

Village of Royal Palm Beach
Village Council
Agenda Item Summary

Agenda Item:

PUBLIC HEARING TO CONSIDER APPLICATION 21-54 (PVAR), AN APPLICATION BY MARCOS UNIS, FOR THE CONSIDERATION OF A VARIANCE FROM VILLAGE CODE SECTION 23-49 (B) (6) B., TO PROVIDE FOR A VARIANCE TO ELIMINATE A PORTION OF THE REQUIRED SIDEWALK FROM THE REAR PARKING AREA TO THE FRONT OF THE BUILDING WHERE VILLAGE CODE REQUIRES AN UNINTERRUPTED SIX (6) FOOT WIDE CONTINUOUS PEDESTRIAN ACCESSWAY CONNECTING THE REAR PARKING AREA TO THE PUBLIC ENTRANCE IN FRONT OF THE BUILDING , FOR A 3.61± ACRE PARCEL OF LAND LOCATED ON THE NORTHWEST CORNER OF SOUTHERN BOULEVARD AND STATE ROAD 7; BY ACCESS SPECIALTY ANIMAL HOSPITAL.

Issue:

The subject site is located on the northwest corner of Southern Boulevard and State Road 7 and situated within the Village Shoppes On 441 Shopping Center. The Applicant is requesting a parking variance from the Village’s Code of Ordinances Section 23-49 (B) (6) b. in order to eliminate a portion of the required sidewalk from the rear parking area to the front of the building where Village Code requires a six (6) foot wide continuous pedestrian accessway connecting the rear parking area to the public entrance in front of the building. An accessway connecting the rear parking area to the public entrance in front of the building exists today. For an illustration of this area please refer to **Attachment A**. The Applicant intends to reconfigure the landscape island adjacent to the west façade of the building to accommodate an outdoor run for animals being cared for at the animal hospital. The reconfiguring of the landscape island is part of a separate Minor Site Plan Application in for review with the Planning and Zoning Department. For an illustration of the proposed reconfigured landscape island please refer to **Attachment B**.

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

- 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;

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- The special conditions and circumstances do not result from the actions of the applicant;
- 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;
- 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;
- The variance granted is the minimum variance that will make possible the reasonable use of the land, building or structure;
- The grant of the variance will be in harmony with the general intent and purpose of this division; and
- Such variance will not be injurious to the area involved or otherwise be detrimental to the public welfare.

Please refer to **Attachment C** for the Applicant's Justification Statement which contains the Applicant's responses to the criteria for granting variances.

Village Staff is not in support of this variance because Staff believes 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; and the literal interpretation of the Code does not deprive the applicant the rights enjoyed by other lands in the same zoning district.

This item was considered by the Planning and Zoning Commission at its regular meeting on October 26, 2021 and was recommended for Approval by a vote of 3-2, with Commissioners Ray Nazareth and David Leland dissenting.

Recommended Action:

Staff is recommending Denial of Application 21-54 (PVAR) and Variance Order VC 21-10.

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Attachment A

Directly below is the landscape island that the Applicant is proposing to reconfigure to accommodate the dog run.



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Attachment A Continued

Directly below is an illustration showing the six (6) foot wide continuous pedestrian accessway connecting the rear parking area to the public entrance in front of the building.

