optional Features and Amenities for All Developments Except SRO
(Maximum available points for this category is 12 points):

Picnic area with hard cover permanent roof of a design compatible with the Development, open on all sides, containing at least three permanent picnic tables with benches and an adjoining permanent outdoor grill (1 point)

2011 Universal Application Package Instructions, Part III B, Construction Features and Amenities:

All Required Features and Amenities and all Optional Features and Amenities selected by the Applicant, as well as the Applicant's Energy and Green Building commitments, will be included in the Land Use Restriction Agreement and/or Extended Use Agreement and must be maintained in order for the Development to remain in compliance unless the Board approves a change.

STATUTES IMPLEMENTED BY THE RULE

5. The Rule implements, among other sections of the Florida Housing Finance Corporation Act¹, the statute that created the Housing Credits Program. Section 420.5093, Florida Statutes. The Act designates Florida Housing as the State of Florida's housing credit agency within the meaning of Section 42(h)(7)(A) of the Internal Revenue Code of 1986. As the designated agency, Florida Housing is responsible for and is authorized to establish procedures for the allocation and distribution of low-income housing tax credits ("Allocation Procedures"). Section 420.5099(1) and (2), Florida Statutes. Accordingly, the Rule implements, among other sections of the Act, the statutory authorization for Florida Housing's establishment of Allocation Procedures for the Housing Credit Program.

6. FHFC has authority pursuant to Section 120.542(1), Florida Statutes and Chapter 28-104, F.A.C., to grant waivers to its rule requirements when strict application of such rules would lead to unreasonable, unfair, and unintended consequences in particular instances. Waivers shall be granted when the person subject to the rule demonstrates that application of the rule would (1) create a substantial hardship or violate principles of fairness, and (2) the purpose of the underlying statute has been or will be achieved by other means by the person. Section 120.542(2), Florida Statutes.

¹ The Florida Housing Finance Corporation Act is set forth in Section 420.501 through 420.526, Florida Statutes.

FACTS DEMONSTRATING ENTITLEMENT TO WAIVER

7. For the reasons set forth below, compliance with the provisions of the aforementioned Rule would give rise to substantial hardship to Petitioner and would violate principals of fairness. The following facts demonstrate the economic hardship and other circumstances which justify Petitioner's request for a Rule waiver/variance.

8. Applicant committed to provide a picnic area with hard cover roof of a design compatible with the Development, open on *all* sides, containing at least three permanent *picnic* tables with *benches* and an adjoining permanent outdoor grill and received one point for this commitment. Applicant is requesting to provide a picnic area with a hard cover roof of a design compatible with the Development, open on *one* side, containing at least three permanent *tables* with *chairs* and an adjoining permanent outdoor grill. The only difference between the Application requirements and Applicant's proposal is that the proposed picnic area is open on only one side and has tables with chairs instead of picnic tables with benches. Photographs depicting the proposed picnic area and other outdoor amenities demonstrate that the overall proposed outdoor courtyard provides a comfortable and enjoyable outdoor environment for the residents. If this rule waiver is not granted, Applicant would be required to install a car care area that would involve removing two parking spaces from the parking garage. The care car option is not in the best interest of the residents or the Development because parking spaces in the Development are very limited with a total of 133 spaces for 125 apartments and two retail establishments for the two phases of this Development. Additionally, Applicant is constructing a putting green as an outside recreational amenity (with no points being awarded for this feature) to complement the other outdoor features of the Development.

**WAIVER/VARIANCE WILL SERVE THE UNDERLYING
PURPOSE OF THE STATUTE**

9. A waiver of the Rule will serve the purpose of Section 420.5099 and the Act which is implemented by the Rule, because a central goal of both is to facilitate the availability of decent, safe, and sanitary housing in the State of Florida to low-income persons and households by ensuring:

“The maximum use of available tax credits in order to encourage development of low-income housing in the State, taking into consideration the timeliness of the application, the location of the proposed housing project, the relative need in the area for low-income housing and the availability of such housing, the economic feasibility of the project, and the ability of the Applicant to proceed to completion of the project in the calendar year for which the credit is sought.”

