

**Village of Royal Palm Beach
Planning and Zoning Commission
Agenda Item Summary**

Agenda Item:

PUBLIC HEARING TO CONSIDER APPLICATION 21-04 (VAR), AN APPLICATION BY PMA, INC., AND VARIANCE ORDER VC 21-05. THE APPLICANT IS REQUESTING A VARIANCE FROM SECTION 26-89(4)(E)51(2)(S) TO ALLOW FOR THE PERVIOUS AREA ON SITE TO BE 24% WHERE THE CODE REQUIRES A MINIMUM PERVIOUS AREA OF 25% OF THE TOTAL LOT AREA, A VARIANCE OF 1%, FOR A PARCEL LOCATED AT 1180 ROYAL PALM BEACH BOULEVARD: BY AGENT ROBERT WILSON, OF PMA, INC.

Issue:

The Applicant is requesting a Variance from Section 26-89 (4) (e) 51 (2) (s) to allow for the pervious area on site to be 24% where the Village Code requires a minimum pervious area of 25% of the total lot area. The Applicant is seeking a variance to allow for an additional 1% of the total lot area to be impervious.

The Applicant asserts that the existing layout of the Shopping Center, which includes other uses and related infrastructure, and the Owner's strong desire to maintain the existing perimeter landscape buffers, has resulted in the loss of 1% of pervious area and the resulting request for a variance. Additionally, the Village's desire for the addition of a pedestrian walkway entering the site will eliminate a landscape island thus contributing to the minor pervious area variance. Please refer to **Attachment A** for the Applicant's Justification Statement for the Variance request.

Village Code Sec. 26-32 (f) (6) allows the Village Council to grant variances to the code when:

- Special conditions and circumstances exist which are not applicable to other lands in the same zoning district;
- Special conditions do not result from the actions of the Applicant;
- Granting the variance will not confer on the Applicant special privileges that are denied to other lands in the same zoning district; and;
- The literal interpretation of the Code would deprive the Applicant the rights enjoyed by other lands in the same zoning district;
- The variance requested is the minimum variance that will make possible the reasonable use of the property;
- The variance will be in harmony with the general intent and purpose of the Zoning Code and will not be injurious to the public welfare

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; 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.

This item was considered by the Planning and Zoning Commission at its regular meeting on May 25, 2021 and was recommended for Approval by a vote of 5-0.

Recommended Action:

Staff is recommending Denial of Application 21-04 (VAR) and Variance Order VC 21-05.

Attachment A

JUSTIFICATION STATEMENT

Crossroads - Publix

Pervious Area Variance (Case No. 21-04)

Crossroads R2G Owner, LLC ("Owner"), the owner of the Crossroads at Royal Palm Beach shopping center requests approval of a variance from Village Code Section 26-89(4)(e) as follows:

To allow the Crossroads at Royal Palm Beach shopping center to have a total pervious area of 24.00% where the Village Code requires 25% for a total variation of 1.0%.

The Crossroads at Royal Palm Beach shopping center ("Shopping Center") was constructed in the late 1980's and was one of the very first shopping destinations in the Village. Other than the redevelopment of several outparcels, the main inline portion of the Shopping Center has remained largely the same from the time of its initial construction. The existing inline portion of the Shopping Center is anchored by a single major anchor - Publix Supermarket. The existing 42,834 gross square foot Publix store is presently outdated and the services and offerings that can be provided to the residents of the Village constrained due to its existing footprint. The Owner of the Shopping Center, working with Publix, seeks to demolish the existing store and replace the building with one of Publix' new prototype stores totaling 55,454 square feet (the "Project"). Some of the enhancements that will result in connection with the Publix reconstruction include, among others:

- A new, larger prototype Publix similar to those being opened in new communities throughout Florida allowing for a greater range of services and offerings in an expanded, safer space for the Village residents and visitors;
- The creation of a covered pedestrian walkway in front of Publix creating sheltered connectivity between the existing inline shops on either side of Publix that does not presently exist;
- A dedicated and enclosed loading dock for Publix deliveries which does not presently exist. Currently, all deliveries are made outside the existing Publix building at the rear of the building; and
- A building design and layout that preserves the existing landscape buffer to the east of the Shopping Center.

