

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

**Agenda Item:**

**PUBLIC HEARING TO CONSIDER APPLICATION 21-14 (PVAR), AN APPLICATION BY DUNAY, MISKEL AND BACKMAN, LLP, AND VARIANCE ORDER VC-21-06, TO PROVIDE FOR A VARIANCE TO ALLOW ONLY 1,752 PARKING SPACES FOR A PLANNED COMMERCIAL DEVELOPMENT WHICH REQUIRES 1,764 PARKING SPACES AS ESTABLISHED IN SECTION 23-51 *REQUIRED MINIMUM NUMBER OF PARKING SPACES* AND VARIANCE ORDER VC-09-04 , FOR A PROPERTY LOCATED AT 11001 SOUTHERN BOULEVARD: BY AGENT SCOTT BACKMAN, ESQ., DUNAY, MISKEL AND BACKMAN, LLP.**

**Issue:**

The Applicant is requesting a parking variance from the Village's Code of Ordinances Section 23-51 (2) s. in order to reduce the current number of parking spaces from 1,764 parking spaces to 1,752 parking spaces. On July 16, 2009, the Village Council approved a variance request through Variance Order VC-09-04 to reduce the number of required parking spaces within the Shopping Center by 26 parking spaces to 1,764 in lieu of the 1,792 required by Code in order to accommodate outdoor seating in certain areas of the Shopping Center. The current request is to accommodate a proposed expansion to the existing "Automotive Service Station" from six (6) pumps to nine (9) pumps for a total of 18 fueling stations at the Costco within the Southern Palm Crossing Shopping Center.

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 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

Please refer to **Attachment A** for the Applicant's Justification Statement and response to the Variance Criteria.

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 21-14 (PVAR) and Variance Order VC 21-06.

# Attachment A

## Costco – Royal Palm Beach Variance Statement of Use and Justification

IVT Southern Royal Palm Beach 1031 LLC (“Owner”) is the Owner of the +/- +/- 53.45-acre property located at 11001 Southern Boulevard (PCN: 72-41-43-35-10-001-0000) (“Property”), which is generally located at the northwest corner of Southern Boulevard and Lamstein Lane in the Village of Royal Palm Beach (“Village”). The Property is currently approved for and developed as the Southern Palm Crossing shopping center (“Shopping Center”). The Property is designated Commercial on the Village’s Future Land Use Map and located within the CG, General Commercial, zoning district with a Special Exception for a Planned Commercial Development.

### APPLICATION REQUEST

Costco Wholesale Corporation (“Costco” or “Applicant”) is a tenant of the Shopping Center. Costco is a membership warehouse club that offers quality brand-name merchandise, specialty departments and exclusive member services, such as access to Costco gas stations. Costco currently occupies the +/- 145,977-square foot retail space in the eastern portion of the Shopping Center. The existing Costco gas station is located to the south of the access driveway from Lamstein Lane, along the landscape buffer on the eastern property line. Costco proposes to expand the existing gas station use in an effort to improve efficiency and reduce stacking in the main driveway. In furtherance of the proposed expansion, Costco respectfully requests approval for a Parking Variance to reduce the number of required parking spaces within the Shopping Center by fourteen (14) parking spaces (“Variance”).

Section 23-51(2)(s) of the Village’s Code of Ordinances (“Code”) provides that the off-street parking requirement for shopping centers is one (1) parking space per two hundred (200) square feet of gross leasable area. The total number of required parking spaces for the Shopping Center is 1,792 parking spaces, which has increased by 1 space due to the addition of the controller enclosure into the building area. On July 16, 2009, the Village approved a variance request (VC-09-04) to reduce the number of required parking spaces within the Shopping Center by 26 parking spaces, thus requiring a total of 1,764 parking spaces. Presently, in order to accommodate the proposed expansion of the Costco gas station use and make significant improvements to the Shopping Center circulation, Costco is requesting a variance for the reduction of an additional 14 parking spaces. If the Variance is approved, the total number of provided parking spaces within the Shopping Center would be 1,752 spaces.