Section 420.5099(2), Florida Statutes

10. The Florida Housing Finance Corporation Act (Section 420.501, et seq.) was passed in order to encourage private and public investment in housing for persons of low income. The creation of the Housing Tax Credit Program was to stimulate creative private sector initiatives to increase the supply of affordable housing. By granting this waiver, Florida Housing would recognize the goal of increasing the supply of affordable housing through private investment in housing for persons of low-income.

11. The requested waiver will not adversely impact the Development or Florida Housing.

12. Strict application of the provisions of Rule 67-48.004 would violate principals of fairness and impose a substantial hardship on Petitioner.

13. By granting a waiver, Florida Housing would recognize the economic realities of developing and constructing affordable rental housing. This recognition would promote

participation by owners and developers, such as Petitioner, in meeting Respondent's purpose by providing affordable housing, through new construction, in an economical and efficient manner.

TYPE OF WAIVER

14. The wavier that is being sought is permanent in nature.

ACTION REQUESTED

15. Petitioner requests that Florida Housing grant a waiver from Rule 67-48.004 to permit Applicant to install a picnic area as described above in Paragraph 8 above.

Respectfully submitted on this 20th day of November, 2014.



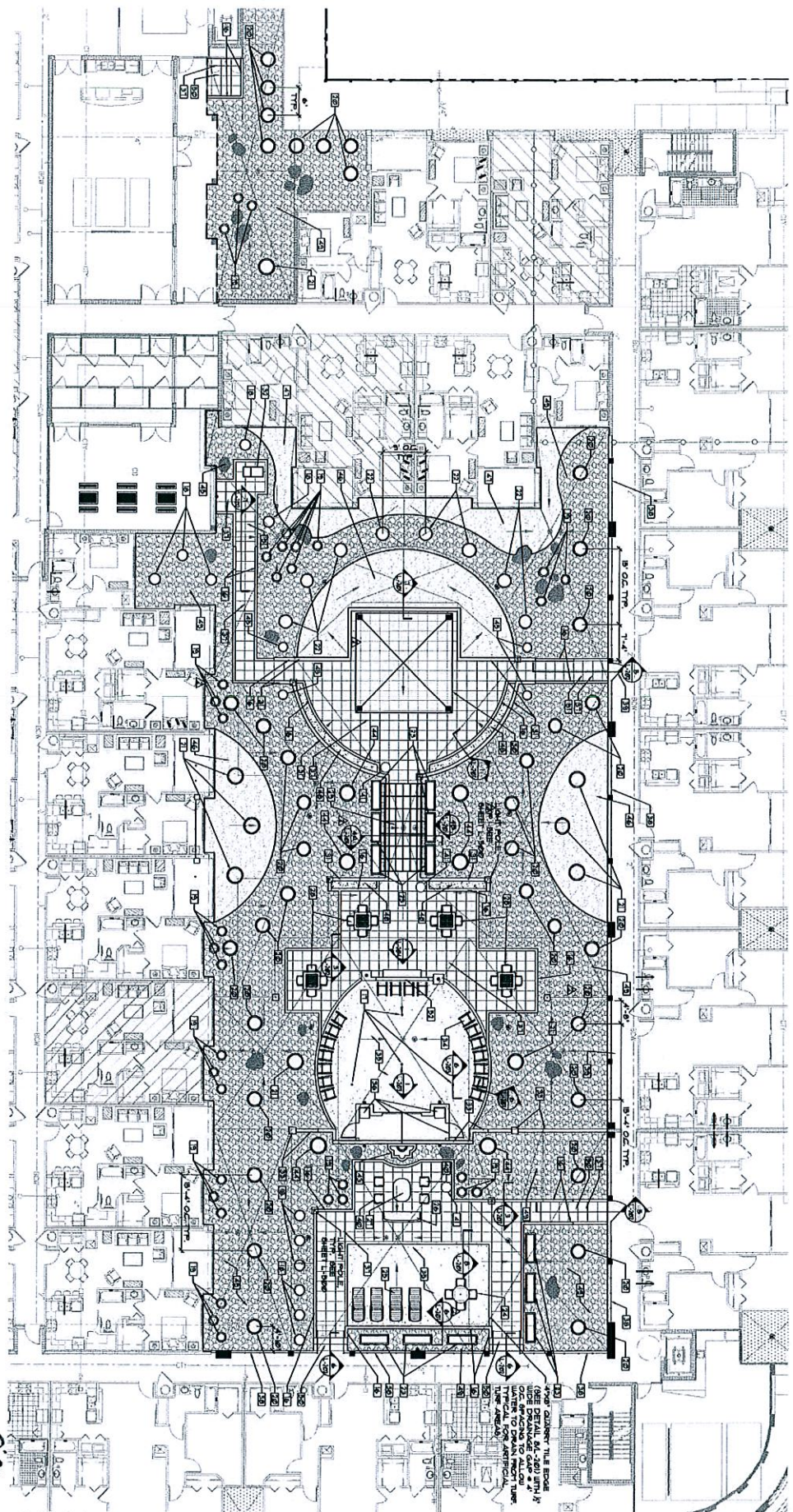
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1551 Sandspur Road
Maitland, Florida 32751
(407) 741-8534 (direct)
(407) 551-2818 (facsimile)
kcarpenter@ahg-group.com
Florida Bar No. 963781
Attorney for Petitioner

