

**CITY OF MIRAMAR  
PROPOSED CITY COMMISSION AGENDA ITEM**

**Meeting Date:** July 10, 2019

**Presenter's Name and Title:** Eric Silva, Community & Economic Development Director

**Prepared By:** Michael Alpert, Principal Planner

**Temp. Reso. Number:** 6992

**Item Description:** Temp. Reso. No. 6992, CONSIDERING VARIANCE APPLICATION NO. 1900213 FROM LAND DEVELOPMENT CODE SECTION 402.7, TABLE 402-2 BULK REGULATIONS RURAL AND SFR RESIDENTIAL DISTRICTS, FOR THE MINIMUM FRONT YARD DISTANCE OF 20 FEET FOR EIGHT HOMES WHERE 25 FEET IS REQUIRED; FOR A SINGLE FAMILY DEVELOPMENT (TOLEDO ISLES) CONSISTING OF TWENTY HOMES ON A 9.58 ACRE SITE, LOCATED WEST OF DYKES ROAD, SOUTH OF MIRAMAR PARKWAY AND NORTH OF BASS CREEK ROAD. *(Community & Economic Development Director Eric Silva)*

Consent ☐ Resolution ☐ Ordinance ☐ Quasi-Judicial ☒ Public Hearing ☐

**Instructions for the Office of the City Clerk:**

**Public Notice** – As required by the Sec. 301.11.1 of the City Code and/or Sec. \_\_\_\_, Florida Statutes, public notice for this item was provided as follows: on \_\_\_\_\_ in a \_\_\_\_\_ ad in the \_\_\_\_\_; by the posting the property on June 26, 2019 and/or by sending mailed notice to property owners within 1,000 feet of the property on June 26, 2019 (fill in all that apply)

Special Voting Requirement – As required by Sec. \_\_\_\_\_, of the City Code and/or Sec. \_\_\_\_\_, Florida Statutes, approval of this item requires a \_\_\_\_\_ (unanimous, 4/5ths etc.) vote by the City Commission.

**Fiscal Impact:** Yes ☐ No ☒

**REMARKS:** None



**Content:**

- **Agenda Item Memo from the City Manager to City Commission**
- **Resolution TR 6992**
- **Attachment(s)**
  - **Attachment 1: Location Map**
  - **Attachment 2: Setback Variance Analysis**



**CITY OF MIRAMAR  
INTEROFFICE MEMORANDUM**

**TO:** Mayor, Vice Mayor, & City Commissioners

**FROM:**  Vernon E. Hargray, City Manager 

**BY:** Eric Silva, Community & Economic Development Director

**DATE:** July 3, 2019

**RE:** Temp. Reso. No. 6992, for Setback Variance Application No. 1900213 from Land Development Code ("LDC") Section 402.7, Table 402-2, Bulk Regulations, for a single family development (Toledo Isles)

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**RECOMMENDATION:** The City Manager recommends approval of Temp. Reso. No. 6992, Application No. 1900213 for a Variance from Section 402.7, Table 402-2 of the LDC, to allow for eight of the 20 homes to have a 20-foot minimum front yard setback, where 25 feet is required, with the following condition:

1. All applicable state and federal permits must be obtained before commencement of the development subject to this approval.

**ISSUE:** City Commission approval is required for the granting of variances for properties within the City.

**BACKGROUND:** Toledo Isles is an approved single-family residential luxury community located on the west side of Dykes Road, south of Miramar Parkway. The project consists of 20 detached homes on a 9.58-acre net parcel, including an on-site and off-site mitigation area.

On August 17, 2005, the City Commission approved the original Site Plan, Community Appearance Board ("CAB"), Rezoning and Plat for this site. This project was never developed by the original applicant. New Site Plan (*Application 1401956*) and CAB (*Application 1401963*) approvals were granted for the Toledo Isles project on March 25, 2015 by Reso. Nos. 15-94 and 15-95, respectively, and the project has been granted two site plan extensions.

The current applicant, Mattamy Palm Beach LLC, a Delaware Limited Liability Company, is in the process of developing the site based on the approved site plan from 2015,

renaming the development to Terraza Isles, and is now seeking a variance from the City of Miramar LDC Section 402.7, Table 402-2, to allow for a front yard minimum setback of 20 feet instead of the required 25 feet, for eight of the homes, based on lot configuration, in order to provide a variety of floor plans and sizable rear yards for a high-end product that requires additional amenities and landscaping enhancement.

On May 22, 2019, the Development Review Committee recommended approval for this Variance.