### COMPLIANCE WITH VARIANCE STANDARDS

In accordance with Section 23-53, Applicant will demonstrate below that the Variance meets the following criteria: (1) 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 in the same zoning district; (2) special conditions and circumstances do not result from the actions of the Applicant; (3) granting the Variance requested will not confer on the Applicant any special privilege that is denied by the zoning ordinance to other lands, buildings or structures in the same zoning district (4) a literal interpretation of

the provisions of this division would deprive the Applicant of rights commonly enjoyed by other properties in the same zoning district under the terms of this division and would work unnecessary and undue hardship on the applicant; (5) the Variance granted is the minimum Variance that will make possible the reasonable use of the land, building or structure; (6) granting the Variance will be in harmony with the general intent and purpose of this division; (7) the Variance will not be injurious to the area involved or otherwise be detrimental to the public welfare.

**1. 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 in the same zoning district.**

Special conditions and circumstances exist which are peculiar to Property, and which are not applicable to other lands, structures or buildings in the same zoning district. Specifically, a prior requirement to construct a roadway section within the Seminole Palms Drive right-of-way, and provide parking within the right-of-way, is a special condition that is peculiar to the Property. In conjunction with the original approval, design and construction of the Shopping Center, the Village required Owner to dedicate land and provide 52 parking spaces within the Seminole Palms Drive right-of-way. While these spaces are located off-site, they are available to the general public, as well as patrons and employees of the Shopping Center. As such, there are 52 spaces available to Shopping Center patrons in close proximity to the main inline uses in addition to those provided within the Property. This effectively creates a surplus of 12 spaces above the minimum code requirement even with approval of this Variance.

Additionally, the mixed use nature of the Shopping Center development is a special circumstance that reduces the parking demand on the Property. Kimley Horn and Associates conducted a Shared Parking Analysis, dated February 4, 2021, which demonstrates that there is a peak demand of 1,646 parking spaces for the Shopping Center, which is 106 parking spaces less than is provided even after approval of the Variance. As described in greater detail in the Parking Analysis included with this application, the principle of shared parking is that in mixed-use facilities such as the Property where a common parking field can serve multiple uses within the site, the actual parking needed is less than the cumulative sum of code parking requirements because of fluctuations in demand for the various users throughout the Property during different times of the day. The specific mix of uses and reduced parking demand is a further special condition peculiar to the Property.

Considering the existing 52 off-site parking spaces, reduced peak demand of 1,646 parking spaces due to the provision of shared parking facilities, and provision of 1,752 parking spaces within the Shopping Center, there is an effective surplus of 158 parking spaces, which is more than sufficient to meet peak parking demand within the Shopping Center. These special conditions and circumstances, which are peculiar to the Property, will ensure that adequate parking remains available for use by the Shopping Center upon approval of the Variance.

**2. Special conditions and circumstances do not result from the actions of the Applicant.**

The special conditions and circumstances identified above do not result from the action of the Applicant. As detailed above, the special conditions and circumstances relate to the prior

requirement for the provision of 52 parking spaces within the proximate Seminole Palms Drive right-of-way, as well as the reduced parking demand due to shared parking. Applicant did not create the requirement for the adjacent parking. Further, Applicant did not create the principles and benefits of shared parking that reduce demand. As such, the special circumstances and conditions that necessitate the Variance do not result from the actions of the Applicant.