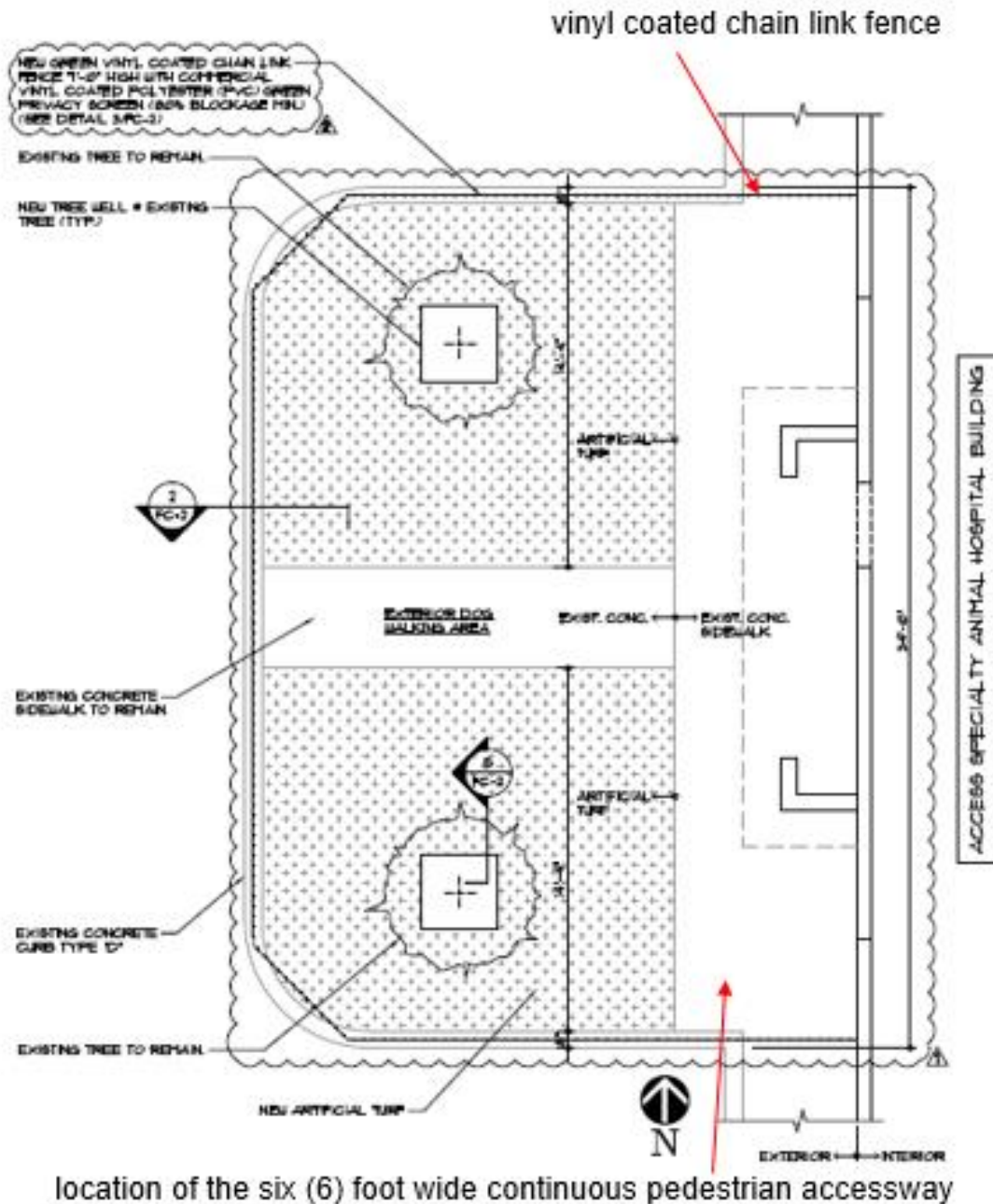


six (6) foot wide continuous pedestrian accessway

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Attachment B

Directly below is an illustration of the proposed reconfiguration of the landscape island and sidewalk adjacent to the west façade. This illustration shows how the six (6) foot wide continuous pedestrian accessway connecting the rear parking area to the public entrance in front of the building will be interrupted by a vinyl coated chain link fence.



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Attachment C

The Applicant's Justification Statement:

We are requesting approval for a Parking Variance from Section 23-49.(b).(6) in order to eliminate a required sidewalk from the rear parking lot to the front of the building/main entrance. Below please find our Justification Statements to the City of Royal Palm Beach Variance Standard:

1. Explain the special conditions and circumstances which exist that are peculiar to the land, structure, or building involved and which are not applicable to other lands, structures, or buildings in the same district.

