



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

Agenda Item:

PUBLIC HEARING TO CONSIDER VARIANCE APPLICATION 04-10 (R) (VAR) AN APPLICATION BY URBAN DESIGN KILDAY STUDIOS AND APPROVAL OF VARIANCE ORDER VC-09-04 CONFIRMING COUNCIL ACTION. THE APPLICANT IS SEEKING A VARIANCE TO PROVIDE RELIEF FROM VARIOUS SUBSECTIONS OF SECTION 26-72 REGARDING OUTDOOR SEATING STANDARDS FOR ADDITIONAL OUTDOOR SEATING LOCATED WITHIN THE SOUTHERN PALM CROSSING SHOPPING CENTER SITUATED IN THE NORTHWEST CORNER OF SOUTHERN BOULEVARD AND LAMSTEIN LANE. BY: JONI BRINKMAN

Issue:

The applicant is seeking a variance from the Village's Code of Ordinances Section 26-72 *Outdoor seating* to allow for four (4) deviations from the requirements of this section. The first deviation occurs in Section 26-72 (a) (5) *Parking* which only allows outdoor seating if parking can be provided. Since the applicant has applied for a variance from the parking requirements of Section 23-51 a variance is required from the parking requisites for approving outdoor seating in Section 26-72 (a) (5).

The second deviation is from Section 26-72 (c) which requires an 8-foot walkway to facilitate pedestrian traffic between in-line-stores. The applicant is proposing a 5-foot walkway in certain areas.

The third deviation is from Section 26-72 (c) (5) *Fencing or Screening*, which serves as a means to physically and visually separate the outdoor seating area from any adjacent public passageway or walkway, is to allow the applicant to place fencing and screening only in a limited number of areas used for outdoor seating.

The fourth deviation is from Section 26-72 (c) (7) *Storage*, which requires that outdoor seating and furnishings be stored inside the building in a secure manner, and the applicant is requesting to be required to store the seating and furnishings inside only in the event of the issuance of a tropical storm warning or a hurricane warning from the National Weather Service.

Initiator:	Village Manager Approval	Agenda Date	Village Council Action
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Senior Planner

July 17, 2009

The applicant is also requesting architectural approval for the outdoor furniture and fixtures. Village's Code of Ordinances Section 26-72 (c) (6) requires that outdoor seating, including fencing and screening materials, shall be compatible in color and style with the exterior of the building.

The Planning and Zoning Commission considered the application on June 23, 2009 and recommended approval by a vote of 3-0, with the staff recommended conditions and an additional condition that the tenants utilizing the outdoor seating areas shall provide Village Staff with an affidavit signifying their knowledge of the condition for indoor or offsite storage of the outdoor furniture during the issuance of tropical storm warning or a hurricane warning from the National Weather Service and demonstrate their ability to meet the condition.

Recommended Action:

Approval of Petition 04-10 (R) (VAR) thru the adoption of Variance Order VC 09-04.

Initiator:	Village Manager Approval	Agenda Date	Village Council Action
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Senior Planner

July 17, 2009

**ORDER OF THE VILLAGE COUNCIL
VILLAGE OF ROYAL PALM BEACH**

CASE NO. VC-09-04

IN RE: Centre On Southern, LLLP

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 seeks **Variiances** to subsections (a) (5), (c) (2), (c) (5), and (c) (7) under Royal Palm Beach Code of Ordinances Sec. 26-72 to allow: a reduction in the required number of parking spaces for the new outdoor seating areas, from the required 34 parking spaces to eight (8) parking spaces resulting in a variance for 26 of the required parking spaces; a 5 foot clear walkway in lieu of the required 8 feet in certain areas; the outdoor seating area to not provide for a physical and visual barrier as required by code; and that the tables and chairs to remain outside overnight except during a declared tropical storm warning or hurricane warning by the National Weather Service in lieu of being required to store the tables and chairs inside a building when not in use.