In addition to the foregoing improvements, the Owner is also including other improvements and modifications at the request of staff that are not necessarily required by the Village Code, but which will enhance the overall operation and pedestrian experience at the Shopping Center. These include:

- A new pedestrian path from Royal Palm Beach Boulevard through the center of the Shopping Center to the inline shops;

- A new pedestrian crossing within the Royal Palm Beach Boulevard right-of-way connecting to the new pedestrian path;
- A new pedestrian path from the existing sidewalk on Okeechobee Boulevard to the inline shops; and
- Upgrades to the existing dumpster enclosures to replace the existing chain link gates with opaque gates.

As the site plan drawings demonstrate, the Owner has gone to great lengths to minimize any impact on the Shopping Center the result of the new, larger Publix. To reduce the overall square footage increase, the Publix reconstruction will absorb adjacent tenant space(s) thereby reducing the overall square footage increase 6,623 square feet. The Owner is also incorporating other design elements to enhance the overall aesthetics of the Shopping Center as part of this Project, including but not limited to, the new covered walkway noted above, painting of the overall Shopping Center and new LED lighting. Unlike new construction on vacant property, the reconstruction of the Publix must occur within an existing, built shopping center. As a result, the Owner is processing two concurrent applications: (1) a request to amend the approved Site Plan for the Shopping Center, and (2) a separate variance request to allow a 4.9% reduction of the required parking.

The requested pervious area variance meets the criteria of Section 26-32(f)(6) of the Village Code as follows:

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: *As noted above, the Shopping Center was constructed in the late 1980's and was one of the very first shopping destinations in the Village. Other than the redevelopment of several outparcels, the main inline portion of the Shopping Center has remained largely the same from the time of its initial construction. The existing 42,834 square foot Publix store is presently outdated and the services and offerings that can be provided constrained due to its existing footprint. The Owner of the Shopping Center, working with Publix, seeks to demolish the existing store and replace the building with one of Publix' new prototype stores totaling 55,454 square feet. Publix is located within the existing inline portion of the Shopping Center and is the major anchor tenant associated with the Shopping Center. As the plans demonstrate, the Owner has gone to great lengths to minimize any impact on the Shopping Center and to ensure that the existing perimeter buffers are maintained the result of the redevelopment of the Publix. In connection with the application to amend the Site Plan, the Village has requested a new pedestrian connection through the middle of the Shopping Center. In order to accommodate this request, an existing large landscape island will be impacted thereby necessitating the relatively small pervious area variance (1.0%).*

2. Explain how the special conditions and circumstances that exist do not result from the actions of the Applicant: *Please see response above. Unlike new construction on vacant property, the reconstruction of the Publix must occur within an existing, built shopping center. At the outset, it was very important to the Owner that the buffers, particularly those adjacent to residential uses, remained unchanged. The instant application is the result of a request by the*

Village to locate the new pedestrian connection through a large existing landscape island thereby necessitating the requested variance.

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: *As noted above, it is believed that the property was one of the first shopping centers developed within the Village and as a result, the layout, drive aisles, landscape buffers and other elements are effectively fixed. As such, Owner does not believe that any special privilege is being conferred that is being denied to other lands and structures or buildings. The request is largely unique to the property. The requested pervious area variance is necessary to allow for the reconstruction of existing Publix store - the main anchor tenant for the Shopping Center – that is over 30 years old and outdated.*

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 literal interpretation and application of the Zoning Ordinance will effectively preclude the proposed reconstruction of the existing, 30 year old and outdated Publix store with the new prototype Publix at this location. The existing layout, drive aisles, buffers and infrastructure serving the larger Shopping Center, coupled with the other existing uses within the Shopping Center, effectively preclude the Owner's ability to redevelop the Publix thus necessitating the requested pervious area variance.*

5. Explain how the variance requested is the minimum variance that will make possible a reasonable use of the land, building or structure: *The requested variance is the minimum variance that will make possible a reasonable use of the property. As noted above, the Owner has gone to great lengths through the design and layout of the proposed new Publix to mitigate any impact on the Shopping Center. As noted above, in connection with the application to amend the Site Plan, the Village has requested a new pedestrian connection through the middle of the Shopping Center. In order to accommodate this request, an existing large landscape island will be impacted thereby necessitating the relatively small pervious area variance (1.0%).*