In the front (main entrance) of the building there is sufficient existing parking available to serve the parking demand of all clients/visitors to our Veterinary Clinic. In this particular Project/Building, the parking in the back will be strictly used by Doctors and staff members. There is an entrance door in the back of the building for Doctors & staff member to enter the building so a sidewalk connecting the back parking area to the front entrance of the building is not necessary.

2. Explain how the special conditions and circumstances that exist do not result from the actions of the applicant.

The building that Access Animal Hospital recently moved into was existing and was previously designed for a different type of use and different needs. The new Animal Hospital needs a fenced-in "outdoor dog run area" to walk the dogs safely. This area was not considered in the original Site planning and design of the previous building and parking lot. The City of Royal Palm Beach P & Z Commission and Village Council has unanimously approved/granted a "Special Exception" to allow said "outdoor dog run". The best and logical location for said "outdoor dog run area" requires that the sidewalk connecting the rear parking area with the main entrance of the building to be eliminated.

3. Explain how the granting of the requested variance will not confer on the applicant any special privilege that is denied by the zoning Ordinance to other lands, structures, or buildings in the same zoning district.

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As explained on #2 above, this variance is required due to specific needs that are unique to the Specialty Animal Hospital moving into an existing building. If this Project was designed from scratch we probably could have incorporated the “outdoor dog run area” into our Site plan without requiring a variance. Because this variance is required for this specific use, the variance will only be allowed as long as the property is being used as an Animal Hospital. If/when the Animal Hospital moves from this building the “outdoor run area” would be eliminated and the sidewalk connection to the front of the building would be re-established.

4. Explain how the literal interpretation of the provisions of the Zoning Ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district and would work unnecessary and undue hardship on the applicant.

The intent of the Ordinance (Code Section 23-49 (6)(b) is to provide a sidewalk connection/access for persons that park in the rear of the building to the front (main entrance) of the building. For the reasons explained on #1 above, in this particular building there will not be anyone parking in the rear of the building that needs access to the front (main entrance). Enforcing the literal interpretation of this Ordinance is unnecessary and an undue hardship on the applicant.

5. Explain how the Variance requested is the minimum variance that will make possible a reasonable use of the land, building, or structure.

Given the existing conditions granting the requested Variance will allow the Specialty Animal Hospital to have a small “outdoor run area” adjacent to their building that is essential to the reasonable use (operation) of the Veterinary Clinic. The “outdoor dog run area” is proposed to be located in an area that will have minimal impact to the balance of the Site.

6. Explain how the grant of the requested variance will be in harmony with the general intent and purpose of the Zoning Code and will not be injurious to the neighborhood or otherwise detrimental to the public welfare.

Granting this Variance will allow The Specialty Animal Hospital to build an “outdoor run area” adjacent to their building which is an essential complement to the Veterinary Clinic. The design of the “outdoor run area was presented to the Village Council, the P & Z Commission and the Architectural Review Board and was approved

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for being in harmony with the general intent and purpose of the Zoning Code and not be injurious to the neighborhood or otherwise detrimental to the public welfare.

7. Explain how such variance will not be injurious to the area involved or otherwise be detrimental to the public welfare.

Granting this Variance will not be injurious, have a negative effect, or impede the area to be safely used as intended by the Planning and Zoning codes.

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

**CASE NO. VC-21-10
IN RE: Application No. 21-54(PVAR)
Access Animal Hospital @ NW Corner of Southern Boulevard & State Road 7**

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 General Commercial (CG) 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 a **Variance** from Royal Palm Beach Code of Ordinances at the following section: Sec. 23-49 (B) (6) b. in order to eliminate a portion of the required sidewalk from the rear parking area to the front of the building where Village Code requires a six (6) foot wide continuous pedestrian accessway connecting the rear parking area to the public entrance in front of the building.
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-21-10**, 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) (6) b. in order to eliminate a portion of the required sidewalk from the rear parking area to the front of the building where Village Code requires a six (6) foot wide continuous pedestrian accessway connecting the

rear parking area to the public entrance in front of the building 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 18th day of November, 2021.