3. Under the provisions of Sec. 26-32(f)(6), 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 depicted in the plans attached hereto as Exhibit B.
5. In accordance with Section 26-66 (d) of the Village Code of Ordinances this grant of variance shall automatically lapse if the variance is not utilized within one (1) year from the date of granting such variance.
6. In accordance with Section 26-66 (d) of the Village Code of Ordinances, the Village Council may grant two (2) time extensions for a period not to exceed twelve (12) months, upon the submittal of a request for extension on forms prescribed by the Village prior to the expiration of the initial one year period.
7. **IT IS THEREUPON CONSIDERED, ORDERED AND ADJUDGED** by the Royal Palm Beach Village Council as follows:
 5. The application for **Variance**, Case No. **VC-09-04**, with reference to the above-referenced property in the Village of Royal Palm Beach, Florida to permit the following: a reduction in the required number of parking spaces for the new outdoor seating areas, from the required 34 parking spaces to eight (8) parking spaces resulting in a variance for 26 of the required parking spaces, to allow for a 5 foot clear walkway in lieu of the required 8 feet in certain areas; to allow the outdoor seating area to not provide for a physical and visual barrier as required by code; and to allow the tables and chairs to remain outside overnight except during a declared tropical storm warning or hurricane warning by the National Weather Service in lieu of being required to store the tables and chairs inside a building when not in use,

is hereby **Approved** in accordance with the Village Code of Ordinances for the following conditions and reasons:

1. The applicant shall ensure that all outdoor seating and site furnishings shall be store inside the building upon issuance of a Tropical Storm Warning or Hurricane Warning from the National Weather Service.
2. The applicant shall ensure that an 8 foot clear path is maintained at all times along the front of the inline stores adjacent to the outdoor seating areas for safe pedestrian travel. The applicant shall further ensure that a 5 foot clear path is maintained at all times adjacent to the outdoor seating areas for the end cap units and the freestanding restaurants for safe pedestrian travel.
3. The applicant shall require an affidavit from the tenants utilizing outdoor seating signifying their understanding of the condition that outdoor furniture be stored as set forth in Condition 1. here and above.

The applicant meets the following standards set forth in Section 23-51 (a) (1). of the Village Code of Ordinances.

- a) Special conditions and circumstances exist;
- b) Special Circumstances are not the result of actions of the applicant;
- c) No special privilege is conferred;
- d) Literal interpretation would constitute an unnecessary and undue hardship;
- e) Minimum variance;
- f) Is in harmony with the Village Code; and:
- g) Will not be injurious to area or detrimental to the public welfare:

* The term applicant as used herein shall include all successors and assigns

Done and ordered this 16th day of July, 2009.

Mayor David A. Lodwick
Village of Royal Palm Beach

Attest:

Diane DiSanto, Village Clerk

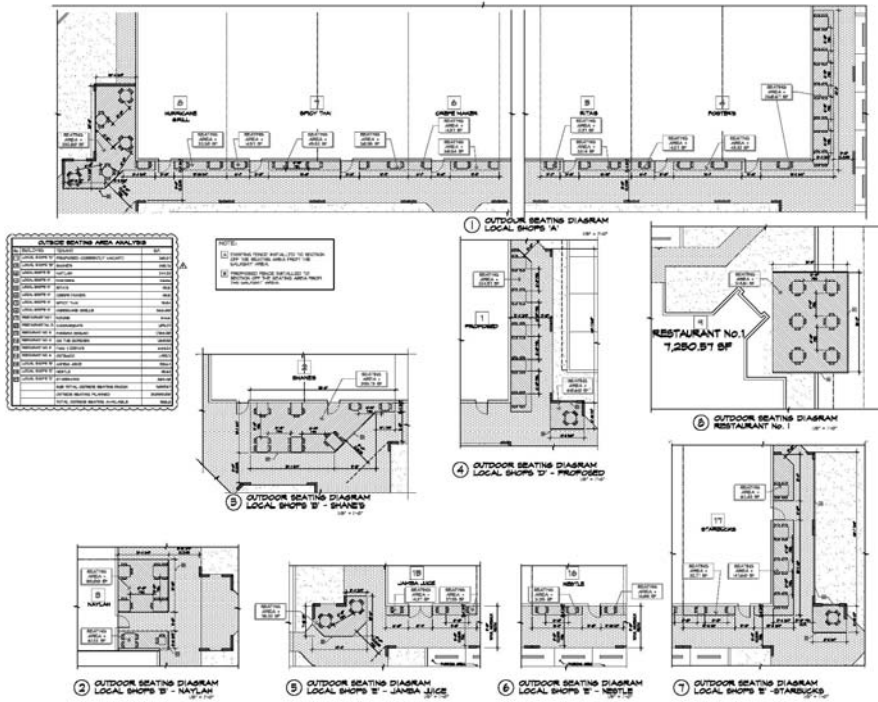
Exhibit A
Legal Description
Southern Palm Crossing PCD
04-10 (R) (VAR)

