

Village of Royal Palm Beach
Village Council
Agenda Item Summary

Agenda Item:

PUBLIC HEARING TO CONSIDER VARIANCE APPLICATION NO. 20-162 (VAR), AN APPLICATION BY EVANS LAND CONSULTING, INC., AND VARIANCE ORDER VC-21-03, THE APPLICANT IS SEEKING A VARIANCE TO ALLOW CURRENTLY EXISTING “ELECTRICAL DISTRIBUTION WIRES” TO REMAIN ABOVE GROUND ON POLES WHERE VILLAGE CODE SECTION 22-50 (A) (8) REQUIRES THESE “ELECTRICAL DISTRIBUTION WIRES” BE PLACED UNDERGROUND, RATHER THAN ON POLES OR TOWERS; SITUATED WITHIN A FLORIDA POWER AND LIGHT EASEMENT GENERALLY LOCATED 2,300 FEET SOUTH OF SOUTHERN BOULEVARD AND 2,500 FEET WEST OF STATE ROAD 7; AND WHICH RUNS EAST TO WEST APPROXIMATELY 2,500 FEET.

Issue:

The Applicant is requesting a variance to allow currently existing “Electrical Distribution Wires” to remain on poles, where Village Code Sec. 22-50 (a) (8) *Electric supply system*. requires the electrical distribution wires be placed underground rather than on poles or towers. These “Electrical Distribution Wires” lie within the Florida Power & Light easement located 2,300 feet south of Southern Boulevard and 2,500 feet west of State Road 7; and which run east to west approximately 2,500 feet. Please refer to **Attachment A** for an illustration of the location and extent of the Florida Power & Light easement. Within the easement shown in Attachment A you will notice the “Electrical Distribution Wires” shown in red and the “Major Transmission Lines” shown in purple. As it pertains to the “Major Transmission Lines”, Village Code Sec. 22-50 (a) (8) *Electric supply system*. exempts “Major Transmission Lines” from the requirement for them to be buried underground.

Village Code Sec. 22-66 (c) allows the Village Council to grant variances to the subdivision code when:

- Exceptional and unique conditions and circumstances exist which are peculiar to the land, structures or required subdivision improvements involved and which are not applicable to other land, structures or required subdivision improvements;
- Strict compliance with the provisions of the regulations would deprive the developer of rights commonly enjoyed by other properties, subject to these regulations, with similar conditions;
- The exceptional and unique conditions and circumstances do not result from the actions of the developer;

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- The granting of the variance requested will not confer on the developer any special privilege that is denied by the regulations of other lands, structures or required subdivision improvements under similar conditions. No preexisting conditions on neighboring lands which are contrary to the regulations established in this chapter shall be considered grounds for the issuance of a variance;
- A literal interpretation of the provisions of this chapter would deprive the developer of the rights commonly enjoyed by other lands or structures subject to these regulations and would work unnecessary and undue hardship on the developer;
- The variance to be granted is the minimum variance that would make possible the reasonable use of the land, building or other improvements;
- The grant of the variance will be in harmony with the general intent and purpose of this chapter; and
- The grant of the variance will not be injurious to the area involved or otherwise be detrimental to the public welfare.

The Applicant contends that:

- Having a property that includes a 160' wide, 2,500' long utility easement that includes both 60-foot-tall electric transmission lines and 35-foot-tall distribution lines running through it is a special and unique circumstance. Please refer to **Attachment B** for photographs of both the "Electrical Distribution Wires" and the "Major Transmission Lines".
- Property owner could not find any other similar situations within the Village where a property owner was required to buried existing distribution lines which were within the same easement as the transmission lines. Other property owners with similar easements are not similarly compelled to comply with code section 22-50 a.(8).
- The existing powerlines in question, both distribution and transmission, were in place at the time the applicant acquired the property.
- Granting the variance would not confer on the applicant a special privilege over other properties in the zoning district. The distribution lines in question are existing and not specifically subject to land development activities associated with the Master Plan. The Variance will not confer any special advantage since the property owner has been unable to find another property owner required to bury distribution lines when the distribution lines lie within the easement which also contain transmission lines.
- The easement is dominated by the far more numerous and far taller transmission lines. A literal interpretation of the code would result in the burial of the existing distribution lines in a quasi-public use area while leaving the far more intrusive transmission lines as they are. The applicant found several areas within the Village

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where full public access is used daily in the large FPL easement, and the distribution lines are not buried.