CERTIFICATE OF SERVICE

I hereby certify that an original and one copy of the foregoing has been filed with the Corporation Clerk of the Florida Housing Finance Corporation, 227 North Bronough Street, Suite 5000, Tallahassee, Florida 32301, and that a true and correct copy of the foregoing has been furnished to the Joint Administrative Procedures Committee, Room 680 Pepper Building, 111 W. Madison St., Tallahassee, Florida 32399-1400.



Kerey Carpenter



REFER TO SHEET L-200 FOR
HARDSCAPE NOTES AND DETAILS

REFER TO SHEET L-001 FOR CONSTRUCTION
LEGEND AND FINISH SCHEDULE

OCT 24, 2018
PLANNING AND DESIGN
PARTNERS, LLP

L-103



NO.	DATE	DESCRIPTION
04	04/15/13	1-140
05	03/08/16	RFC
06	01/08/18	RFC

CITY OF
ST. PETERSBURG, FL
COURTYARD LEVEL
LANDSCAPE PLAN

OWNER:

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FOSTER CONANT & ASSOCIATES
 120 West Edgewater Street
 Clearwater, Florida 34615
 Phone: (813) 464-0222
 Fax: (813) 464-0275

Urban Edge
4/24/14

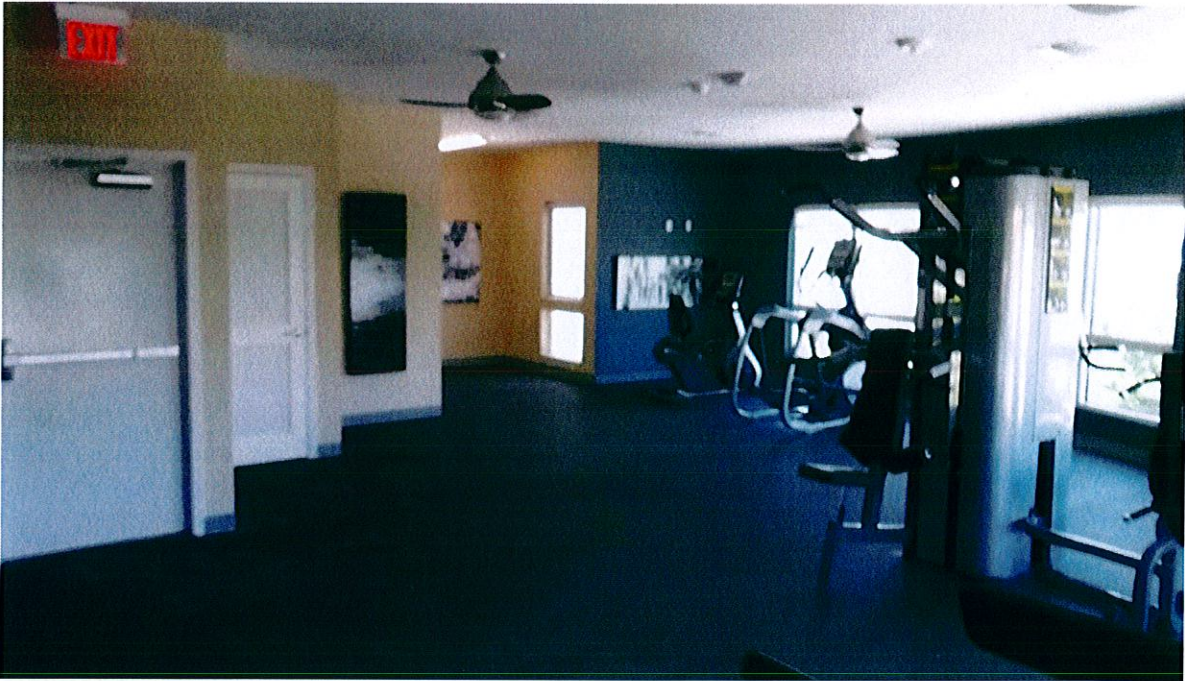


Surface traction coating in progress.

