

Agenda Item #     R - 1

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

**Agenda Item:**

**PUBLIC HEARING TO CONSIDER APPLICATION 21-74 (LW), AN APPLICATION BY JONI BRINKMAN, FOR THE CONSIDERATION OF A LANDSCAPE WAIVER FROM VILLAGE CODE SECTION 15-133 (B)(2), TO ALLOW FOR FOUR (4) TREES TO SATISFY THE CODE REQUIREMENT OF NINE (9) TREES WITHIN A CERTAIN PERPENDICULAR DIVIDER STRIP, FOR A 1.3± ACRE PARCEL OF LAND LOCATED ON THE NORTHEAST CORNER OF SOUTHERN BOULEVARD AND STATE ROAD 7; BY RAISING CANE'S RESTAURANTS, LLC.**

The Applicant is requesting a Landscape Waiver from Village Code Section 15-133 (b)(2) *Perpendicular Divider Strips*. This Code section requires a landscape divider strip to run perpendicular to the long dimension of the parking space which shall be five (5) feet in width and contain one (1) tree for every 15 lineal feet. The Applicant is requesting a landscape waiver from this section to allow four (4) trees to count toward the required nine (9) trees within the northern Perpendicular Divider Strip. There will be no reduction in the required shrub or sod material within this divider strip.

The Applicant contends that *“The landscape design goal is to utilize the existing trees/palms on the site as they provide greater maturity and ecological value than younger trees. Also, in the effort to not promote bad arboricultural and horticultural practices, we do not want to overplant more trees in the existing tree/palm beds. These beds have large mature root zones which additional plantings will impact and constrict their continued growth and sustainability. The existing tree/palm spacing is roughly 24' on-center whereas the code states a maximum of 15' on-center spacing. The deficient tree amount is 5 trees due to this spacing based on the Village's calculation of 3 palm trees equaling 1 shade tree. The southern and western landscape buffer areas do contain a large amount of excess, mature trees after already meeting site landscape requirements”*.

Staff is recommending Approval of this Landscape Waiver request and generally concurs with the Applicant's assessment. Staff believes that this is the minimum waiver necessary to allow reasonable use of the property. Please refer to **Attachment A** for an aerial illustrating the tree plantings and coverage within the divider strip.

This item was considered by the Planning and Zoning Commission at its regular meeting on September 28, 2021 and was recommended for Approval by a vote of 5-0.

**Recommended Action:**

Staff is recommending of Approval of Application 21-74 (LW) and Landscape Waiver No. 21-01.

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Initiator:	Village Manager	Agenda Date	Village Council
Director of P & Z	Approval	10-21-2021	Action

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## Attachment A

Directly below is an illustration of the plantings and coverage within the divider strip.



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Initiator:	Village Manager	Agenda Date	Village Council
Director of P & Z	Approval	10-21-2021	Action

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**ORDER OF THE VILLAGE COUNCIL  
VILLAGE OF ROYAL PALM BEACH  
Chapter 15. Landscape Waiver**

**CASE NO. LW-21-01**

**IN RE: Application No. 21-74(LW) – Raising Canes**

**Legal Description:**

Attached as Exhibit “A”

**ORDER APPROVING APPLICATION IN PART, AND DENYING IN PART**

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 on October 21, 2021, 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 CG Commercial General 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 a landscape waiver from the Village of Royal Palm Beach Code of Ordinances at Sec. 15-133(b)(2) in order to allow four (4) trees to count toward the required nine (9) trees within the northern Perpendicular Divider Strip.
3. Under the provisions of Sec. 15-37 of the Village Code of Ordinances, the Village Council has the right, power and authority to act upon the application herein made.
4. In accordance with the requirement of Section 15-37 to specify the duration of the waiver, the Village Council holds that this grant of

Landscape Waiver shall continue as long as the Project exists on this site.