Mayor Fred Pinto
Village of Royal Palm Beach

Attest:

Diane DiSanto, Village Clerk

Exhibit A
Legal Description
Application No. 21-54(PVAR)
Access Animal Hospital @ NW Corner of Southern Boulevard and State
Road 7

LEGAL DESCRIPTION:

A PARCEL OF LAND IN SECTION 36, TOWNSHIP 43 SOUTH, RANGE 41 EAST, PALM BEACH COUNTY, FLORIDA, AND BEING A PART OF TRACTS 6 AND 7, BLOCK 9, THE PALM BEACH FARMS CO. PLAT NO. 3, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 2, PAGES 45 THROUGH 54, INCLUSIVE, PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA; SAID PARCEL OF LAND BEING SPECIFICALLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHEAST CORNER OF THE WEST ONE-HALF (W 1/2) OF SAID TRACT 7; THENCE SOUTH 00 DEGREES, 31 MINUTES, 56 SECONDS EAST, ALONG THE EAST LINE OF THE WEST ONE-HALF (W 1/2) OF SAID TRACT 7, A DISTANCE OF 910.65 FEET TO A POINT ON THE NORTH LINE OF THE SOUTH 425.00 FEET OF THE EAST ONE-HALF (E 1/2) OF SAID TRACT 7; THENCE NORTH 88 DEGREES, 07 MINUTES, 11 SECONDS EAST, ALONG SAID NORTH LINE, A DISTANCE OF 400.11 FEET TO A POINT ON THE EAST LINE OF THE WEST 400.00 FEET OF THE EAST ONE-HALF (E 1/2) OF SAID TRACT 7; THENCE SOUTH 00 DEGREES, 31 MINUTES, 56 SECONDS EAST, ALONG SAID EAST LINE, A DISTANCE OF 216.34 FEET TO A POINT ON THE NORTHERLY ULTIMATE RIGHT-OF-WAY LINE FOR STATE ROAD 80; THENCE NORTH 86 DEGREES, 25 MINUTES, 20 SECONDS EAST, ALONG SAID NORTH RIGHT-OF-WAY LINE, A DISTANCE OF 245.73 FEET; THENCE NORTH 00 DEGREES, 34 MINUTES, 13 SECONDS WEST, DEPARTING SAID RIGHT-OF-WAY LINE, A DISTANCE OF 183.95 FEET; THENCE NORTH 88 DEGREES, 07 MINUTES, 11 SECONDS EAST A DISTANCE OF 158.05 FEET; THENCE SOUTH 01 DEGREE, 50 MINUTES, 18 SECONDS WEST A DISTANCE OF 179.82 FEET TO A POINT ON THE NORTHERLY ULTIMATE RIGHT-OF-WAY LINE FOR STATE ROAD 80; THENCE NORTH 86 DEGREES, 25 MINUTES, 20 SECONDS EAST, ALONG SAID NORTHERLY RIGHT-OF-WAY LINE, A DISTANCE OF 124.90 FEET TO A POINT ON THE WEST RIGHT-OF-WAY LINE OF STATE ROAD 7, AS RECORDED IN OFFICIAL RECORDS BOOK 5345, PAGE 595, PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA; THENCE NORTH 01 DEGREE, 33 MINUTES, 47 SECONDS EAST, ALONG SAID WEST RIGHT-OF-WAY LINE, A DISTANCE OF 945.44 FEET; THENCE NORTH 01 DEGREE, 33 MINUTES, 58 SECONDS EAST, CONTINUING ALONG SAID WEST RIGHT-OF-WAY LINE, A DISTANCE OF 151.97 FEET TO A POINT ON THE NORTH LINE OF SAID TRACT 6; THENCE SOUTH 89 DEGREES, 03 MINUTES, 43 SECONDS WEST, DEPARTING SAID RIGHT-OF-WAY LINE AND ALONG THE NORTH LINE OF SAID TRACTS 6 AND 7, A DISTANCE OF 960.69 FEET TO THE NORTHEAST CORNER OF THE WEST ONE-HALF (W 1/2) OF SAID TRACT 7 AND THE POINT OF BEGINNING;