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: *The requested landscaping variance is in harmony with the general intent and purpose of the Zoning Code which seeks to ensure that the development within the Village meets the future needs of its residents. The reconstruction of the Publix will allow for a new modern, large facility that will provide for safer and wider aisles, greater product selection and other amenities consistent with facilities in new centers elsewhere in the state of Florida. The proposed new Publix will also provide for better pedestrian connection through the Shopping Center by providing a covered wider pedestrian walkway in front of the store where such does not exist presently. The proposed design also incorporates an enclosed loading dock at the rear of the building where the current loading is located outside the building. Finally, the design maintains the existing rear landscape buffer that benefits the residential uses to the east. These items, together with other enhancements proposed to the larger Shopping Center, e.g. LED lighting and repainting, all demonstrate that the requested variance will not be injurious to the neighborhood or otherwise detrimental to the public welfare. The requested*

pervious area variance is a minor cost for what will be a much greater benefit to the residents and customers of the Shopping Center.

7. Explain how such variance will not be injurious to the area involved or otherwise be detrimental to the public welfare: *The reconstruction of the Publix will allow for a new modern, large facility that will provide for safer and wider aisles, greater product selection and other amenities consistent with facilities in new centers elsewhere in the state of Florida. The proposed new Publix will also provide for better pedestrian connection through the Shopping Center by providing a covered wider pedestrian walkway in front of the store where such does not exist presently. The proposed design also incorporates an enclosed loading dock at the rear of the building where the current loading is located outside the building. Finally, the design maintains the existing rear landscape buffer that benefits the residential uses to the east. These items, together with other enhancements proposed to the larger Shopping Center, e.g. LED lighting and repainting, all demonstrate that the requested variance will not be injurious to the neighborhood or otherwise detrimental to the public welfare.*

In conclusion, the reconstruction of the Publix will allow for a new modern, larger facility that will provide for safer and wider aisles, greater product selection and other amenities consistent with facilities being constructed in new commercial centers elsewhere in the state of Florida. The proposed new Publix will also provide for better pedestrian connection through the Shopping Center by providing a covered wider pedestrian walkway in front of the store where such does not exist presently. The proposed design also incorporates an enclosed loading dock at the rear of the building where the current loading is located outside the building. Finally, the design maintains the existing rear landscape buffer that benefits the residential uses to the east. These items, together with other enhancements proposed to the larger Shopping Center, e.g. LED lighting and repainting, all demonstrate why approval of the requested pervious area variance is appropriate and will only benefit the residents, as well as the businesses within the Village and the Shopping Center.

Initiator:	Village Manager	Agenda Date	Village Council
P & Z Director	Denial	6-17-2021	Action

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

CASE NO. VC-21-05
IN RE: Application No. 21-04(VAR)
Publix @ Crossroads

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) 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: Section 26-89(4)(e)51(2)(s) to allow for the pervious area on site to be 24% where the Code requires a minimum pervious area of 25% of the total lot area. The applicant is seeking a variance to allow for an additional 1% of the total lot area to be impervious.
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 attached hereto as Exhibit B.

5. **IT IS THEREUPON CONSIDERED, ORDERED AND ADJUDGED** by the Royal Palm Beach Village Council as follows:
6. The application for **Variance, VC-21-05**, with reference to the above-referenced property in the Village of Royal Palm Beach, Florida to permit a variance to Section 26-89(4)(e)51(2)(s) to allow for the pervious area on site to be 24% where the Code requires a minimum pervious area of 25% of the total lot area, 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 17th day of June, 2021.

Mayor Fred Pinto
Village of Royal Palm Beach

Attest:

Diane DiSanto, Village Clerk

Exhibit A
Legal Description
Application No. 21-04(VAR)
Publix @ Crossroads

LEGAL DESCRIPTION:

PARCEL 1, PARCEL 2, PARCEL 3, AND PARCEL 4 AS FOLLOWS:

PARCEL 1

A PARCEL OF LAND LYING WITHIN THE SOUTHWEST ONE-QUARTER (SW 1/4) OF SECTION 23, TOWNSHIP 43 SOUTH, RANGE 41 EAST, LYING AND BEING IN PALM BEACH COUNTY, FLORIDA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE INTERSECTION OF ROYAL PALM BEACH BOULEVARD AND OKEECHOBEE ROAD AS RECORDED IN THE HAWTHORN II SUBDIVISION, IN PLAT BOOK 31, PAGE 34, RUN NORTH 88 DEGREES 10 MINUTES 42 SECONDS EAST ALONG THE CENTERLINE OF OKEECHOBEE ROAD FOR A DISTANCE OF 1061.51 FEET TO A POINT; THENCE RUN NORTH 01 DEGREES 49 MINUTES 18 SECONDS WEST FOR A DISTANCE OF 53.00 FEET TO A POINT ON THE NORTHERLY RIGHT-OF-WAY LINE OF OKEECHOBEE ROAD ACCORDING TO THE PLAT THEREOF, AS RECORDED IN ROAD PLAT BOOK 4, PAGES 19 THROUGH 24, PALM BEACH COUNTY, FLORIDA, PUBLIC RECORDS; THENCE RUN NORTH 16 DEGREES 53 MINUTES 44 SECONDS WEST FOR A DISTANCE OF 7.25 FEET TO A POINT, SAID POINT BEING THE **POINT OF BEGINNING**.

FROM THE **POINT OF BEGINNING** RUN NORTH 16 DEGREES 53 MINUTES 44 SECONDS WEST FOR A DISTANCE OF 1101.83 FEET TO A POINT; THENCE RUN SOUTH 73 DEGREES 06 MINUTES 16 SECONDS WEST FOR A DISTANCE OF 138.00 FEET; THENCE RUN NORTH 88 DEGREES 23 MINUTES 14 SECONDS WEST ALONG A LINE PERPENDICULAR TO THE EASTERLY RIGHT-OF-WAY OF ROYAL PALM BEACH BOULEVARD, FOR A DISTANCE OF 520.49 FEET TO A POINT ON THE EASTERLY RIGHT-OF-WAY OF ROYAL PALM BEACH BOULEVARD; THENCE RUN SOUTH 01 DEGREES 36 MINUTES 46 SECONDS WEST ALONG SAID RIGHT-OF-WAY, FOR A DISTANCE OF 1004.61 FEET TO A POINT; THENCE RUN SOUTH 45 DEGREES 06 MINUTES 18 SECONDS EAST ALONG THE NORTHERLY RIGHT-OF-WAY LINE OF OKEECHOBEE ROAD AS EXPANDED BY THAT CERTAIN RIGHT-OF-WAY DEED RECORDED IN OFFICIAL RECORDS BOOK 6324, PAGE 1765, PALM BEACH COUNTY, FLORIDA, PUBLIC RECORDS FOR A DISTANCE OF 58.25 FEET, MORE OR LESS, TO A POINT ON THE NORTH LINE OF THE SOUTH 74.00 FEET OF SAID SOUTHWEST ONE-QUARTER (SW 1/4) OF SECTION 23; THENCE RUN NORTH 88 DEGREES 10 MINUTES 42 SECONDS EAST ALONG THE NORTH LINE OF THE SOUTH 74.00 FEET OF SAID SOUTHWEST ONE-QUARTER (SW 1/4) OF SECTION 23 AND ALONG SAID EXPANDED NORTHERLY RIGHT-OF-WAY LINE FOR A DISTANCE OF 328.04 FEET; THENCE RUN SOUTH 88 DEGREES 37 MINUTES 00 SECONDS EAST ALONG SAID EXPANDED NORTHERLY RIGHT-OF-WAY LINE FOR A DISTANCE OF 250.39 FEET, MORE OR LESS, TO A POINT ON THE NORTH LINE OF THE SOUTH 60.00 FEET OF SAID SOUTHWEST ONE-QUARTER (SW 1/4) OF SECTION 23, THENCE RUN NORTH 88 DEGREES 10 MINUTES 42 SECONDS EAST ALONG THE NORTH LINE OF THE SOUTH 60.00 FEET OF SAID SOUTHWEST ONE-QUARTER (SW 1/4) OF SECTION 23 ALONG SAID EXPANDED NORTHERLY RIGHT-OF-WAY LINE FOR A DISTANCE OF 381.57 FEET, MORE OR LESS, TO A POINT ON THE WESTERLY LINE OF THE TRAILS AT ROYAL PALM BEACH, A CONDOMINIUM, THE DECLARATION OF WHICH IS RECORDED IN OFFICIAL RECORDS BOOK 3714, PAGES 1156 THROUGH 1425, INCLUSIVE, OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA, SAID POINT BEING THE **POINT OF BEGINNING**, LYING AND BEING IN PALM BEACH COUNTY, FLORIDA.