**3. Granting the variance requested will not confer on the applicant any special privilege that is denied by the zoning ordinance to other lands, buildings or structures in the same zoning district**

Granting the Variance will not confer any special privilege on Applicant that is denied to other lands, buildings or structures within a Planned Commercial Development with CG zoning. The general intent of the Village's parking requirement is to ensure that there is an adequate number of parking spaces available to patrons of the Shopping Center. As detailed above, Applicant has provided a Shared Parking Analysis from a licensed traffic engineer that demonstrates a peak hour surplus of 106 parking spaces, which combined with the additional 52 public parking spaces available within the adjacent Seminole Palms Drive right-of-way adjacent to the Property creates a surplus of 158 parking spaces. Section 25-53(a)(1) provides that the Village Council may, with recommendations from the Planning and Coning Commission, authorize upon application such variance from the off-street parking and loading facilities requirements that will not be contrary to the public interest where, owing to special conditions, a literal enforcement of these requirements will result in unnecessary and undue hardship. As such, the Village Council would extend the same consideration to any other property with special circumstances resulting in a parking surplus. Therefore, approval of the Variance will not confer on Applicant any special privilege that is denied by the zoning ordinance. Rather, the Applicant has demonstrated herein that the Variance meets the enumerated criteria and is eligible for the Variance pursuant to the Code.

**4. A literal interpretation of the provisions of this division would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district under the terms of this division and would work unnecessary and undue hardship on the Applicant.**

The literal interpretation of the provisions of the Village Code would deprive the Applicant of rights commonly enjoyed by other properties in the same zoning district under the terms of the division and would work unnecessary and undue hardship on the Applicant. As shown in the aerial image below, the popularity of the high-quality and affordable Costco gas service has created a peak queue that extends into the main Shopping Center driveway, thereby impeding traffic entering and exiting from Lamstein Lane. This creates an inefficient and potentially unsafe traffic circulation pattern. As such, Applicant proposes to expand the existing gas station in order to promote efficiency for members and address the stacking of vehicles that occurs within the main driveway.

The proposed expansion will add 3 pumps, for a total of 6 additional fueling positions. The additional pumps will allow more members to service their vehicles at one time, resulting in quicker turnaround time from start to finish. Additionally, the proposed expansion will widen the existing northeast corner to accommodate additional vehicle stacking in the eastern most fuel queues. There is insufficient area to expand the gas station or improve the queuing area available without the Variance, thereby ensuring that the stacking of vehicles in the main driveway will continue to occur thus causing congestion and potentially unsafe traffic conditions for the Shopping Center as a whole. It is important to note that the nature of the Costco gas station is unique because the expansion of the gas station will not increase demand. Costco is a membership club, and therefore service from the Costco gas station is exclusively available to Costco members. As such, the proposed expansion will not increase the demand for the service or gas sales, it will simply make the gas sales operations more efficient and safe. These improvements will benefit patrons of the overall Shopping Center, while also efficiently moving vehicles through the gas station. Denial of the Variance would render Applicant unable to expand and address the existing queuing issues, resulting in an unnecessary and undue hardship that impedes safe and efficient circulation within the Shopping Center.

**5. The variance granted is the minimum variance that will make possible the reasonable use of the land, building or structure.**

The Variance is the minimum variance that will make possible the reasonable use of the Property. As described above, Applicant has provided a Shared Parking Analysis from a licensed traffic engineer demonstrating that the Shopping Center has a peak hour surplus of 106 parking spaces, which combined with the additional 52 public parking spaces available within the adjacent Seminole Palms Drive right-of-way adjacent to the Property, creates a surplus of 158 parking spaces. Applicant has designed the gas station expansion to ensure that no pervious or green area is lost and has actually increased green space by 49 square feet. Further, Applicant worked through several iterations of the site plan with staff to ensure the least impact on parking while allowing for the proposed gas station expansion. This coordination resulted in the loss of 13 parking spaces located as far from a building entry as possible and the increase of 44 square feet of green area. Considering the significant parking surplus, increase in green area, and mitigation of the requested parking reduction by eliminating those spaces farthest from the building entrance, the requested Variance is the minimum variance that will make possible the use of the Property.