- The variance requested applies only to this specific easement where transmission and distribution lines are comingled. More specifically, the variance requested applies to the existing transmission lines shown. All other areas included in the master plan will comply with the code. This is the minimum variance that will make possible a reasonable use of the land.
- As referenced earlier, the intent of the code to reduce the visual and physical intrusion of overhead powerlines would not be achieved with compliance with code section 22 - 50 a.(8). The relatively smaller and fewer in number distribution lines would be buried while the much more intrusive, larger and more numerous transmission lines would remain in place. The applicant will comply with code section 22 - 50 a.(8) in every other instance where FPL distribution facilities are located singularly in an FPL easement. Therefore, the requested variance is in harmony with the intent of this chapter.
- The distribution lines in question have been existing in this location for many years. Their continued existence in this location will not result in a negative impact to the neighborhood or the general welfare

Village Staff is not in support of this variance because Staff believes that no exceptional and unique condition or circumstance exist which are not applicable to other lands; 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.

The Village sent out the required mail notice, to all residents within a 300-foot radius of the subject property, notifying homeowners of the variance request. The Village did not receive any responses either supporting or objecting to the application. In addition, no letters to date have been provided by the Applicant supporting the request.

The Planning & Zoning Commission considered this application on April 27, 2021 and recommended Denial by a vote of 3-2, with Chairwoman June Perrin and Commissioner Philip Marquis dissenting.

Recommended Action:

Staff is recommending Denial of Application No. 20-162 (VAR) and Variance Order VC-21-03.

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Attachment A Electrical Distribution Wires within the Florida Power & Light Easement

The illustration below shows the location of the Florida Power & Light Easement and the “Electrical Distribution Wires” within.

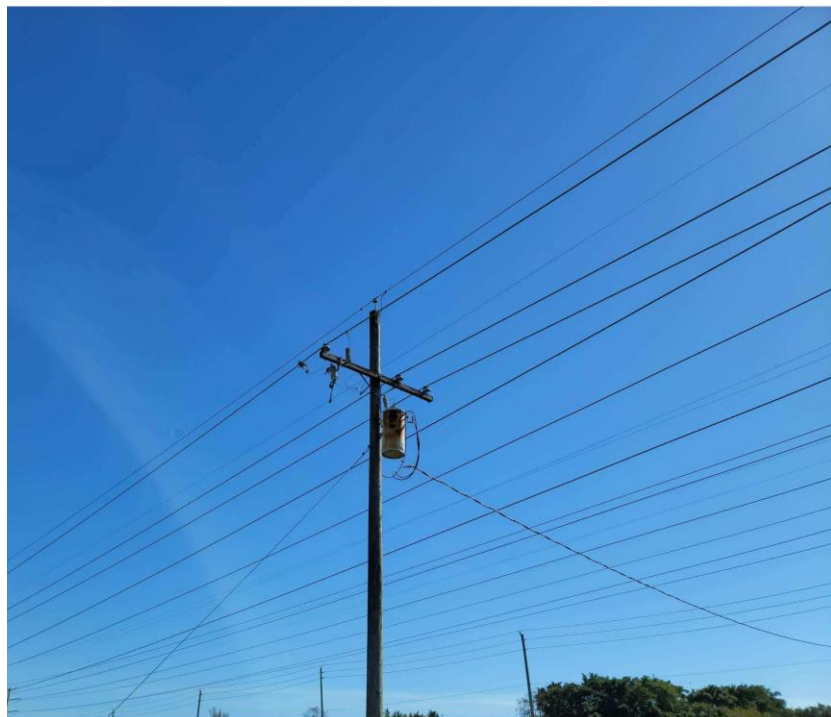


LEGEND	
— — — — —	TRANSMISSION LINES
— — — — —	DISTRIBUTION LINES
□	CONCRETE POWER POLE (AVERAGE HEIGHT 35 TO 50 FEET WITH 100' WIDE CLEARANCE)
○	WOOD POWER POLE (AVERAGE HEIGHT 31 TO 37 FEET WITH 100' WIDE CLEARANCE)

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Attachment B
“Electrical Distribution Wires” & “Major Transmission Lines”

Directly below are photographs provided by the applicant of the existing electrical distribution wires and major transmission lines.