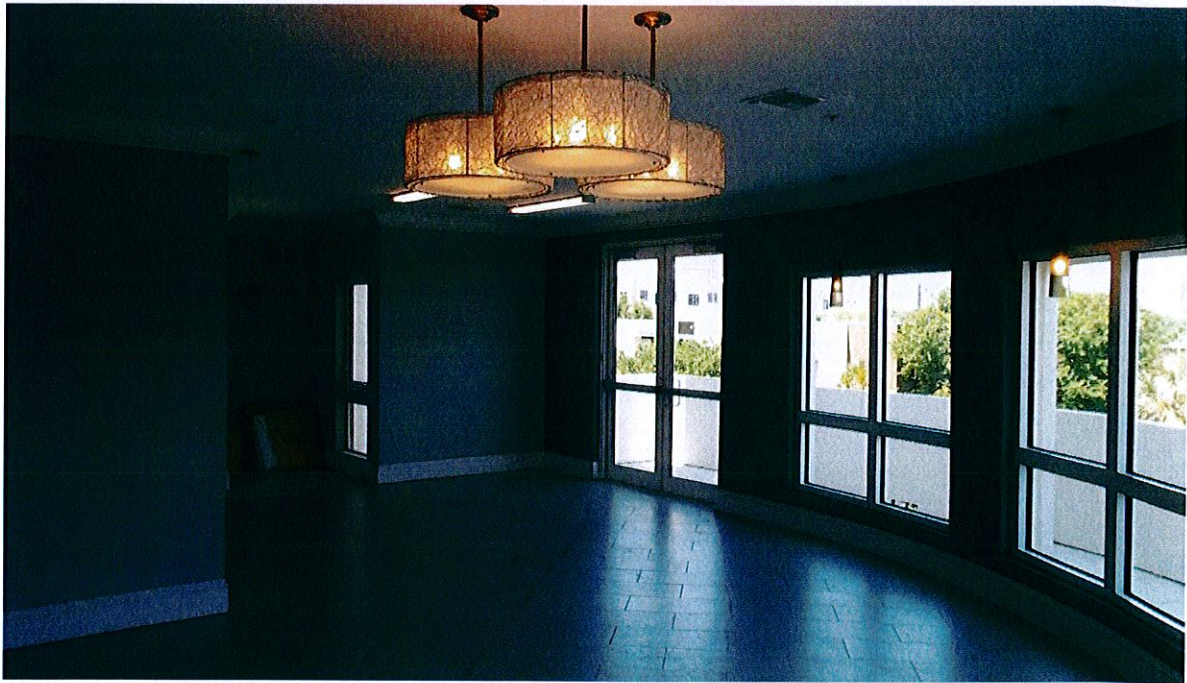


Surface traction coating in progress

Urban Edge
4/24/14



4th Floor radius fitness

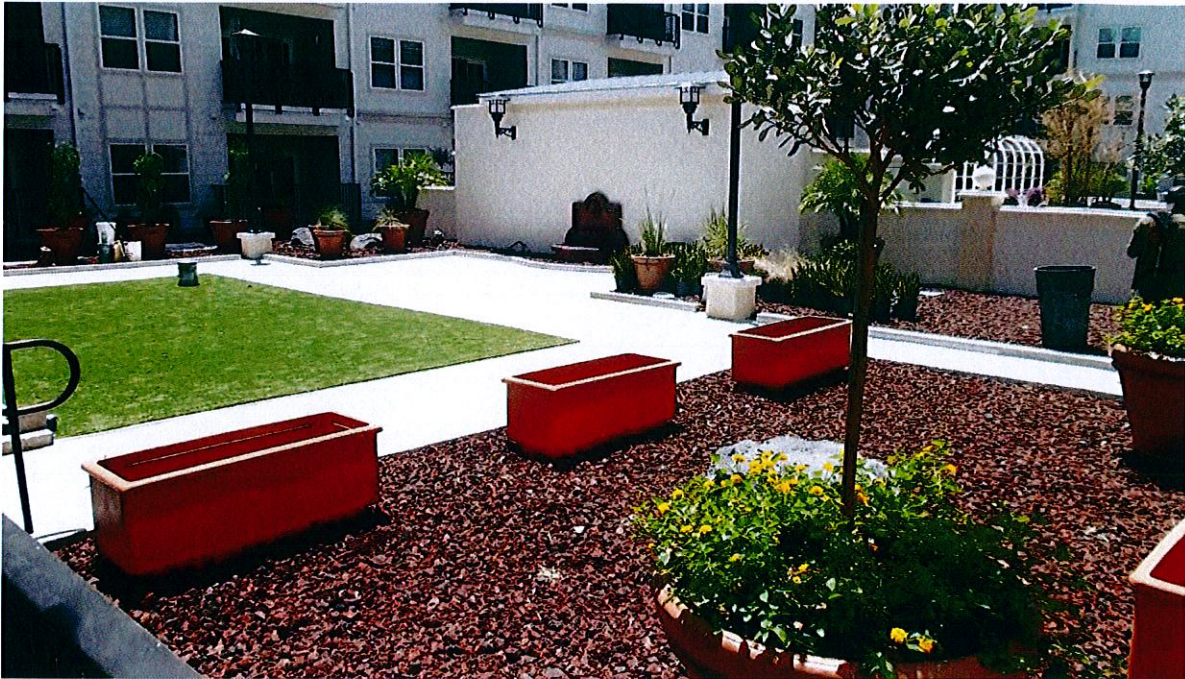


3rd Floor radius

Urban Edge
4/24/14



2nd Floor radius



Courtyard Family Side

Urban Edge
4/24/14



Courtyard Arbor



Courtyard bench seat and traction coating.

