

**PALM BEACH COUNTY
PLANNING, ZONING AND BUILDING DEPARTMENT
ZONING DIVISION**



**ADMINISTRATIVE VARIANCE – TYPE 1 - STAFF PUBLIC MEETING
STAFF REPORT
11/19/2020**

AGENDA ITEM	CODE SECTION	REQUIRED	PROPOSED	VARIANCE
AV-2020- 01486	3.E.2.D Property Development Regulations	25 feet Side Street Setback	20 feet Side Street Setback	5 feet
	3.E.2.D Property Development Regulations	25 feet Front Setback	12 feet Front Setback	13 feet
SITUS ADDRESS:	12690 Salty Springs Ave Boynton Beach 33473			
PCN:	00-42-46-06-02-018-0000			
OWNER NAME & ADDRESS:	G.L. Homes 1600 Sawgrass Corporate Pkwy Sunrise FL 33323			
AGENT NAME & ADDRESS:	Gladys DiGirolamo G.L. Homes 1600 Sawgrass Corporate Pkwy Sunrise FL 33323			
PROJECT MANAGER:	Marie Derosé, Site Planner II and Shivanni Singh, Zoning Technician			
CONTROL NO:	2005-00014			
ZONING DISTRICT:	Agricultural Reserve Planned Unit Development (AGR-PUD)			
LAND USE:	Agricultural Reserve (AGR)			
BCC DISTRICT:	05			
LEGAL AD:	G L Homes (Gladys DiGirolamo), Agent, for Boynton Beach Associates XXVI LLLP, Owner, to allow a proposed Recreation Amenities to encroach into the required front and side street setbacks. Location: 12690 Salty Springs Avenue, at the southeast intersection of Salty Springs Avenue and Flavor Pict Road within the Monticello AGR-PUD in the Agricultural Reserve Planned Unit Development (AGR-PUD) Zoning District. (Control No. 2005-00014).			
LOT AREA:	9.22 acres			
LOT DIMENSIONS:	Approximately 593.96 ft x 318.84 ft			
CONFORMITY OF LOT:	Conforming			
CONFORMITY OF ELEMENT:	Not Applicable			
TYPE OF ELEMENT:	Not Applicable			
ELEMENT SIZE:	Not Applicable			
BUILDING PERMIT #:	Conditional Building Permit B- 2020-024774			
NOTICE OF VIOLATION:	None			
CONSTRUCTION STATUS:	Proposed			
APPLICANT REQU EST:	To allow outdoor recreation amenities to encroach into the required front and side street setbacks within the Recreation POD.			