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

The application in connection with **Landscape Waiver Order, LW-21-01**, with reference to the Raising Canes project in the Village of Royal Palm Beach, Florida is hereby **Approved**, in accordance with the Village Code of Ordinances for the following reasons:

**The applicant meets the landscape objectives as set forth in Section 15-37 of the Village Code of Ordinances.**

**Done and ordered this 21st day of October, 2021.**

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Mayor Fred Pinto  
Village of Royal Palm Beach

Attest:

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Diane DiSanto, Village Clerk

**Exhibit A**  
**Legal Description**  
**Raising Canes**  
**Application 21-74(LW)**  
**LW-21-01**

**LEGAL DESCRIPTION:**

Directly below is the Legal Description:

**LEGAL DESCRIPTION:**

PARCEL I: (LEASEHOLD INTEREST)

A PARCEL OF LAND LYING IN SECTION 31, TOWNSHIP 43 SOUTH, RANGE 42 EAST, PALM BEACH COUNTY, FLORIDA, SAID PARCEL ALSO BEING A PORTION OF TRACT 16, BLOCK 8, ACCORDING TO THE PLAT OF "THE PALM BEACH FARMS CO., PLAT NO. 3", AS RECORDED IN PLAT BOOK 2, PAGES 45 THROUGH 54, INCLUSIVE, OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE SOUTHEAST CORNER OF SECTION 36, TOWNSHIP 43 SOUTH, RANGE 41 EAST; THENCE NORTH 01°33'47" EAST, ALONG THE EAST LINE OF SAID SECTION 36, A DISTANCE OF 1746.25 FEET; THENCE SOUTH 88°26'13" EAST, AT RIGHT ANGLES TO THE SAID EAST LINE OF SECTION 36, A DISTANCE OF 85.00 FEET TO THE POINT OF INTERSECTION OF THE EASTERLY RIGHT-OF-WAY LINE OF STATE ROAD NO. 7 WITH A LINE PARALLEL WITH AND 250.00 FEET NORTH OF THE FORMER NORTHERLY RIGHT-OF-WAY LINE OF STATE ROAD 80 AND THE POINT OF BEGINNING OF THE FOLLOWING DESCRIBED PARCEL:

THENCE NORTH 01°33'47" EAST, ALONG SAID EASTERLY RIGHT-OF-WAY LINE AND PARALLEL WITH THE EAST LINE OF SAID SECTION 36, A DISTANCE OF 263.50 FEET; THENCE SOUTH 89°56'32" EAST, A DISTANCE OF 217.00 FEET; THENCE SOUTH 00°03'28" WEST, A DISTANCE OF 224.00 FEET; THENCE NORTH 89°56'32" WEST, A DISTANCE OF 42.97 FEET; THENCE SOUTH 01°22'03" WEST, A DISTANCE OF 43.53 FEET, TO THE INTERSECTION WITH THE AFORESAID LINE BEING PARALLEL WITH AND 250.00 FEET NORTH OF THE FORMER RIGHT-OF-WAY LINE OF STATE ROAD NO. 80; THENCE NORTH 88°37'57" WEST, ALONG LASTLY SAID LINE, A DISTANCE OF 180.00 FEET TO THE POINT OF BEGINNING.

PARCEL II: (APPURTENANT EASEMENT)

ACCESS EASEMENT FOR THE BENEFIT OF PARCEL I AS CREATED BY ACCESS, CROSS-PARKING AND NO-BUILD EASEMENT AGREEMENT BETWEEN DAYTON HUDSON CORPORATION, A MINNESOTA CORPORATION AND APPLE SOUTH, INC., A GEORGIA CORPORATION, RECORDED JUNE 24, 1996, IN OFFICIAL RECORDS BOOK 9320, PAGE 1182, PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA, AS AMENDED IN OFFICIAL RECORDS BOOK 22002, PAGE 1418, OVER, UNDER AND ACROSS THAT PORTION OF THE FOLLOWING DESCRIBED LANDS WHICH IS IDENTIFIED AS THE "ACCESS EASEMENT AREA" AND FURTHER IDENTIFIED BY CROSS-HATCHED MARKS ON THE SITE PLAN SET FORTH ON EXHIBIT "C" OF SAID AGREEMENT:

TRACTS 15, 18, THAT PART OF TRACT 21, LYING NORTH OF THE NORTH RIGHT-OF-WAY LINE OF STATE ROAD NO. 80, AND A 30-FOOT ABANDONED ROAD LYING BETWEEN TRACTS 16 AND 21, ALL IN BLOCK 8, "THE PALM BEACH FARMS CO. PLAT NO. 3", RECORDED IN PLAT BOOK 2, PAGES 45 TO 54, INCLUSIVE, PALM BEACH COUNTY RECORDS, EXCEPTING THEREFROM THE NORTH 30 FEET OF TRACT 15, THE EAST 70 FEET OF TRACTS 15, 16 AND 21 AND THE EAST 70 FEET OF THAT PART OF THE ABANDONED ROAD WHICH LIES WEST OF THE EAST LINE OF TRACT 16 IF PROJECTED SOUTHERLY TO THE NORTHEAST CORNER OF TRACT 21 AND ALSO EXCEPTING THAT CERTAIN PARCEL OF LAND DESCRIBED AS FOLLOWS:

A PARCEL OF LAND AT THE NORTHEAST CORNER OF THE FOLLOWING INTERSECTION OF STATE ROAD NO. 80 AND STATE ROAD NO. 7 FRONTING 175 FEET ON STATE ROAD NO 80 AND 250 FEET ON STATE ROAD NO. 7 WHICH SAID PARCEL OF LAND IS MORE PARTICULARLY DESCRIBED AS THE SOUTH 250 FEET OF THE WEST 175 FEET OF THAT PART OF TRACTS 16 AND 21 BLOCK 8, "THE PALM BEACH FARMS CO., PLAT NO. 3", LYING NORTH OF THE RIGHT-OF-WAY OF STATE ROAD NO. 80 AND INCLUDING THE 30-FOOT ABANDONED ROAD RIGHT-OF-WAY BETWEEN SAID TRACTS 16 AND 21.

LESS AND EXCEPT THE FOLLOWING: THE NORTH 467 FEET OF SAID TRACT 15; STATE ROAD 7 RIGHT-OF-WAY AND THE FOLLOWING DESCRIBED PARCEL:

THAT PART OF TRACTS 16 AND 21 IN BLOCK 8, OF "THE PALM BEACH FARMS CO. PLAT NO. 3", ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 2, PAGES 45 TO 54, INCLUSIVE, OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA, SAID PART BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

Directly below is the legal description continued:

COMMENCE AT THE SOUTHEAST CORNER OF SECTION 36, TOWNSHIP 43 SOUTH, RANGE 41 EAST; THENCE NORTH 01°34'02" EAST, ALONG THE EAST LINE OF SAID SECTION 36, A DISTANCE OF 1445.96 FEET TO THE BASELINE OF SURVEY FOR STATE ROAD 80; THENCE SOUTH 88°37'42" EAST, ALONG THE BASELINE OF SURVEY FOR STATE ROAD 80, A DISTANCE OF 85.17 FEET; THENCE NORTH 01°22'18" EAST A DISTANCE OF 50.00 FEET TO THE NORTHERLY EXISTING RIGHT-OF-WAY LINE FOR STATE ROAD 80; THENCE SOUTH 88°37'42" EAST, A DISTANCE OF 175.00 FEET TO THE POINT OF BEGINNING; THENCE CONTINUE SOUTH 88°37'42" EAST, A DISTANCE OF 216.43 FEET; THENCE SOUTH 88°31'04" EAST, A DISTANCE OF 571.31 FEET; THENCE NORTH 00°57'59" WEST, A DISTANCE OF 57.09 FEET TO THE BEGINNING OF A CURVE CONCAVE SOUTHERLY HAVING A CHORD BEARING OF NORTH 87°52'02" WEST; THENCE WESTERLY ALONG SAID CURVE HAVING A RADIUS OF 11,496.16 FEET, THROUGH AN ANGLE OF 01°18'04", AN ARC DISTANCE OF 261.06 FEET TO THE END OF SAID CURVE; THENCE NORTH 88°31'04" WEST, A DISTANCE OF 307.79 FEET; THENCE NORTH 85°03'35" WEST, A DISTANCE OF 192.80 FEET; THENCE NORTH 88°37'42" WEST, A DISTANCE OF 23.93 FEET; THENCE SOUTH 01°34'02" WEST, A DISTANCE OF 72.00 FEET TO THE POINT OF BEGINNING.

