

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

Agenda Item:

PUBLIC HEARING TO CONSIDER APPLICATION NO. 21-22 (PVAR) AN APPLICATION BY D.R. HORTON, INC. AND APPROVAL OF VARIANCE ORDER VC-22-04, TO ALLOW A VARIANCE FROM SECTION 23-49 (B) (1) B. TO ALLOW FOR TANDEM PARKING SPACES FOR A MULTIFAMILY RESIDENTIAL DEVELOPMENT WHERE VILLAGE CODE ALLOWS TANDEM PARKING TO BE COUNTED ONLY FOR SINGLE-FAMILY RESIDENCES AND FROM SECTION 23-18 (b) (3) b. 2 TO ALLOW VEHICLES WHICH ARE NEITHER PROHIBITED OR RESTRICTED TO PARK IN FRONT YARDS FRONT SETBACKS OF RESIDENTIAL PROPERTY WHERE ONLY 11% OF THE FRONT YARDS ARE LANDSCAPED WHERE VILLAGE CODE PROHIBITS PARKING IN THESE AREAS EXCEPT WHEN THE LESSER OF 1,000 SQUARE FEET OR 75% OF THE FRONT YARDS ARE LANDSCAPED, FOR A PROPERTY LOCATED NORTHWEST OF THE OKEECHOBEE BOULEVARD AND ROYAL PALM BEACH BOULEVARD INTERSECTION; BY AGENT EDWIN MULLER OF WGI, INC.

Issue:

The applicant is requesting a variance from the Village's Code of Ordinances at Section 23-49 (b) (1) *General access*. at sub-paragraph b. in order to allow the use of tandem parking spaces for a townhouse residential development where Village Code only allows tandem parking to be counted as required parking spaces for single-family residences. Sub-paragraph b. requires that each parking space shall be accessible without having to drive over or through any other parking space except for single-family residences wherein one (1) space may be located behind another space, also known as tandem parking spaces (i.e. driveways). This variance, if approved, would allow tandem parking spaces for all 100 townhouses.

Additionally, the applicant is requesting a variance from Section 23-18 (b) (3) b. 2. to allow vehicles which are neither prohibited or restricted to park in the front yards and front setbacks of residential property where only 11% of the front yards are landscaped, and where Village Code prohibits parking in these areas except when the lesser of 1,000 square feet or 75% of the front yards are landscaped. This section of Village Code requires that if a residence is utilizing vehicle parking in the front of the dwelling to meet the code required number of parking spaces then the front yards must be landscaped with the lesser of 1,000 square feet or 75% of the front yard area. The

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Applicant would like to count the vehicle parking in the front of the dwelling to meet the code required number of parking spaces and only provide 11% of the front yard as landscaped area.

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 this variance because Staff believes that argument by the applicant that the property is bound by a waterway is not sufficient justification for approving the variance request. 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 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.

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This item was originally considered by the Planning and Zoning Commission at its regular meeting on May 24, 2022 and was recommended for Approval by a vote of 4-0. At the request of the Applicant, this item was postponed at the June 16, 2022 Village Council meeting in order to revise the Site Plan and Landscape Plan to include a 5-foot buffer along the west property line where the proposed plans at the time showed no buffer along the west property line.

Subsequently, the Planning and Zoning Commission at its regular meeting on May 23, 2023 recommended Approval of Application No. 21-56 (PP) by a vote of 3-2, with Chairman Adam Miller and Commissioner Kara Cowser dissenting.

Recommended Action:

Staff is recommending Denial of Application No. 21-22 (PVAR) and Variance Order VC 22-04.

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**ORDER OF THE VILLAGE COUNCIL
VILLAGE OF ROYAL PALM BEACH
Chapter 23. Traffic and Vehicles**

CASE NO. VC-22-04

IN RE: Application No. 21-22(PVAR)

**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: a) Sec. 23-49(b)(1)(b) to allow for tandem parking within a multifamily residential development where the Code allows tandem parking only for single-family residences and b) Sec. 23-18(b)(3)b.2. to allow vehicles which are neither prohibited or restricted to park in the front yards and front setbacks of residential property where only 11% of the front yards are landscaped, where Village code prohibits parking in these areas except when the lesser of 1,000 square feet or 75% of the front yards are landscaped.
3. Under the provisions of Sec. 23-53(a)(1) 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.
5. **IT IS THEREUPON CONSIDERED, ORDERED AND ADJUDGED** by the Royal Palm Beach Village Council as follows:

6. The application for **Variance, VC-22-04**, with reference to the above-mentioned property in the Village of Royal Palm Beach, Florida to permit variance to the following Code Section:

Sec. 23-49(b)(1)(b) to allow for tandem parking within a multifamily residential development where the Code allows tandem parking only for single-family residences and (b) from Sec. 23-18(b)(3)b.2. to allow vehicles which are neither prohibited or restricted to park in the front yards and front setbacks of residential property where only 11% of the front yards are landscaped, where Village code prohibits parking in these areas except when the lesser of 1,000 square feet or 75% of the front yards are landscaped 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 23-53 (a) (1). 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 15th day of June, 2023.

Mayor Fred Pinto
Village of Royal Palm Beach

Attest:

Diane DiSanto, Village Clerk

Exhibit A
Legal Description
Application No. 21-22(PVAR)
Lakeside Landing @ NW of Okeechobee Boulevard and Royal Palm Beach
Boulevard Intersection

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" WEST, 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.