STAFF SUMMARY

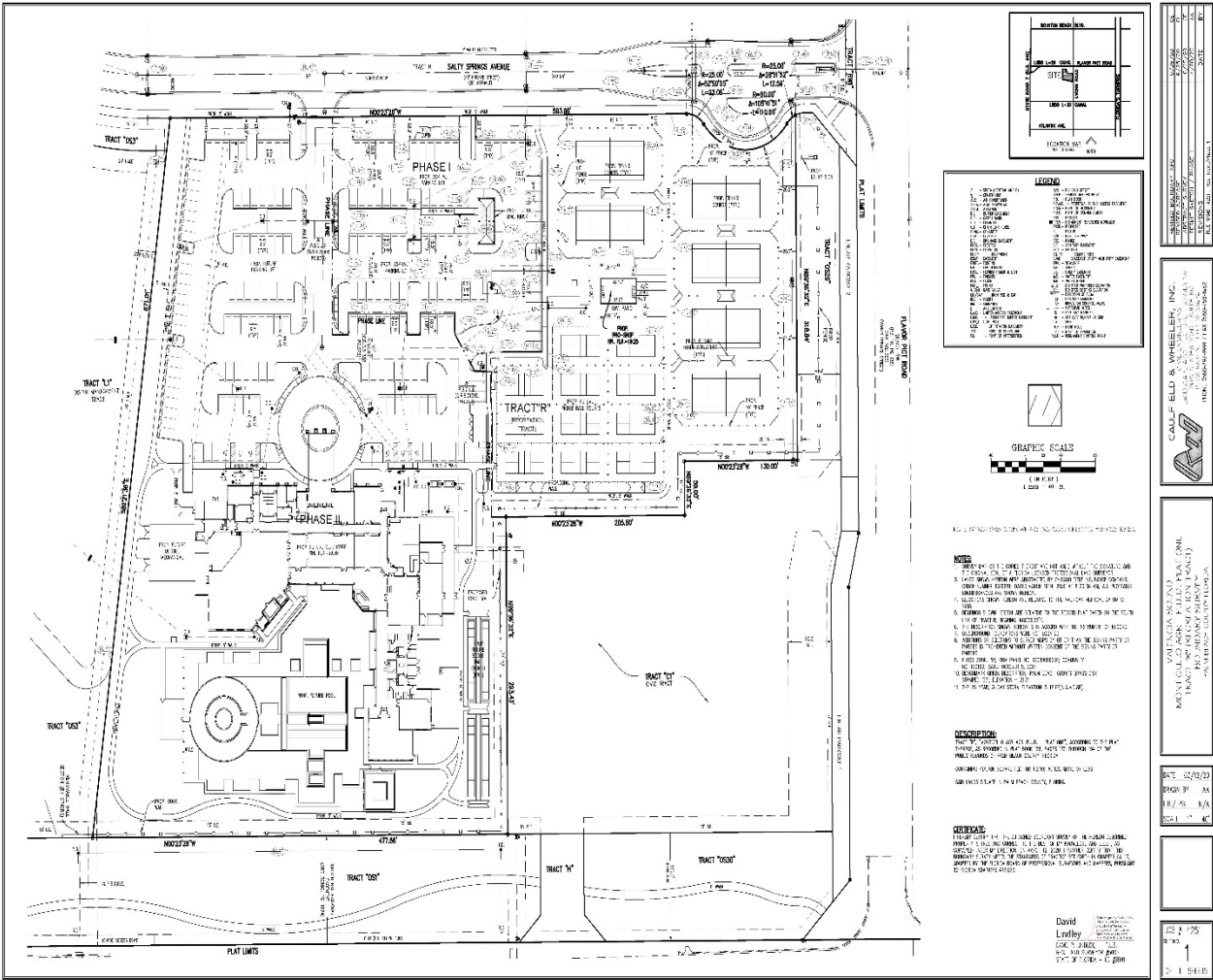
The subject property is located, at the southeast intersection of Salty Springs Avenue and Flavor Pict Road within the Monticello AGR-PUD in the Agricultural Reserve Planned Unit Development (AGR-PUD) Zoning District with a future land use designation of Agricultural Reserve (AGR). The Monticello AGR-PUD development consist of a recreational pod that supports and facilitates needs of the residents in the single family and zero lot line dwelling units.

Pursuant to the Unified Land Development Code (ULDC) Article 5, Sect. 5. B.1.A.10- Outdoor Recreation for sports court, playgrounds, tot lots, and equipment in a recreation pod, tract or designated area are required to be a minimum of 50 feet from any adjacent residential property line. However, this section of the Code does not state what setbacks apply when the amenities are adjacent to non-residential Properties.

Pursuant to Table 3.E.2.D - PUD Property Development Regulations of the ULDC, the setbacks shall be measured from the property line to the edge of the court surface or fence, whichever is more restrictive. The front and side street setback shall be a minimum of 25 feet.

During the building permit review process, staff detected a discrepancy in the interpretation of the code with respect to the minimum setbacks for the recreation pod and the DRO site plan. The variance request is to allow a decrease in the front setback for the tennis court fences adjacent to Salty Springs Avenue from 25 feet to 12 feet, and to decrease the Side Street Setback for the tennis court and fences adjacent to Flavor Pict Road from 25 feet to 20 feet.