ALSO DESCRIBED AS FOLLOWS:

BEING A PARCEL OF LAND LYING IN SECTION 31, TOWNSHIP 43 SOUTH, RANGE 42 EAST, PALM BEACH COUNTY, FLORIDA, SAID PARCEL ALSO LYING IN A PORTION OF TRACTS 15, 16 AND 21, BLOCK 8, AND INCLUDING A PORTION OF AN ABANDONED 30 FOOT RIGHT-OF-WAY, ACCORDING TO THE PLAT OF "THE PALM BEACH FARMS CO. 3", AS RECORDED IN PLAT BOOK 2, PAGES 45 THROUGH 54, INCLUSIVE, OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA (BEARINGS HEREIN ARE BASED ON THE EAST LINE OF THE SOUTHEAST ONE-QUARTER OF SECTION 36, TOWNSHIP 43 SOUTH, RANGE 41 EAST, WHICH BEARS NORTH 01°33'47" EAST), SAID PARCEL BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE SOUTHEAST CORNER OF SAID SECTION 36; THENCE NORTH 01°33'47" EAST, ALONG THE EAST LINE OF SAID SECTION 36, A DISTANCE OF 1746.25 FEET; THENCE SOUTH 88°26'13" EAST, AT RIGHT ANGLES TO SAID EAST LINE OF SECTION 36, A DISTANCE OF 85.00 FEET TO THE INTERSECTION OF THE EASTERLY RIGHT-OF-WAY LINE OF STATE ROAD NO. 7, WITH A LINE PARALLEL WITH AND 250 FEET NORTH OF THE FORMER NORTHERLY RIGHT-OF-WAY LINE OF STATE ROAD NO. 80 AND THE POINT OF BEGINNING; THENCE NORTH 01°33'47" EAST, ALONG SAID EASTERLY RIGHT-OF-WAY LINE AND PARALLEL WITH THE EAST LINE OF SAID SECTION 36, A DISTANCE OF 665.07 FEET TO THE INTERSECTION WITH THE SOUTH LINE OF THE NORTH 467.00 FEET OF SAID TRACT 15; THENCE NORTH 89°01'09" EAST, ALONG SAID SOUTH LINE A DISTANCE OF 921.73 FEET TO THE INTERSECTION OF THE WEST LINE OF THE EAST 70 FEET OF SAID TRACTS 15 AND 16; THENCE SOUTH 01°01'20" EAST, ALONG SAID WEST LINE A DISTANCE OF 897.71 FEET TO A POINT OF INTERSECTION WITH THE EXISTING NORTHERLY RIGHT-OF-WAY LINE OF SOUTHERN BOULEVARD (STATE ROAD NO. 80) SAID POINT BEING ON A NON-TANGENT CURVE CONCAVE TO THE SOUTH, HAVING A RADIUS OF 11,496.16 FEET, SAID CURVE HAVING A CHORD BEARING OF NORTH 87°52'07" WEST; THENCE WESTERLY ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 01°18'24", A DISTANCE OF 262.16 FEET; THENCE NORTH 88°31'19" WEST, ALONG SAID EXISTING NORTHERLY RIGHT-OF-WAY LINE, A DISTANCE OF 307.79 FEET; THENCE NORTH 85°03'50" WEST, ALONG SAID EXISTING NORTHERLY RIGHT-OF-WAY LINE, A DISTANCE OF 192.79 FEET; THENCE NORTH 88°37'57" WEST, ALONG SAID EXISTING NORTHERLY RIGHT-OF-WAY LINE, A DISTANCE OF 23.93 FEET TO THE INTERSECTION WITH THE EAST LINE OF THE WEST 175.00 FEET OF SAID TRACT 16; THENCE NORTH 01°33'47" EAST, ALONG THE EAST LINE OF SAID WEST 175.00 FEET, A DISTANCE OF 178.00 FEET TO A POINT 250.00 FEET NORTH OF THE FORMER NORTHERLY RIGHT-OF-WAY LINE OF SOUTHERN BOULEVARD (STATE ROAD NO.80) THENCE NORTH 88°37'57" WEST, A DISTANCE OF 175.00 FEET TO THE POINT OF BEGINNING.