OUT PARCEL 2-A:

A PARCEL OF LAND IN SECTION 36, TOWNSHIP 43 SOUTH, RANGE 41 EAST, PALM BEACH COUNTY, FLORIDA, AND BEING A PART OF TRACTS 6 AND 7, BLOCK 9, THE PALM BEACH FARMS COMPANY, PLAT NO. 3, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 2, PAGES 45 THROUGH 54, INCLUSIVE, PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA; SAID PARCEL OF LAND BEING SPECIFICALLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER OF THE WEST ONE-HALF (W 1/2) OF SAID TRACT 7; THENCE SOUTH 00°31'43" EAST, ALONG THE EAST LINE OF THE WEST ONE-HALF (W 1/2) OF SAID TRACT 7, A DISTANCE OF 667.69 FEET; THENCE NORTH 89°28'17" EAST, A DISTANCE OF 435.00 FEET TO THE POINT OF BEGINNING; THENCE NORTH 88°07'24" EAST, A DISTANCE OF 251.00; THENCE SOUTH 00°31'43" EAST, A DISTANCE OF 257.38 FEET; THENCE SOUTH 88°07'24" WEST, A DISTANCE OF 251.00 FEET; THENCE NORTH 00°31'43" WEST, A DISTANCE OF 257.83 FEET TO THE POINT OF BEGINNING.

OUT PARCEL 3-A:

A PARCEL OF LAND IN SECTION 36, TOWNSHIP 43 SOUTH, RANGE 41 EAST, PALM BEACH COUNTY, FLORIDA, AND BEING A PART OF TRACT 6, BLOCK 9, THE PALM BEACH FARMS COMPANY, PLAT NO. 3, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 2, PAGES 45 THROUGH 54, INCLUSIVE, PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA; SAID PARCEL OF LAND BEING SPECIFICALLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER OF THE WEST ONE-HALF OF SAID TRACT 7; THENCE SOUTH 00 DEGREES 31'56" EAST, ALONG THE EAST LINE OF THE WEST ONE-HALF OF SAID TRACT 7, A DISTANCE OF 910.65 FEET TO A POINT ON THE NORTH LINE OF THE SOUTH 425.00 FEET OF THE EAST ONE-HALF OF SAID TRACT 7 FOR A POINT OF BEGINNING;

THENCE NORTH 88 DEGREES 07'11" EAST, ALONG SAID NORTH LINE, A DISTANCE OF 400.11 FEET TO A POINT ON THE EAST LINE OF THE WEST 400.00 FEET OF THE EAST ONE-HALF OF SAID TRACT 7; THENCE NORTH 00 DEGREES 31'56" WEST, ALONG SAID EAST LINE, A DISTANCE OF 222.00 FEET; THENCE SOUTH 88 DEGREES 07'11" WEST A DISTANCE OF 367.11 FEET; THENCE SOUTH 43 DEGREES 47'38" WEST A DISTANCE OF 47.21 FEET TO THE SAID EAST LINE OF THE WEST ONE-HALF OF SAID TRACT 7; THENCE SOUTH 00 DEGREES 31'56" EAST, ALONG SAID EAST LINE, A DISTANCE OF 189.00 FEET TO THE POINT OF BEGINNING.