BEGIN AT THE NORTHEAST CORNER OF SECTION 35, TOWNSHIP 43 SOUTH, RANGE 41 EAST; THENCE SOUTH 89°02'59" EAST ALONG THE NORTH LINE OF SECTION 36, TOWNSHIP 43 SOUTH, RANGE 41 EAST, A DISTANCE OF 1163.32 FEET TO AN INTERSECTION WITH THE WEST CANAL RIGHT-OF-WAY PER QUIT CLAIM DEED RECORDED IN OFFICIAL RECORDS BOOK 2148, PAGE 1809; THENCE SOUTH 01°29'53" WEST 3749.67 FEET ALONG SAID CANAL RIGHT-OF-WAY TO AN INTERSECTION WITH THE NORTH RIGHT-OF-WAY LINE OF SOUTHERN BOULEVARD (S.R. 80); THENCE NORTH 88°28'13" WEST ALONG SAID RIGHT-OF-WAY LINE 992.24 FEET, THENCE NORTH 88°27'11" WEST ALONG SAID RIGHT-OF-WAY TO THE WEST LINE OF SAID SECTION 36; THENCE NORTH 01°30'22" EAST ALONG THE WEST LINE OF SAID SECTION 36, WHICH IS ALSO THE CONTINUATION OF SAID RIGHT-OF-WAY LINE, AND THE EAST LINE OF A FLORIDA POWER AND LIGHT EASEMENT, A DISTANCE OF 372.82 FEET, THENCE DEPARTING SAID SECTION LINE AND CONTINUING ALONG SAID RIGHT-OF-WAY LINE NORTH 88°27'12" WEST A DISTANCE OF 380.00 FEET TO A POINT ON THE EAST LINE OF PARCEL "A" OF "PALMS WEST DISTRICT PARK-ENTRANCE ROAD" PLAT AS RECORDED IN PLAT BOOK. 76, PAGES 149-152, OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA, WHICH IS ALSO DESCRIBED AS REFERENCE POINT "A"; THENCE SOUTH 01°30'22" WEST ALONG THE EAST LINE OF SAID PLAT OF "PALMS WEST DISTRICT PARK - ENTRANCE ROAD" PLAT A DISTANCE OF 339.94 FEET, THENCE NORTH 88°29'38" WEST A DISTANCE OF 80.00 FEET TO THE POINT OF BEGINNING, WHICH IS ALONG THE WEST LINE OF PARCEL "A" OF SAID PLAT; THENCE SOUTH 46°31'24" WEST ALONG, SAID NORTH RIGHT-OF-WAY LINE OF SOUTHERN BOULEVARD (S.R. 80) A DISTANCE OF 46.39 FEET TO AN ANGLE POINT; THENCE NORTH 88°27'12" WEST ALONG SAID RIGHT-OF-WAY LINE 535.74 FEET; THENCE NORTH 88°27'53" WEST ALONG SAID RIGHT OF WAY LINE 1242.63 FEET; THENCE NORTH 88°17'03" WEST ALONG SAID RIGHT-OF-WAY LINE 378.07 FEET TO AN INTERSECTION WITH THE WEST LINE OF THE NORTHEAST ONE- QUARTER OF SAID SECTION 35; THENCE NORTH 01°19'16" EAST ALONG SAID WEST LINE 1038.00 FEET TO AN INTERSECTION WITH THE SOUTH LINE OF PALMS WEST DISTRICT PARK; THENCE SOUTH 89°44'01" EAST ALONG SAID SOUTH LINE 2193.12 FEET TO THE NORTHWEST CORNER OF SAID PARCEL "A"; THENCE SOUTH 01°30'27" WEST ALONG THE WEST LINE OF SAID PARCEL "A" 29.36 FEET TO AN ANGLE POINT; THENCE SOUTH 01°30'22" WEST ALONG SAID WEST LINE 1025.68 FEET TO THE POINT OF BEGINNING.