Urban Edge
4/24/14



1st floor radius

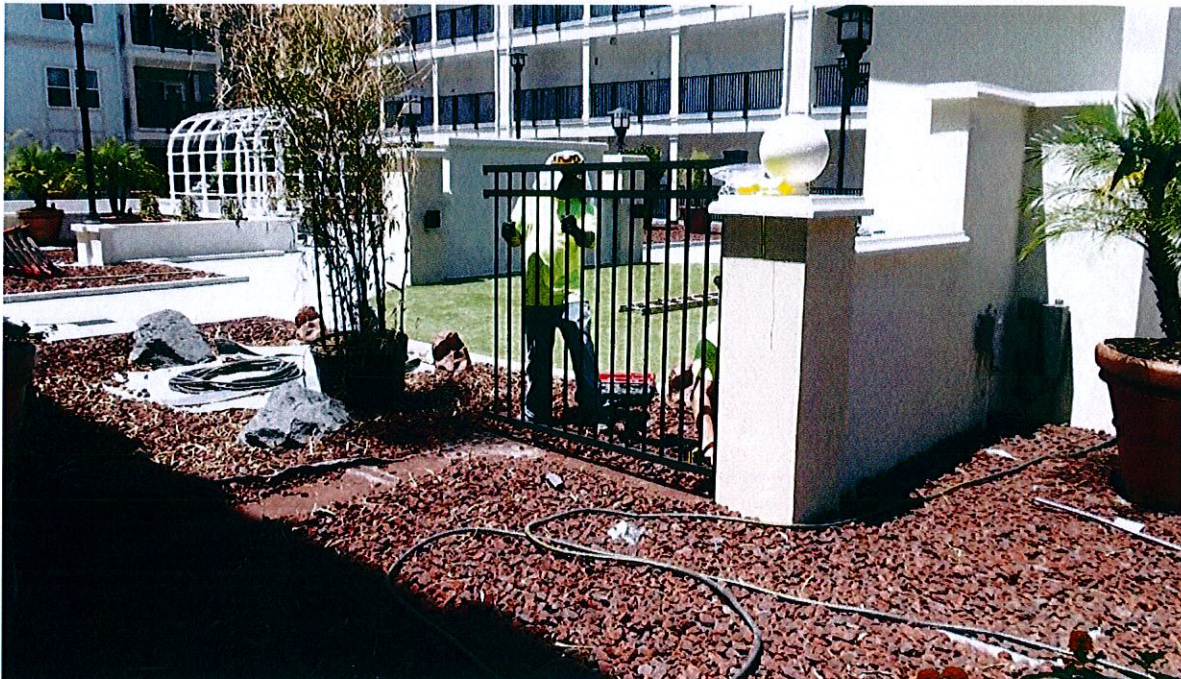


1st Elevator lobby/Mail room

Urban Edge
4/24/14

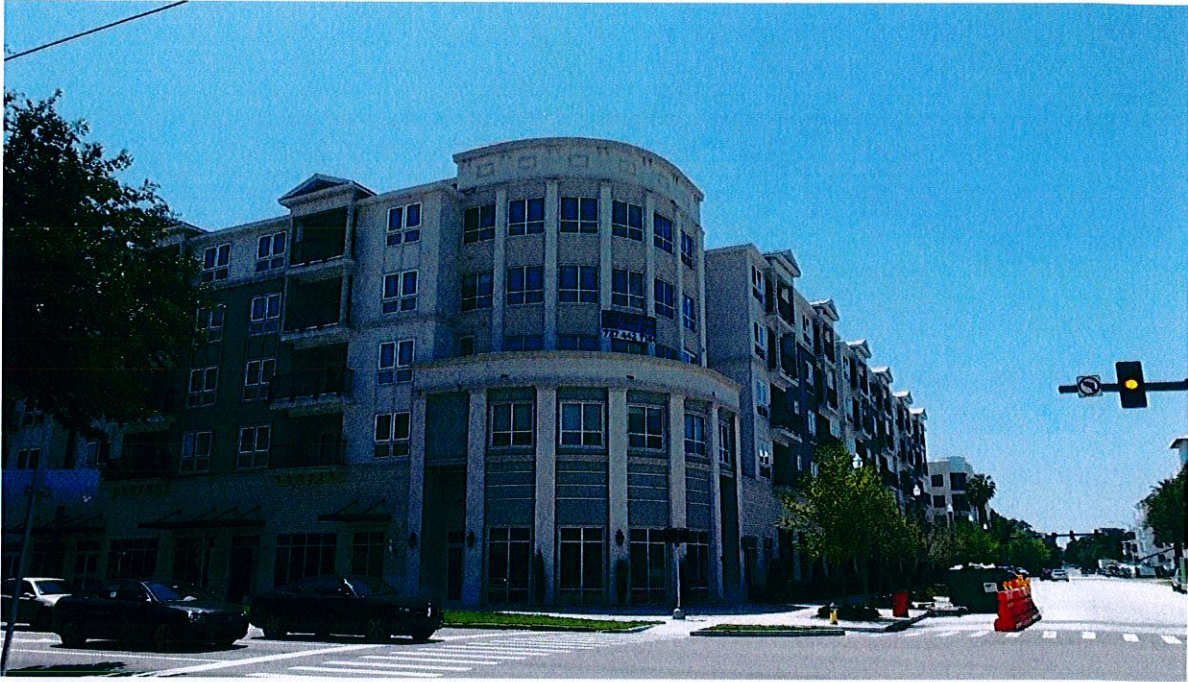


Mail Room.



Installing separation fence in courtyard.

Urban Edge
4/24/14



Corner of 3rd St. S and 4th Ave. S.



4th Ave. S

Urban Edge
4/24/14



Corner of 4th Ave and 4th St. S.



4th St S.

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4/24/14



Loading Dock



Stair #3 door alteration.

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3rd St S and Delmar Terrace.