PARCEL

2:

A PARCEL OF LAND IN SECTION 36, TOWNSHIP 43 SOUTH, RANGE 41 EAST, PALM BEACH COUNTY, FLORIDA, AND BEING A PART OF TRACT 7, BLOCK 9, THE PALM BEACH FARMS CO. PLAT NO. 3, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 2, PAGES 45 THROUGH 54, INCLUSIVE, PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA; SAID PARCEL OF LAND BEING SPECIFICALLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHEAST CORNER OF THE WEST ONE-HALF (W 1/2) OF SAID TRACT 7; THENCE SOUTH 00 DEGREES, 31 MINUTES, 56 SECONDS EAST, ALONG THE EAST LINE OF THE WEST ONE-HALF (W 1/2) OF SAID TRACT 7, A DISTANCE OF 1264.56 FEET TO A POINT ON THE NORTHERLY RIGHT-OF-WAY LINE OF STATE ROAD 80 AND A POINT ON A CURVE, CONCAVE SOUTHERLY, HAVING A RADIUS OF 11496.16 FEET AND WHOSE RADIUS POINT BEARS SOUTH 00 DEGREES, 23 MINUTES, 14 SECONDS WEST; THENCE WESTERLY ALONG SAID CURVE AND ALONG SAID RIGHT-OF-WAY LINE, THROUGH A CENTRAL ANGLE OF 01 DEGREE, 19 MINUTES, 31 SECONDS, A DISTANCE OF 265.91 FEET TO A POINT OF REVERSE CURVATURE OF A CURVE HAVING A RADIUS OF 11422.16 FEET; THENCE WESTERLY, ALONG SAID CURVE AND CONTINUING ALONG SAID RIGHT-OF-WAY LINE, THROUGH A CENTRAL ANGLE OF 01 DEGREE, 07 MINUTES, 48 SECONDS, A DISTANCE OF 225.28 FEET TO THE END OF SAID CURVE AND A POINT ON THE WEST LINE OF SAID TRACT 7; THENCE DEPARTING SAID RIGHT-OF-WAY LINE, NORTH 00 DEGREES, 41 MINUTES, 24 SECONDS WEST, ALONG THE WEST LINE OF SAID TRACT 7, A DISTANCE OF 1259.24 FEET TO THE NORTHWEST CORNER OF SAID TRACT 7; THENCE NORTH 89 DEGREES, 03 MINUTES, 43 SECONDS EAST, ALONG THE NORTH LINE OF SAID TRACT 7, A DISTANCE OF 494.65 FEET TO THE NORTHEAST CORNER OF THE WEST ONE-HALF (W 1/2) OF SAID TRACT 7 AND THE POINT OF BEGINNING.

PARCEL

3:

A NON-EXCLUSIVE EASEMENT FOR THE BENEFIT OF PARCELS 1 AND 2, SUPRA, AS SET FORTH IN RECIPROCAL EASEMENT AGREEMENT RECORDED IN OFFICIAL RECORDS BOOK 9102, PAGE 1787, OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA, OVER AND ACROSS THE LANDS DESCRIBED THEREIN.

LESS AND EXCEPT FROM THE ABOVE PARCELS 1, 2 AND 3, RIGHT OF WAY OF STATE ROAD 80 AND RIGHTS OF ACCESS, INGRESS AND EGRESS, AS DESCRIBED IN ORDER OF TAKING IN FAVOR OF STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION, RECORDED DECEMBER 12, 2002 IN OFFICIAL RECORDS BOOK 14451, PAGE 258, RATIFIED AND CONFIRMED BY STIPULATED FINAL JUDGMENT IN OFFICIAL RECORDS BOOK 20922, PAGE 1531, BOTH OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA.

PARCEL

4:

THE NORTHEAST ONE-QUARTER (NE 1/4) OF THE SOUTHEAST ONE-QUARTER (SE 1/4) OF THE NORTHWEST ONE-QUARTER (NW 1/4) OF SECTION 36, TOWNSHIP 43 SOUTH, RANGE 41 EAST, PALM BEACH COUNTY, FLORIDA, SUBJECT TO A ROAD AND CANAL RIGHT OF WAY OVER AND ACROSS THE SOUTH 55 FEET THEREOF.