



Agenda Item # ÜÄH

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

Agenda Item:

PUBLIC HEARING TO CONSIDER VARIANCE APPLICATION 18-123 (VAR) AN APPLICATION BY URBAN DESIGN KILDAY STUDIOS AND APPROVAL OF VARIANCE ORDER VC 19-04, TO ALLOW A VARIANCE TO SECTION 26-63(A) MINIMUM LOT DIMENSIONS TO ALLOW FOR 4,500 SQUARE FOOT LOTS WHERE VILLAGE CODE REQUIRES 5,000 SQUARE FEET AND A VARIANCE FROM SECTION 26-63(B) MINIMUM SETBACKS TO ALLOW FOR A 15 FOOT SIDE (CORNER) YARD SETBACK WHERE VILLAGE CODE REQUIRES 20 FEET FOR A SIDE (CORNER) YARD SETBACK ON A 33.75± ACRE PARCEL OF LAND LOCATED ON THE SOUTH SIDE OF SOUTHERN BOULEVARD APPROXIMATELY 0.27 MILES WEST OF STATE ROAD 7. BY AGENT: KEN TUMA OF URBAN DESIGN KILDAY STUDIOS.

Issue:

The Applicant is requesting a variance from the Village’s Code of Ordinances at Section 26-63 (a) *Patio homes* in order to permit a minimum lot area of 4,500 square feet where the Village Code requires a lot area of 5,000 square feet and a variance to Section 26 63 (b) *Minimum setbacks* in order to allow for a 15 foot side (corner) yard setback where Village Code requires a minimum 20 foot side (corner) yard setback for Patio homes. The Applicant through an accompanying application is requesting Site Plan Approval for 102 patio home (zero-lot line) single-family style units. These units are part of Pod 4 and for a location of Pod 4 please refer to Attachment A.

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

- a. That 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;
- b. The special conditions and circumstances do not result from the actions of the applicant;
- c. That 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;

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Director of P&Z	Denial	07-18-2019	Action

- d. That 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;
- e. That the variance granted is the minimum variance that will make possible the reasonable use of the land, building or structure;
- f. The grant of the variance will be in harmony with the general intent and purpose of this division;
- g. Such variance will not be injurious to the area involved or otherwise be detrimental to the public welfare.

The Applicant contends that the proposed 3.02 units per acre is well below the allowed density for this zoning district and due to the encumbrance of the Florida Power and Light easement to the north there is a limited portion of the site area that can be used for development. The Applicant goes on to state within their Justification Statement that “In order to design a site plan that can achieve 102 lots at 3.02 dwelling units per acre, the lots had to be smaller in size than permitted by the Patio Home code. It’s important to note that only eight (8) of the 102 lots will be less than 5,000 SF. In the same respect the setback for these lots had to be reduced from the patio home required side corner setback in order to provide a product near to equivalent size of the product found in the single-family neighborhoods surrounding this future community.”

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.

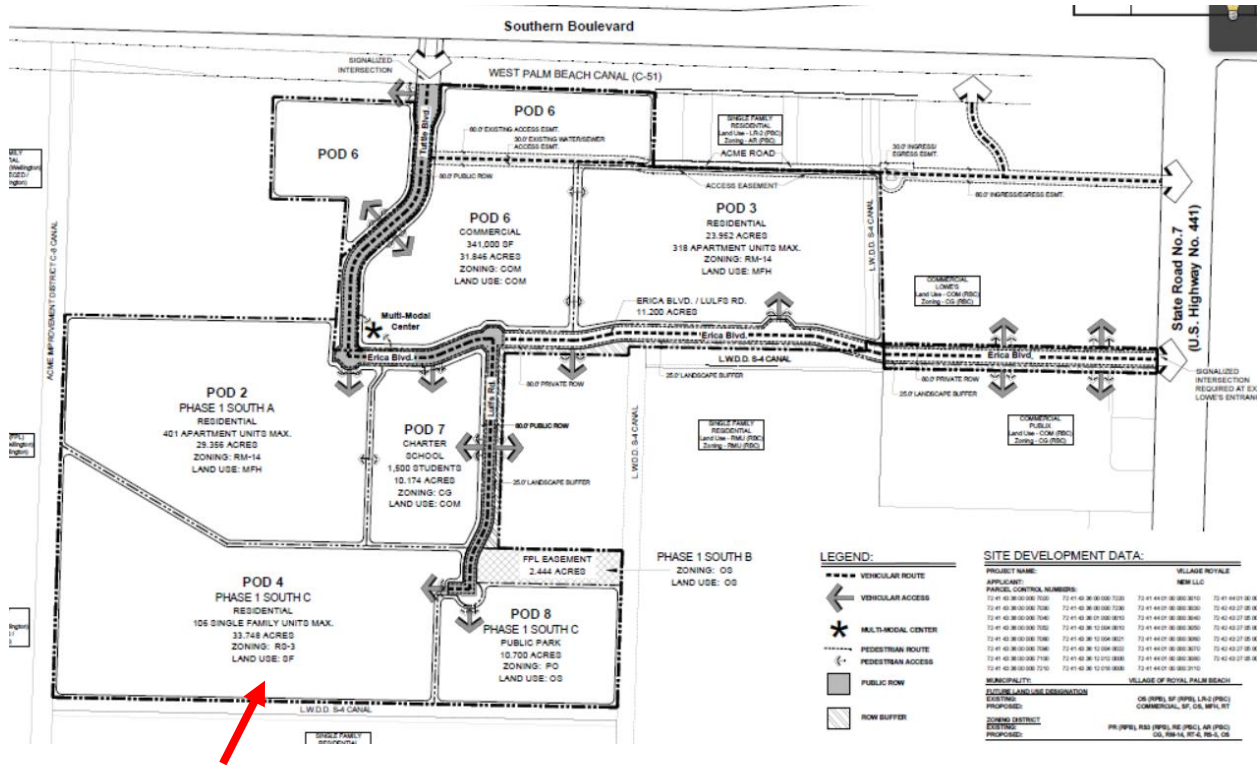
The Planning and Zoning Commission considered Application 18-123 (VAR) at their June 25, 2019 meeting and recommended approval by a vote of 4-1 with Ray Nazareth dissenting.