## Directly below is the legal description continued:

ALSO LESS AND EXCEPT THE FOLLOWING:

A PARCEL OF LAND LYING IN SECTION 31, TOWNSHIP 43 SOUTH, RANGE 42 EAST, PALM BEACH COUNTY, FLORIDA, SAID PARCEL ALSO BEING A PORTION OF TRACT 16, BLOCK 8, ACCORDING TO THE PLAT OF "THE PALM BEACH FARMS CO. PLAT NO. 3", AS RECORDED IN PLAT BOOK 2, PAGES 45 THROUGH 54, OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE SOUTHEAST CORNER OF SECTION 36, TOWNSHIP 43 SOUTH, RANGE 41 EAST, THENCE NORTH 01°33'47" EAST, ALONG THE EAST LINE OF SAID SECTION 36, A DISTANCE OF 1746.25 FEET; THENCE SOUTH 88°26'13" EAST, AT RIGHT ANGLES TO THE SAID EAST LINE OF SECTION 36, A DISTANCE OF 85.00 FEET TO THE POINT OF INTERSECTION OF THE EASTERLY RIGHT-OF-WAY LINE OF STATE ROAD NO. 7 WITH A LINE PARALLEL WITH AND 250.00 FEET NORTH OF THE FORMER NORTHERLY RIGHT-OF-WAY LINE OF STATE ROAD 80 AND THE POINT OF BEGINNING OF THE FOLLOWING DESCRIBED PARCEL; THENCE NORTH 01°33'47" EAST, ALONG SAID EASTERLY RIGHT-OF-WAY LINE AND PARALLEL WITH THE EAST LINE OF SAID SECTION 36, A DISTANCE OF 263.50 FEET; THENCE SOUTH 89°56'32" EAST, A DISTANCE OF 217.00 FEET; THENCE SOUTH 00°03'28" WEST, A DISTANCE OF 224.00 FEET; THENCE NORTH 89°56'32" WEST, A DISTANCE OF 42.97 FEET; THENCE SOUTH 01°22'03" WEST, A DISTANCE OF 43.53 FEET, TO THE INTERSECTION WITH THE AFORESAID LINE BEING PARALLEL WITH AND 250.00 FEET NORTH OF THE FORMER RIGHT-OF-WAY LINE OF STATE ROAD NO. 80; THENCE NORTH 88°37'57" WEST, ALONG LASTLY SAID LINE, A DISTANCE OF 180.00 FEET TO THE POINT OF BEGINNING.

PARCEL II BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHEAST CORNER OF SECTION 36, TOWNSHIP 43 SOUTH, RANGE 41 EAST, PALM BEACH COUNTY, FLORIDA; THENCE NORTH 01°33'47" EAST, A DISTANCE OF 1746.25 FEET; THENCE SOUTH 88°26'13" EAST, A DISTANCE OF 85.00 FEET TO THE EAST RIGHT-OF-WAY LINE OF STATE ROAD NO. 7; THENCE NORTH 01°33'47" EAST, ALONG SAID RIGHT-OF-WAY, A DISTANCE OF 289.04 FEET TO THE POINT OF BEGINNING OF THE FOLLOWING DESCRIBED PARCEL; THENCE CONTINUE NORTH 01°33'47" EAST, ALONG SAID RIGHT-OF-WAY, A DISTANCE OF 50.78 FEET; THENCE SOUTH 35°50'47" EAST, A DISTANCE OF 29.86 FEET; THENCE SOUTH 53°32'57" EAST, A DISTANCE OF 26.47 FEET; THENCE SOUTH 73°00'03" EAST, A DISTANCE OF 26.87 FEET; THENCE NORTH 89°29'07" EAST, A DISTANCE OF 200.28 FEET; THENCE SOUTH 00°55'15" EAST, A DISTANCE OF 248.92 FEET; THENCE SOUTH 88°36'42" WEST, A DISTANCE OF 33.45 FEET; THENCE NORTH 00°55'15" WEST, A DISTANCE OF 219.18 FEET; THENCE NORTH 89°56'32" WEST, A DISTANCE OF 192.53 FEET; THENCE NORTH 63°30'52" WEST, A DISTANCE OF 30.18 FEET; THENCE NORTH 48°21'26" WEST, A DISTANCE OF 18.23 FEET TO THE POINT OF BEGINNING.