

**Village of Royal Palm Beach
Village Council
Agenda Item Summary**

Agenda Item:

PUBLIC HEARING TO CONSIDER VARIANCE APPLICATION 21-23 (VAR) AND APPROVAL OF VARIANCE ORDER VC-22-05, AN APPLICATION BY D.R. HORTON, INC. REQUESTING VARIANCES FROM SECTION 26-83 (4) (C) TO ALLOW FOR 20 FOOT FRONT SETBACKS WHERE VILLAGE CODE REQUIRES 25 FEET, A VARIANCE OF FIVE (5) FEET, A 20 FOOT SIDE SETBACK TO ADJACENT STRUCTURE WHERE VILLAGE CODE REQUIRES 30 FEET, A VARIANCE OF 10 FEET, AND A VARIANCE FOR A 10 FOOT REAR SETBACK WHERE VILLAGE CODE REQUIRES 20 FEET, A VARIANCE OF 10 FEET; AND A VARIANCE FROM SECTION 26-83 (4) (D) TO ALLOW FOR A ZERO (0) FOOT PERIMETER LANDSCAPE SETBACK WIDTH ADJACENT TO INTERIOR LOT LINES WHERE VILLAGE CODE REQUIRES 10 FEET, A VARIANCE OF 10 FEET, FOR A PROPERTY LOCATED NORTHWEST OF THE OKEECHOBEE BOULEVARD AND ROYAL PALM BEACH BOULEVARD INTERSECTION.

Issue:

The applicant, WGI, Inc., is requesting multiple Variances from Section 26-83(4)(c) to allow for: (1) 20 foot front setbacks where Village Code requires 25 feet, a variance of five (5) feet; (2) a 20 foot side setback to adjacent structure where Village Code requires 30 feet, a variance of 10 feet; and (3) a 10 foot rear setback where Village Code requires 20 feet, a variance of 10 feet; and a Variance from Section 26-83(4)(d) to allow for a zero (0) foot perimeter landscape setback width adjacent to interior lot lines where Village Code requires 10 feet, a variance of 10 feet, for a property located northwest of the Okeechobee Boulevard and Royal Palm Beach Boulevard intersection.

Please refer to **Attachment A** for the areas in which these variances will occur. A symbol for each variance request is represented within a chart titled Variance Chart. For a brief description of where these variances will occur, please see below:

Section 26-83(4)(d):

- 1) Zero (0) foot perimeter landscape setback - This reduced setback is generally for all the townhouse buildings adjacent to a perimeter landscape buffer and is represented in **Attachment A** with a tringle with a “4” inside.

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Section 26-83(4)(c):

- 1) 20-foot front setbacks – This reduced setback is generally for all the townhouses and is represented in **Attachment A** with a tringle with a “5” inside.
- 2) 20-foot side setback to adjacent structure – This reduced setback is generally for all the townhouse buildings except for three (3) buildings and is represented in **Attachment A** with a tringle with a “6” inside.
- 3) 10-foot rear setback - This reduced setback is for all the townhouse buildings along the west and north property lines adjacent to a waterway and is represented in **Attachment A** with a tringle with a “7” inside.

Village Code Sec. 23-53 (a) (1) allows the Village Council to grant variances to the parking code when:

- a. 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 subject to similar requirements;
- b. The special conditions and circumstances do not result from the actions of the applicant;
- c. Granting the variance request will not confer on the applicant any special privileges that are denied by this Code to other lands, buildings or structures similarly situated;
- d. A literal interpretation of the provisions in this Code would deprive the applicant of rights commonly enjoyed by other properties similarly situated under the terms of this Code and would work unnecessary and undue hardship on the applicant;
- e. The variance granted is the minimum variance that will make possible the reasonable use of the land, building or structure;
- f. The grant of the variance will be in harmony with the general intent and purpose of this division;
- g. Such variance will not be injurious to the area involved or otherwise be detrimental to the public welfare.

The applicant contends that “The subject site is bounded by waterways along multiple boundaries. As a result these unique circumstances, it is more realistic to develop a residential development consistent with the intent of the Village’s Code by allowing for tandem parking.”

Village Staff is not in support of these variances because Staff believes that argument by the applicant that the property is bound by a waterway is not sufficient justification for approving the variance requests. Furthermore, Village Staff does not believe the criteria for granting a variance have been met in that no special conditions or circumstances exist which are not applicable to other lands; the condition is the result from actions of the applicant; granting of the variance will confer on the applicant special privileges that

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are denied to other lands; the literal interpretation of the Code does not deprive the applicant the rights enjoyed by other lands in the same zoning district; and that it is not the minimum variance necessary to allow reasonable use of the property.