Staff determines the request is reasonable and in compliance with the purpose and objectives of the Comprehensive Plan and the ULDC. The request also meets the seven standards outlined in Article 2.C.5.E.4 of the ULDC. This application will have not a negative impact and is consistent with the surrounding area. The applicant advises that the nearest residential lot is 280 feet from the affected area. In addition the required landscape buffer will mitigate any potential adverse impacts. It should be noted that the conditional permit has been issued to allow the progression of the permit review procedures.



Survey

STAFF RECOMMENDATIONS

Staff recommends **approval with conditions** for a Type 1 Variance request, based upon the following application of the standards enumerated in Article 2, Section 2.D.3 of the Palm Beach County Unified Land Development Code (ULDC), which a petitioner must meet before the Administrative Variance Public Meeting Staff may authorize a variance.

ANALYSIS OF ARTICLE 2, SECTION 2.D.3.H.2 VARIANCE STANDARDS

1. SPECIAL CONDITIONS AND CIRCUMSTANCES EXIST THAT ARE PECULIAR TO THE PARCEL OF LAND, BUILDING OR STRUCTURE, THAT ARE NOT APPLICABLE TO OTHER PARCELS OF LAND, STRUCTURES OR BUILDINGS IN THE SAME ZONING DISTRICT:



NE Salty Springs Street Side

Yes. Special Conditions and circumstances exist that are particular to the parcel of land, building or structure, that are not applicable to the other parcels of land, structures or buildings in the same zoning district. There are other Recreation Pods within AGR-PUDs approved and built in proximity to Monticello that include sports courts that were built prior to staff utilizing Article 5.B.1.A.10 Outdoor Recreation Amenities, and applying a minimum of 50 foot setback from any adjacent residential property line. However, this section of the code does not state what setbacks apply when the amenities are adjacent to non-residential properties, therefore, PUD Property Development Regulations are applied to ensure consistency. The current DRO site plan was approved utilizing the prior interpretation. Pursuant to Table 3.E.2.D PUD Property Development Regulations, Recreation Pod Article 3 of the ULDC, the setbacks shall be measured from the property line to the edge of the court surface or fence, whichever is more restrictive. The front and side street setback shall meet a minimum of 25 feet.

2. SPECIAL CIRCUMSTANCES AND CONDITIONS DO NOT RESULT FROM THE ACTIONS OF THE APPLICANT:

Yes. Special circumstances and conditions do not result from the actions of the applicant. Parks and Recreation also has requirements that need to be met to ensure that necessary recreational improvements will be provided for residents concurrent with residential development. Due to this discrepancy in the interpretation of approved DRO site plan, the applicant has the inability to reconfigure her site plan and requests relief from the setbacks, since these conditions were not a result of the applicant actions.

3. GRANTING THE VARIANCE SHALL NOT CONFER UPON THE APPLICANT ANY SPECIAL PRIVILEGE DENIED BY THE COMPREHENSIVE PLAN AND THIS CODE TO OTHER PARCELS OF LAND, BUILDINGS OR STRUCTURES IN THE SAME ZONING DISTRICT:

Yes. Granting the variance shall not confer upon the applicant any special privilege denied by the comprehensive plan and this code to the other parcels of land, buildings or structures in the same zoning district. As stated before there are other neighboring communities that were approved applying 50 foot minimum setback pursuant to Article 5.B.1.A.10, Outdoor Recreation. The applicant relied on the approved DRO site plan to submit the building permits. Parks and Recreation also has requirements that need to be met to ensure that necessary recreational improvements will be provided for the residents concurrent with residential development. The variance will allow consistency with the code, and implementation of the approved DRO site plan, similar to its neighboring communities in the AGR-PUD Zoning District.