Recommended Action:

Staff is recommending Denial of Application 18-123 (VAR) and Variance Order VC 19-04.

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Attachment A Southern Boulevard Properties Pod 4 18-123 (VAR) VC 19-04



Location of Pod 4

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Z:\Project Files 12-11-02\Southern Boulevard Properties (Town Royal Palm Beach) (13-18)_POD 4 (aka Phase 1 South C)18-123 (VAR) setback\Agenda Items\18-123 (VAR) Southern Boulevard Properties Pod 4 Agenda Item VC.doc

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

CASE NO. VC-19-04
IN RE: Application No. 18-123(VAR)
Southern Boulevard Properties POD 4

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 RS-3 Single-Family Residential 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 26-63(a) in order to allow for 4,500 square foot lots where Village Code requires 5,000 square feet; and Section 26-63(b) to allow for a 15 foot side (corner) setback where Village Code requires 20 feet.
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:

The application for **Variance, VC-19-04**, with reference to the above-referenced property in the Village of Royal Palm Beach, Florida to permit a variance to Section 26-63(a) in order to allow for 4,500 square foot lots in lieu of the required 5,000 square feet lots and a variance to Section 26-63(b) in order to allow for a 15 foot side (corner) setback in lieu of the required 20 foot setback 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 18th day of July, 2019.

Mayor Fred Pinto
Village of Royal Palm Beach

Attest:

Diane DiSanto, Village Clerk

Exhibit A
Legal Description
Application No. 18-123(VAR)
Southern Boulevard Properties POD4

DESCRIPTION:

LEGAL DESCRIPTION POD 4 (Gap Piece):

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 459.60 FEET; THENCE LEAVING SAID WESTERLY SECTION LINE, S59°20'02"E A DISTANCE OF 890.38 FEET TO THE NORTH LINE OF A 160 FOOT WIDE FLORIDA POWER AND LIGHT COMPANY EASEMENT AS RECORDED IN OFFICIAL RECORD BOOK 699, PAGE 534, PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA; THENCE ALONG SAID NORTH LINE S88°57'45"E A DISTANCE OF 715.12 FEET TO THE POINT OF BEGINNING.

THENCE LEAVING SAID NORTH LINE S01°50'01"W A DISTANCE OF 724.26 TO THE NORTHERLY RIGHT-OF-WAY LINE OF THE LAKE WORTH DRAINAGE DISTRICT S-4W CANAL (60 FOOT WIDE RIGHT OF WAY) AS RECORDED IN OFFICIAL RECORD BOOK 937, PAGE 374, PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA; THENCE ALONG SAID NORTHERLY RIGHT-OF-WAY LINE, S88°59'05"E A DISTANCE OF 266.86 FEET; THENCE LEAVING SAID NORTHERLY RIGHT-OF-WAY LINE N01°50'01"E A DISTANCE OF 503.92 FEET ; THENCE S88°57'45"E A DISTANCE OF 47.20 FEET; THENCE N01°50'01"E A DISTANCE OF 60.22 FEET TO THE SOUTH LINE OF SAID 160 FOOT WIDE FLORIDA POWER AND LIGHT COMPANY EASEMENT; THENCE ALONG SAID SOUTH LINE S88°57'45"E A DISTANCE OF 69.24 FEET; THENCE LEAVING SAID SOUTH LINE N01°01'47"E A DISTANCE OF 67.48 FEET TO A POINT ON A CURVE CONCAVE TO THE EAST AND HAVING A RADIUS OF 230.00 FEET; THENCE SOUTHERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 23°43'07" A DISTANCE OF 95.21 FEET TO THE POINT OF TANGENCY, SAID POINT ALSO BEING ON SAID NORTH LINE OF A 160 FOOT WIDE FLORIDA POWER AND LIGHT COMPANY EASEMENT; THENCE ALONG SAID NORTH LINE N88°57'45"W A DISTANCE OF 400.48 FEET TO THE POINT OF BEGINNING.

CONTAINING 4.939 ACRES MORE OR LESS.