COMMENCING AT THE INTERSECTION OF THE CENTERLINE OF ROYAL PALM BEACH BOULEVARD WITH THE CENTERLINE OF OKEECHOBEE ROAD, AS SHOWN ON THE PLAT OF HAWTHORN II, AS RECORDED IN PLAT BOOK 31, PAGE 26 THROUGH 35, OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA; THENCE NORTH 88°10'42" EAST, ALONG THE CENTERLINE OF OKEECHOBEE ROAD, A DISTANCE OF 1061.51 FEET; THENCE NORTH 01°49'18" WEST, A DISTANCE OF 53.0 FEET TO THE NORTH RIGHT OF WAY LINE OF SAID OKEECHOBEE ROAD; THENCE NORTH 16°53'44" WEST, A DISTANCE OF 1062.88 FEET; THENCE NORTH 88°23'14" WEST ALONG A LINE PERPENDICULAR TO THE EAST RIGHT OF WAY LINE OF ROYAL PALM BEACH BOULEVARD, A DISTANCE OF 666.02 FEET TO SAID EAST RIGHT OF WAY LINE OF ROYAL PALM BEACH BOULEVARD; THENCE SOUTH 01°36'46" WEST ALONG SAID EAST RIGHT OF WAY LINE AND EAST LIMITS OF SAID HAWTHORN II, A DISTANCE OF 524.50 FEET TO THE **POINT OF BEGINNING**; THENCE CONTINUE SOUTH 01°36'46" WEST ALONG SAID EAST RIGHT OF WAY LINE AND EAST LIMITS OF SAID HAWTHORN II, A DISTANCE OF 210.50 FEET; THENCE SOUTH 88°23'14" EAST ALONG A LINE PERPENDICULAR TO SAID EAST RIGHT OF WAY LINE AND EAST LIMITS OF SAID HAWTHORN II, A DISTANCE OF 190.00 FEET TO THE INTERSECTION WITH A LINE 190.00 FEET EASTERLY OF AND PARALLEL WITH SAID EAST RIGHT OF WAY LINE AND EAST LIMITS OF SAID HAWTHORN II; THENCE NORTH 01°36'46" EAST ALONG SAID PARALLEL LINE, A DISTANCE OF 210.50 FEET; THENCE NORTH 88°23'14" WEST ALONG A LINE PERPENDICULAR TO SAID EAST RIGHT OF WAY LINE AND EAST LIMITS OF SAID HAWTHORN II, A DISTANCE OF 190.00 FEET TO THE **POINT OF BEGINNING**.

PARCEL 2

NON-EXCLUSIVE EASEMENT FOR THE BENEFIT OF PARCEL 1 FOR THE PURPOSES OF MAINTAINING, REPAIRING AND REPLACING DRAINAGE PIPES, AS DEFINED IN THAT DRAINAGE EASEMENT DATED SEPTEMBER 10, 1990, RECORDED SEPTEMBER 12, 1990 IN OFFICIAL RECORDS BOOK 6577, PAGE 1763, AS AMENDED BY AMENDMENT TO DRAINAGE EASEMENT RECORDED AUGUST 22, 1998 IN OFFICIAL RECORDS BOOK 9407, PAGE 357.

PARCEL 3

NON-EXCLUSIVE EASEMENT FOR THE BENEFIT OF PARCEL 1 FOR INGRESS AND EGRESS AS DEFINED IN THAT CROSS ACCESS EASEMENT AGREEMENT, BY AND BETWEEN RANDY RIEGER, INDIVIDUALLY AND AS TRUSTEE, AND ROYAL PALM ASSOCIATES, LTD., DATED SEPTEMBER 6, 1990, RECORDED SEPTEMBER 12, 1990 IN OFFICIAL RECORDS BOOK 6577, PAGE 1758, OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA, AS SAID DRIVEWAYS ARE CONSTRUCTED FROM TIME TO TIME.

PARCEL 4

NON-EXCLUSIVE EASEMENT FOR THE BENEFIT OF PARCEL 1 SET FORTH IN CROSS PARKING AND EASEMENT AGREEMENT, RECORDED DECEMBER 7, 1987 IN OFFICIAL RECORDS BOOK 5505, PAGE 1306, OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA.