4. LITERAL INTERPRETATION AND ENFORCEMENT OF THE TERMS AND PROVISIONS OF THIS CODE WOULD DEPRIVE THE APPLICANT OF RIGHTS COMMONLY ENJOYED BY OTHER PARCELS OF LAND IN THE SAME ZONING DISTRICT, AND WOULD WORK AN UNNECESSARY AND UNDUE HARDSHIP:

Yes. Literal interpretation and enforcement of the terms and provisions of this code would deprive the applicant of the rights commonly enjoyed by the other parcels of land in the same zoning district, and would work unnecessary and undue hardship. There was a discrepancy in the approved DRO site plan. If the site plan is implemented with the current approved setbacks, the tennis court will have to be removed. This will affect the Parks and Recreation regulations which calculates the minimum number of outdoor amenities that is needed to ensure that the necessary recreational improvements, will be provided for residents concurrent with residential development. In addition, the number of homes being built will also be affected if the tennis courts are removed. The residents may be deprived the right to enjoy the recreational amenities, commonly enjoyed by the neighboring community in the AGR-PUD Zoning District.

5. GRANT OF VARIANCE IS THE MINIMUM VARIANCE THAT WILL MAKE POSSIBLE THE REASONABLE USE OF THE PARCEL OF LAND, BUILDING OR STRUCTURE:



NE Salty Springs Street Side

Yes. Grant of variance is the minimum variance that will make possible the reasonable use of the parcel of land, building or structure. The restrictive setbacks approved on the DRO site plan does not allow the applicant to re-configure the design of the site plan. This will affect the Parks and Recreation regulations which calculates the minimum number of outdoor amenities that is needed to ensure that the necessary recreational improvements, will be provided for residents concurrent with residential development. In addition, the number of homes being built will also be affected if the tennis court is removed. The variance will give the minimum relief needed for the site plan to implemented and is considered a reasonable use of the land.

6. GRANT OF THE VARIANCE WILL BE CONSISTENT WITH THE PURPOSES, GOALS, OBJECTIVES, AND POLICIES OF THE COMPREHENSIVE PLAN AND THIS CODE:

Yes. Grant of the variance will be consistent with the purpose, goals, objectives and policies of the comprehensive plan and this code. There was a discrepancy in the approved setbacks on the DRO site plan. The Parks and Recreation has regulations which calculates the minimum number of outdoor amenities that is needed to ensure that the necessary recreational improvements, will be provided for residents concurrent with residential development. In addition, the number of homes being built will also be affected if the tennis court is removed. Approval of the variance requests will ensure adequate recreation facilities are provided, to ensure consistency with the intent of the Comprehensive Plan and the ULDC.

7. THE GRANT OF THE VARIANCE WILL NOT BE INJURIOUS TO THE AREA INVOLVED OR OTHERWISE DETRIMENTAL TO THE PUBLIC WELFARE:



1West Side

Yes. The grant of the variance will not be injurious to the area involved or otherwise detrimental to the public welfare. The request for the reduction in the setbacks will not be injurious or detrimental to the public welfare. According to the applicant and as depicted on the DRO approved site plan the recreation pod is separated from adjacent residential lots by lakes and roadways. The nearest residential lot line is approximately 300 feet away from the affected areas. In addition, required landscaping will ensure there will be no adverse impact on any nearby residential lot.

DEVELOPMENT ORDER

The development order for this particular variance shall lapse on November 19th 2021, one year from the approval date. (DATE: MONITORING:Zoning)

ADMINISTRATIVE VARIANCE PUBLIC MEETING CONDITIONS

Type 1 Variance

- 1. The Property Owner shall provide a copy of this Variance Approval Letter, related plans, and documents to the Building Division to be included with B-2020-024774. (BLDGPMPT: BUILDING DIVISION - Building Division)
- 2. On or prior to November 19, 2021, the Property Owner/Applicant shall have received the Final Building Inspection and received the Certificate of Occupancy. (BLDGPMPT/CO/DATE: BUILDING DIVISION - Building Division)