The Planning and Zoning Commission considered the application on May 24, 2022, and recommended approval by a vote of 4-0.

Recommended Action:

Staff is recommending Denial of Application No. 21-23 (PVAR) and Variance Order VC 22-05.

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**ORDER OF THE VILLAGE COUNCIL
VILLAGE OF ROYAL PALM BEACH
Chapter 26. Zoning**

CASE NO. VC-22-05
IN RE: Application No. 21-23 (VAR)
Lakeside Landing @ NW of Okeechobee Boulevard and Royal
Palm Beach Boulevard Intersection

Legal Description:
Attached as Exhibit "A"

ORDER APPROVING APPLICATION

This cause came to be heard upon the above application and the Royal Palm Beach Village Council having considered the evidence presented by the applicant and other interested persons at a hearing called and properly noticed, and the Royal Palm Beach Village Council being otherwise advised.

THEREUPON, the Village Council of the Village of Royal Palm Beach finds as follows:

1. The property which is the subject of said application is classified and zoned within the RM-9 Multifamily Residential Zoning District by the Zoning Code of the Village of Royal Palm Beach and the zoning map made a part thereof by reference.
2. The applicant is seeking **Variances** from Royal Palm Beach Code of Ordinances at the following sections: Section 26-83(4)(c) to allow for: (1) 20 foot front setbacks where Village Code requires 25 feet, a variance of five (5) feet; (2) a 20 foot side setback to adjacent structure where Village Code requires 30 feet, a variance of 10 feet; and (3) a 10 foot rear setback where Village Code requires 20 feet, a variance of 10 feet; and from Section 26-83(4)(d) to allow for a zero (0) foot perimeter landscape setback width adjacent to interior lot lines where Village Code requires 10 feet, a variance of 10 feet.
3. Under the provisions of Sec. 26-32(f)(6) of the Village Code of Ordinances, the Village Council has the right, power and authority to act upon the application herein made.

4. In the judgment of the Village Council, the public welfare will best be served by **APPROVING** the application as set forth on the application documents.

5. **IT IS THEREUPON CONSIDERED, ORDERED AND ADJUDGED** by the Royal Palm Beach Village Council as follows:

The application for **Variance, VC-22-05**, with reference to the above-referenced property in the Village of Royal Palm Beach, Florida to permit a variance to Section 26-83(4)(c) to allow for: (1) 20 foot front setbacks where Village Code requires 25 feet, a variance of five (5) feet; (2) a 20 foot side setback to adjacent structure where Village Code requires 30 feet, a variance of 10 feet; and (3) a 10 foot rear setback where Village Code requires 20 feet, a variance of 10 feet; and a variance to Section 26-83(4)(d) to allow for a zero (0) foot perimeter landscape setback width adjacent to interior lot lines where Village Code requires 10 feet, a variance of 10 feet, is hereby **Approved** in accordance with the Village Code of Ordinances for the following reasons:

The applicant meets the following standards set forth in Section 26-32 (f)

(6). of the Village Code of Ordinances:

1. Special conditions and circumstances exist;
2. Special circumstances are not the result of actions of the applicant;
3. No special privilege is conferred;
4. Literal interpretation would constitute an unnecessary and undue hardship;
5. This is minimum variance for reasonable use of land;
6. Is in harmony with the intent and purpose of this division; and:
7. Will not be injurious to area or detrimental to the public welfare.

Done and ordered this 16th day of June, 2022.

Mayor Fred Pinto
Village of Royal Palm Beach

Attest:

Diane DiSanto, Village Clerk

Exhibit A
Legal Description
Application No. 21-23 (VAR)
Lakeside Landing @ NW of Okeechobee Boulevard and Royal Palm Beach
Boulevard Intersection

Directly Below is the Legal Description:

LEGAL DESCRIPTION:

RECORD DESCRIPTIONS PER FIRST AMERICAN TITLE INSURANCE COMPANY COMMITMENT OFFICE FILE NUMBER 149668-0183 BEARING AN EFFECTIVE DATE OF NOVEMBER 30, 2018, ISSUED BY NELSON MULLINS RILEY AND CASSEL.

