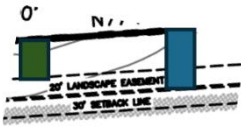
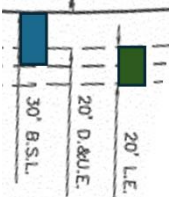


# MEMORANDUM

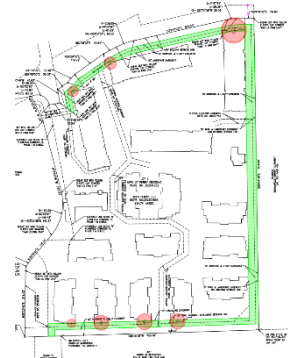
TO: Plan Commission  
 CC:  
 FROM: Eric Berg, AICP, Senior Planner  
 DATE: August 5, 2024  
 RE: Easement Vacation—Apex at Perry Crossing

In 2020, Sila Capital received Zone Map Amendment, Primary Plat, and Development Plan approval for a project now known as Apex at Perry Crossing. The plat included a voluntary landscape easement shown within the setback line. As landscaping is one of the few things that is permitted within the required yards in most districts, this was somewhat curious and seemed superfluous, but did not appear that it would cause harm.

The applicant's engineer brought forward a proposed secondary plat proposal in late 2021, over a year after the Primary Plat approval. This showed the voluntary landscape easement partially outside the setback line, which makes more sense in the context that one is reserving area for landscaping which could be developed for other uses.

Approved Primary Plat	Approved Secondary Plat
	
<p>Blue rectangle—setback          Green rectangle—landscape easement</p>	

It does not appear that either of these landscape easements were shown on the building permit drawings provided by American Structurepoint on the applicant's behalf. This lack of representation/communication about the presence of easements led to seven (7) occurrences where buildings encroached into the recorded landscape easement (see pink circles within the green landscape easement to the right).



Kimley-Horn (*Eric Fiacable*) and Dentons Law (*Matthew Tolley*) have been engaged by Sila Capital to explore options on how to resolve the issue. The landscape easement is not required by ordinance, so a logical option was to vacate the easement. This will not impact any existing landscaping as this was approved by the development plan.

## MOTION

I move that the Plan Commission **approve** / **deny** a petition for the vacation of the landscape easement for Apex at Perry Crossing, finding:

1. The conditions in the platted area **have** / **have not** changed so as to defeat the original purpose of the plat;
2. It **is** / **is not** in the public interest to vacate all or part of the plat; and,
3. The value of that part of the land in the plat not owned by the Petitioner **will** / **will not** be diminished by vacation.

*A Community of Values*