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

SUBJECT TO ALL PERTINENT MATTERS OF RECORD.

Exhibit B Continued Legal Description Southern Palm Crossing PCD 04-10 (R) (VAR)



ENLARGED PLANS

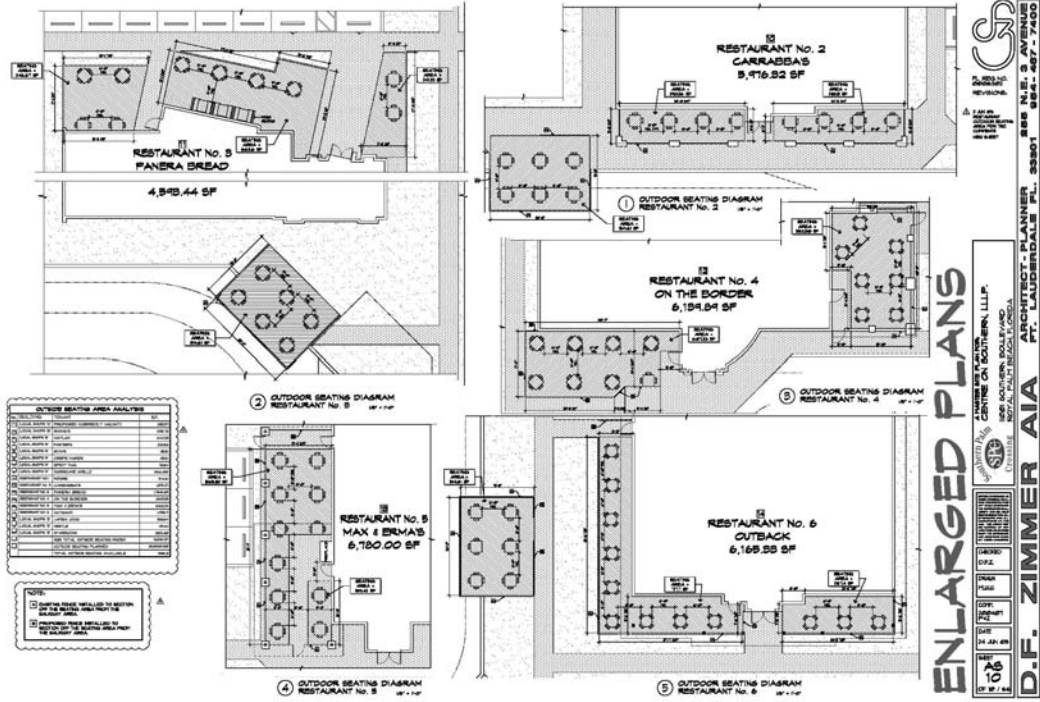

 ARCHITECTS
 100 SOUTH BAYVIEW
 SUITE 100
 WEST PALM BEACH, FL 33411
 TEL: 561-847-7400
 FAX: 561-847-7400

PROJECT NO. 2010-0001
 SHEET NO. 04-10 (R) (VAR)
 DATE: 04/10/10

D.F. ZIMMER AIA
 ARCHITECTS
 100 SOUTH BAYVIEW
 SUITE 100
 WEST PALM BEACH, FL 33411
 TEL: 561-847-7400
 FAX: 561-847-7400

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**Exhibit B Continued
 Legal Description
 Southern Palm Crossing PCD
 04-10 (R) (VAR)**



ENLARGED PLANS

D.F. ZIMMER AIA
 ARCHITECT - PLANNING
 1000 SOUTHERN BOULEVARD
 SUITE 100
 WEST PALM BEACH, FL 33411
 TEL: 561-847-7400
 FAX: 561-847-7400
 WWW.DFZIMMER.COM

DATE: 04/11/11
SCALE: AS SHOWN
PROJECT: SOUTHERN PALM CROSSING PCD
DATE: 04/11/11
BY: D.F. ZIMMER
APP.: D.F. ZIMMER

DATE PLOTTED: 04/11/11 10:00 AM. PLOT BY: D.F. ZIMMER