PARCEL 1:

A PARCEL OF LAND BEING A PORTION OF TRACT "C", WATERWAY PLAZA, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 69, PAGE 88, PUBLIC RECORDS, PALM BEACH COUNTY, FLORIDA AND A PORTION OF THAT CERTAIN WATERWAY TRACT LYING NORTHERLY OF AND CONTIGUOUS TO TRACT "C", HAWTHORN II, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 31, PAGE 26. SAID PUBLIC RECORDS; SAID PARCEL OF LAND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGIN AT THE SOUTHEAST CORNER OF TRACT "C-2", WATERWAY PLAZA PLAT NO. 2, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 71, PAGE 82, SAID PUBLIC RECORDS. THENCE, NORTH 88°23'14" WEST, ALONG THE BOUNDARY OF SAID TRACT "C-2", A DISTANCE OF 21.89 FEET; THENCE, SOUTH 46°36'46" WEST, CONTINUING ALONG SAID BOUNDARY FOR THIS AND THE NEXT FIVE COURSES, A DISTANCE OF 35.36 FEET; THENCE, SOUTH 01°36'46" WEST, A DISTANCE OF 7.48 FEET; THENCE, NORTH 88°23'14" WEST, A DISTANCE OF 204.10 FEET; THENCE, SOUTH 89°17'57" WEST, A DISTANCE OF 93.13 FEET; THENCE, NORTH 01°36'46" EAST, A DISTANCE OF 47.87 FEET; THENCE, NORTH 48°04'54" EAST, A DISTANCE OF 125.80 FEET; THENCE, NORTH 41°55'06" WEST, DEPARTING SAID BOUNDARY, A DISTANCE OF 54.81 FEET; THENCE, SOUTH 51°53'20" WEST, A DISTANCE OF 43.80 FEET; THENCE, SOUTH 53°56'46" WEST, A DISTANCE OF 82.10 FEET; THENCE, SOUTH 79°20'24" WEST, A DISTANCE OF 47.08 FEET; THENCE, NORTH 76°58'32" WEST, A DISTANCE OF 61.00 FEET; THENCE, NORTH 51°37'37" WEST, A DISTANCE OF 39.41 FEET; THENCE, NORTH 26°59'45" WEST, A DISTANCE OF 47.60 FEET; THENCE, NORTH 24°21'16" WEST, A DISTANCE OF 48.29 FEET; THENCE, NORTH 21°15'07" WEST, A DISTANCE OF 35.48 FEET; THENCE, NORTH 22°12'29" WEST, A DISTANCE OF 30.51 FEET; THENCE, NORTH 45°19'32" WEST, A DISTANCE OF 69.22 FEET TO A CORNER ON THE BOUNDARY OF SAID TRACT "C", OF WATERWAY PLAZA; THENCE, NORTH 82°40'37" WEST, ALONG SAID BOUNDARY, A DISTANCE OF 100.50 FEET; THENCE, SOUTH 85°54'09" WEST, CONTINUING ALONG SAID BOUNDARY FOR THIS AND THE NEXT FOUR COURSES, A DISTANCE OF 100.50 FEET; THENCE, SOUTH 88°45'01" WEST, A DISTANCE OF 100.12 FEET; THENCE, SOUTH 65°02'52" WEST, A DISTANCE OF 111.80 FEET; THENCE, SOUTH 39°10'53" WEST, A DISTANCE OF 147.33 FEET; THENCE, SOUTH 01°33'56" WEST, A DISTANCE OF 170.24 FEET; THENCE, SOUTH 88°23'14" EAST, DEPARTING SAID BOUNDARY, A DISTANCE OF 201.02 FEET; THENCE, SOUTH 01°36'46" WEST, A DISTANCE OF 306.04 FEET TO A CORNER ON SAID BOUNDARY; THENCE, SOUTH 88°23'14" EAST, ALONG SAID BOUNDARY, A DISTANCE OF 485.92 FEET; THENCE, NORTH 01°36'46" EAST, CONTINUING ALONG SAID BOUNDARY FOR THIS AND THE REMAINING THREE COURSES, A DISTANCE OF 285.00 FEET; THENCE, SOUTH 88°23'14" EAST, A DISTANCE OF 419.00 FEET TO THE POINT OF CURVATURE OF A CURVE CONCAVE SOUTH, HAVING A RADIUS OF 48.00 FEET; THENCE, EASTERLY, ALONG SAID CURVE, THROUGH A CENTRAL ANGLE OF 40°13'42", A DISTANCE OF 33.70 FEET TO THE END OF SAID CURVE; THENCE, NORTH 01°36'46" EAST, A DISTANCE OF 95.84 FEET TO THE POINT OF BEGINNING.