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**ORDER OF THE VILLAGE COUNCIL
VILLAGE OF ROYAL PALM BEACH
Chapter 22. Subdivision of Land**

CASE NO. VC-21-03
IN RE: Application No. 20-162(VAR)
Tuttle Royale Powerline

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 CG, RM-14, RS-3, RE (PBC) and AR (PBC) Districts 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. 22-50 (a) (8) in order to allow existing electrical distribution wires to remain above ground on poles in lieu of the Village Code requirement that all electrical distribution wires be placed underground.
3. Under the provisions of Sec. 22-66 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-21-03**, with reference to the above-referenced property in the Village of Royal Palm Beach, Florida to permit a variance to Sec. 22-50 (a) (8) in order to allow existing electrical distribution wires to remain above ground on poles in lieu of the Village Code requirement that all electrical distribution wires be placed underground is hereby **Approved** in accordance with the Village Code of Ordinances for the following reasons:

The applicant meets the standards for a subdivision variance as set forth in Section 22-66 of the Village Code of Ordinances:

1. Exceptional and unique conditions and circumstances exist;
2. Strict compliance with the regulations would deprive developer of rights commonly enjoyed by other properties with similar conditions;
3. Exceptional and unique conditions and circumstances are not the result of actions of the applicant;
4. No special privilege is conferred;
5. Literal interpretation would constitute an unnecessary and undue hardship;
6. This is minimum variance for reasonable use of land;
7. Is in harmony with the intent and purpose of this chapter; and
8. Will not be injurious to area or detrimental to the public welfare.

Done and ordered this 20th day of May, 2021.

Mayor Fred Pinto
Village of Royal Palm Beach

Attest:

Diane DiSanto, Village Clerk

Exhibit A
Legal Description
Application No. 20-162(VAR)
Tuttle Royale Powerline

LEGAL DESCRIPTION:

A PARCEL OF LAND BEING A PORTION OF SECTION 1, TOWNSHIP 44 SOUTH, RANGE 41 EAST, PALM BEACH COUNTY, FLORIDA, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS.

COMMENCING AT THE NORTHWEST CORNER OF SECTION 1, TOWNSHIP 44 SOUTH, RANGE 41 EAST, PALM BEACH COUNTY, FLORIDA; THENCE ALONG THE WEST LINE OF SAID SECTION 1, S01°50'01"W A DISTANCE OF 320.00 FEET TO THE POINT OF BEGINNING;

THENCE LEAVING SAID WESTERLY SECTION LINE, S52°03'19"E A DISTANCE OF 965.83 FEET: S88°57'45"E A DISTANCE OF 1827.79 FEET TO A POINT ON THE WESTERLY LINE OF A 40' WIDE LAKE WORTH DRAINAGE DISTRICT RIGHT-OF-WAY EASEMENT AS RECORDED IN OFFICIAL RECORD BOOK 937, PAGE 382 AND IN THE LAKE WORTH DRAINAGE DISTRICT QUIT CLAIM DEED AS RECORDED IN OFFICIAL RECORD BOOK 31283, PAGE 903, BOTH BEING A PART OF SAID PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA; THENCE ALONG SAID LINE S01°50'51"W A DISTANCE OF 160.02 FEET; THENCE LEAVING SAID LINE N88°57'45"W A DISTANCE OF 2448.01 FEET; THENCE S29°43'57"W A DISTANCE OF 342.16 FEET TO A POINT ON SAID WESTERLY SECTION LINE; THENCE ALONG SAID WESTERLY SECTION LINE, N01°50'01"E A DISTANCE OF 1040.26 FEET TO THE POINT OF BEGINNING.

CONTAINING 15.328 ACRES MORE OR LESS.