**6. Granting of the variance will be in harmony with the general intent and purpose of this division.**

Granting the Variance will be in harmony with the general intent and purpose of this division. The general intent of the parking requirement provided in the Code is to ensure that there is an adequate number of parking spaces available to patrons of the shopping center. As previously mentioned, Applicant conducted a shared parking study which determined that there is an excess of 106 parking spaces during peak hour demand periods even after approval of the requested Variance. Additionally, the Property is unique because Owner was previously required to construct 52 parking spaces within the right-of-way as part of the original approval process for the Shopping Center. While these spaces are located offsite, they are available to the general

public as well as patrons and employees of the Shopping Center. As such, there is an abundance of parking spaces available to patrons and employees of the overall Shopping Center.

Further, approval of the Variance will allow for the proposed gas station expansion, which is needed to promote efficiency and to reduce stacking within the main driveway. Although the site plan was designed in accordance with the Village's design standards at the time of the original approval, the popularity of the affordable, convenient, and high-quality gas service Costco provides has resulted in vehicles stacking into the main driveway, thereby creating inefficient and potentially unsafe circulation patterns within the Shopping Center. As such, Applicant intends to increase efficiency by expanding the southern boundary of the gas station and installing 3 additional gas pumps, for a total of 6 additional fueling stations. These improvements will mutually benefit patrons of the overall Shopping Center, while also efficiently moving vehicles through the gas station.

Considering that approval of the Variance will help ensure safe circulation within the Shopping Center in the future and that sufficient parking will remain, granting the Variance is in harmony with the general intent and purpose of the Village Code.

**7. The Variance will not be injurious to the area involved or otherwise be detrimental to the public welfare.**

The Variance will not be injurious to the area involved or otherwise detrimental to public welfare. The Variance will allow for the proposed gas station expansion, which is a significant benefit to the public welfare. The proposed expansion will be focused on the southern boundary of the gas station, which is the furthest point from the main entrance of the Costco store. As such, the parking spaces that will be affected as part of the expansion are not in close proximity to the main entrance of the Costco store. Therefore, the elimination of these 13 parking spaces will have no effect on the public's access to the preferred parking spaces in closer proximity to the store's entrance. Additionally, the expansion of the gas station will improve efficiency by increasing the number of pumps available for use by Costco members. The proposed expansion will add three (3) gas pumps, for a total of six (6) additional fueling positions. As such, reducing the amount of parking spaces by 13 spaces as part of the proposed expansion of the gas station will not be injurious or determinantal to public welfare. Rather, the additional fueling stations will reduce stacking in the main driveway and alleviate traffic congestion, which will improve the public's overall experience.

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

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

**CASE NO. VC-21-06  
IN RE: Application No. 21-14(PVAR)  
Costco @ Southern Palm Crossing**

**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. 23-51 (2) s. to allow for only 1,752 parking spaces for a Planned Commercial Development where Variance Order VC-09-04 reduced the number of required parking spaces to 1,764 in lieu of the Village Code required 1,792 parking spaces.
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-21-06**, with reference to the above-mentioned property in the Village of Royal Palm Beach, Florida to permit variance to the following Code Section:  
Sec. 23-51 (2) s. to allow for only 1,752 parking spaces for a Planned Commercial Development where Variance Order VC-09-04 reduced the number of required parking spaces to 1,764 in lieu of the Village Code



required 1,792 parking spaces 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 17th day of June, 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**  
**Application No. 21-14(PVAR)**  
**Costco @ Southern Palm Crossing**

LEGAL DESCRIPTION:

TRACT A, OF THE PLAT OF SOUTHERN PALM CROSSING, ACCORDING TO THE PLAT THEREOF RECORDED IN THE PUBLIC RECORDS OF PALM BEACH COUNTY IN PLAT BOOK 107 PAGES 185 THROUGH 188.

SAID LANDS SITUATE, LYING AND BEING IN PALM BEACH COUNTY, FLORIDA.

SUBJECT TO ALL PERTINENT MATTERS OF RECORD.