PARCEL 2:

A PARCEL OF LAND LYING IN TRACT "C", WATERWAY PLAZA, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 69, PAGE 88, PUBLIC RECORDS, PALM BEACH COUNTY, FLORIDA; SAID PARCEL OF LAND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWEST CORNER OF SAID TRACT "C", THENCE, NORTH 01°33'56" EAST, ALONG THE WEST LINE OF SAID TRACT "C", A DISTANCE OF 223.60 FEET FOR A POINT OF BEGINNING; THENCE, CONTINUE NORTH 01°33'56" EAST, ALONG SAID WEST LINE OF TRACT "C", A DISTANCE OF 434.61 FEET; THENCE, SOUTH 88°23'14" EAST, DEPARTING SAID WEST LINE, A DISTANCE OF 200.65 FEET TO THE INTERSECTION THEREOF WITH THE EAST LINE OF SAID TRACT "C", THENCE, SOUTH 01°36'46" WEST, ALONG SAID EAST LINE, A DISTANCE OF 434.61 FEET; THENCE, NORTH 88°23'14" WEST, DEPARTING SAID EAST LINE, A DISTANCE OF 200.29 FEET TO THE POINT OF BEGINNING.

LESS THE FOLLOWING TRACT:

COMMENCING AT THE SOUTHWEST CORNER OF SAID TRACT "C", THENCE, NORTH 01°33'56" EAST, ALONG THE WEST LINE OF SAID TRACT "C", A DISTANCE OF 223.60 FEET FOR A POINT OF BEGINNING. THENCE, CONTINUE NORTH 01°33'56" EAST, ALONG SAID WEST LINE A DISTANCE OF 15.74 FEET; THENCE, NORTH 88°10'42" EAST, DEPARTING SAID WEST LINE, A DISTANCE OF 200.67 FEET TO THE INTERSECTION THEREOF WITH THE EAST LINE OF SAID TRACT "C"; THENCE, SOUTH 01°36'46" WEST, ALONG SAID EAST LINE, A DISTANCE OF 27.76 FEET; THENCE, NORTH 88°23'14" WEST, DEPARTING SAID EAST LINE, A DISTANCE OF 200.29 FEET TO THE POINT OF BEGINNING.

PARCEL 3:

A PARCEL OF LAND LYING IN TRACT "C", WATERWAY PLAZA, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 69, PAGE 88, PUBLIC RECORDS, PALM BEACH COUNTY, FLORIDA; SAID PARCEL OF LAND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWEST CORNER OF SAID TRACT "C"; THENCE, NORTH 01°33'56" EAST, ALONG THE WEST LINE OF SAID TRACT "C", A DISTANCE OF 658.21 FEET FOR A POINT OF BEGINNING; THENCE, CONTINUE NORTH 01°33'56" EAST, ALONG SAID WEST LINE, A DISTANCE OF 21.81 FEET; THENCE, SOUTH 88°23'14" EAST, DEPARTING SAID WEST LINE, A DISTANCE OF 200.67 FEET TO THE INTERSECTION THEREOF WITH THE EAST LINE OF SAID TRACT "C"; THENCE, SOUTH 01°36'46" WEST, ALONG SAID EAST LINE, A DISTANCE OF 21.81 FEET; THENCE, NORTH 88°23'14" WEST, DEPARTING SAID EAST LINE, A DISTANCE OF 200.65 FEET TO THE POINT OF BEGINNING.

PARCEL 4:

A PARCEL OF LAND LYING IN TRACT "C", WATERWAY PLAZA, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 69, PAGE 88, PUBLIC RECORDS, PALM BEACH COUNTY, FLORIDA; SAID PARCEL OF LAND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWEST CORNER OF SAID TRACT "C", THENCE, NORTH 01°33'56" EAST, ALONG THE WEST LINE OF SAID TRACT "C", A DISTANCE OF 680.02 FEET FOR A POINT OF BEGINNING. THENCE, CONTINUE NORTH 01°33'56" EAST, ALONG SAID WEST LINE, A DISTANCE OF 434.20 FEET; THENCE, SOUTH 88°23'14" EAST, DEPARTING SAID WEST LINE, A DISTANCE OF 201.02 FEET; THENCE, SOUTH 01°36'46" WEST, A DISTANCE OF 306.04 FEET TO A BOUNDARY CORNER ON THE EASTERLY BOUNDARY OF SAID PLAT; THENCE, CONTINUE SOUTH 01°36'46" WEST, ALONG SAID EASTERLY BOUNDARY, A DISTANCE OF 128.16 FEET; THENCE, NORTH 88°23'14" WEST, DEPARTING SAID EASTERLY BOUNDARY, A DISTANCE OF 200.67 FEET TO THE POINT OF BEGINNING.