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**CITY OF MIRAMAR  
MIRAMAR, FLORIDA**

**RESOLUTION NO. \_\_\_\_\_**

**A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF MIRAMAR, FLORIDA, CONSIDERING VARIANCE APPLICATION NO. 1900213 FROM LAND DEVELOPMENT CODE SECTION 402.7, TABLE 402-2 BULK REGULATIONS RURAL AND SFR RESIDENTIAL DISTRICTS, FOR THE MINIMUM FRONT YARD DISTANCE OF 20 FEET FOR EIGHT HOMES WHERE 25 FEET IS REQUIRED; FOR A SINGLE FAMILY DEVELOPMENT (TOLEDO ISLES) CONSISTING OF TWENTY HOMES ON A 9.58 ACRE SITE, LOCATED WEST OF DYKES ROAD, SOUTH OF MIRAMAR PARKWAY AND NORTH OF BASS CREEK ROAD; AND PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, the Owner/Developer, Mattamy Palm Beach LLC, a Delaware Limited Liability Corporation, has submitted Application No. 1900213, seeking a variance from Section 402.7, Table 402-2, of the Land Development Code ("LDC") for Minimum Front Yard Distance, a complete application for variance review as provided for in Section 315 of the LDC, allowing 20 feet for eight homes, where a 25-foot front setback is required; and

**WHEREAS**, the Development Review Committee ("DRC") has reviewed and evaluated Variance Application No. 1900213 and made a determination that the variance is in substantial conformance with the applicable requirements, including those set forth in Section 315.7 of the LDC; and

**WHEREAS**, the Owner/Developer has complied with the courtesy notice  
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requirements of Section 301.11.1. of the LDC; and

**WHEREAS**, the Owner/Developer has voluntarily agreed to the conditions set forth in Sections 3 and 4 of this Resolution; and

**WHEREAS**, the City Manager recommends approval; and

**WHEREAS**, the City Commission finds that the approval of Variance Application No. 1900213, is in the best interest of the citizens and residents of the City of Miramar, Florida.

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF MIRAMAR, FLORIDA AS FOLLOWS:**

**Section 1: Recitals; Definitions.**

(a) That the foregoing “WHEREAS” clauses are ratified and confirmed as being true and correct and are made a specific part of this Resolution.

(b) As used herein, unless the context or City Code of Ordinances requires to the contrary, the following terms will be defined as set forth below:

(1) “City” means the City of Miramar, a Florida Municipal Corporation.

(2) “Development” is defined as set forth in Section 163.3164, Florida Statutes.

(3) “DRC” means the City’s Development Review Committee.

(4) “LDC” means the City’s Land Development Code of

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Ordinances.

(5) "Owner/Developer" means Mattamy Palm Beach LLC, a Delaware Limited Liability Company, its respective successor and assign.

(6) "Subject Property" is real property situate and lying in the State of Florida, County of Broward, City of Miramar, to-wit:

Lots 5, 6, 9, 10, 11, 12, 15, and 16, Toledo Isles, according to the plat thereof, as recorded in Plat Book 175, Page 179, Public Records of Broward County, Florida.

**Section 2: Applications in Substantial Compliance.** That the City Commission finds that the **Variance application** from Section 402.7, Table 402-2, of the LDC for required front yard setback, on the Subject Property is in substantial compliance with the requirements of Section 315 of the LDC. Variance Application 1900213 will allow the Owner/Developer to develop the Subject Property with a 20-foot deep front yard setback for eight of the lots.

**Section 3: Conditions of Approval.** That the following condition shall apply to this approval: All applicable state and federal permits must be obtained before commencement of the Development subject to this approval.

**Section 4: Approval does not Create a Vested Right.** That issuance of this approval by the City does not in any way create any right on the part of the Owner/Developer to obtain a permit from a state or federal agency and does not create

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any liability on the part of the City for issuance of the approval if the Owner/Developer fails to obtain the requisite approvals or fulfill the obligations imposed by a state or federal agency or undertakes actions that result in the violation of state or federal law. All applicable state and federal permits must be obtained before commencement of the Development. This condition is included pursuant to Section 166.033, Florida Statutes, as amended.

**Section 5: Failure to Adhere to Resolution.** That failure to adhere to the approval terms and conditions contained in this Resolution shall be considered a violation of this Resolution and the City Code, and persons found violating this Resolution shall be subject to the penalties prescribed by the City Code, including but not limited to the revocation of any of the approval(s) granted in this Resolution and any other approvals conditioned on this approval. The Owner/Developer understands and acknowledges that it must comply with all other applicable requirements of the City Code before it may commence construction or operation, and that the foregoing approval in this Resolution may be revoked by the City at any time upon a determination that the Owner/Developer is in non-compliance with the City Code.

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**Section 6:** That this Resolution shall take effect immediately upon adoption.

**PASSED AND ADOPTED** this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_  
Mayor, Wayne M. Messam

\_\_\_\_\_  
Vice Mayor, Alexandra P. Davis

ATTEST:

\_\_\_\_\_  
City Clerk, Denise A. Gibbs

I HEREBY CERTIFY that I have approved  
this RESOLUTION as to form:

\_\_\_\_\_  
City Attorney  
Weiss Serota Helfman  
Cole & Bierman, P. L.

**Requested by Administration**

Commissioner Winston F. Barnes  
Commissioner Maxwell B. Chambers  
Commissioner Yvette Colbourne  
Vice Mayor Alexandra P. Davis  
Mayor Wayne M. Messam

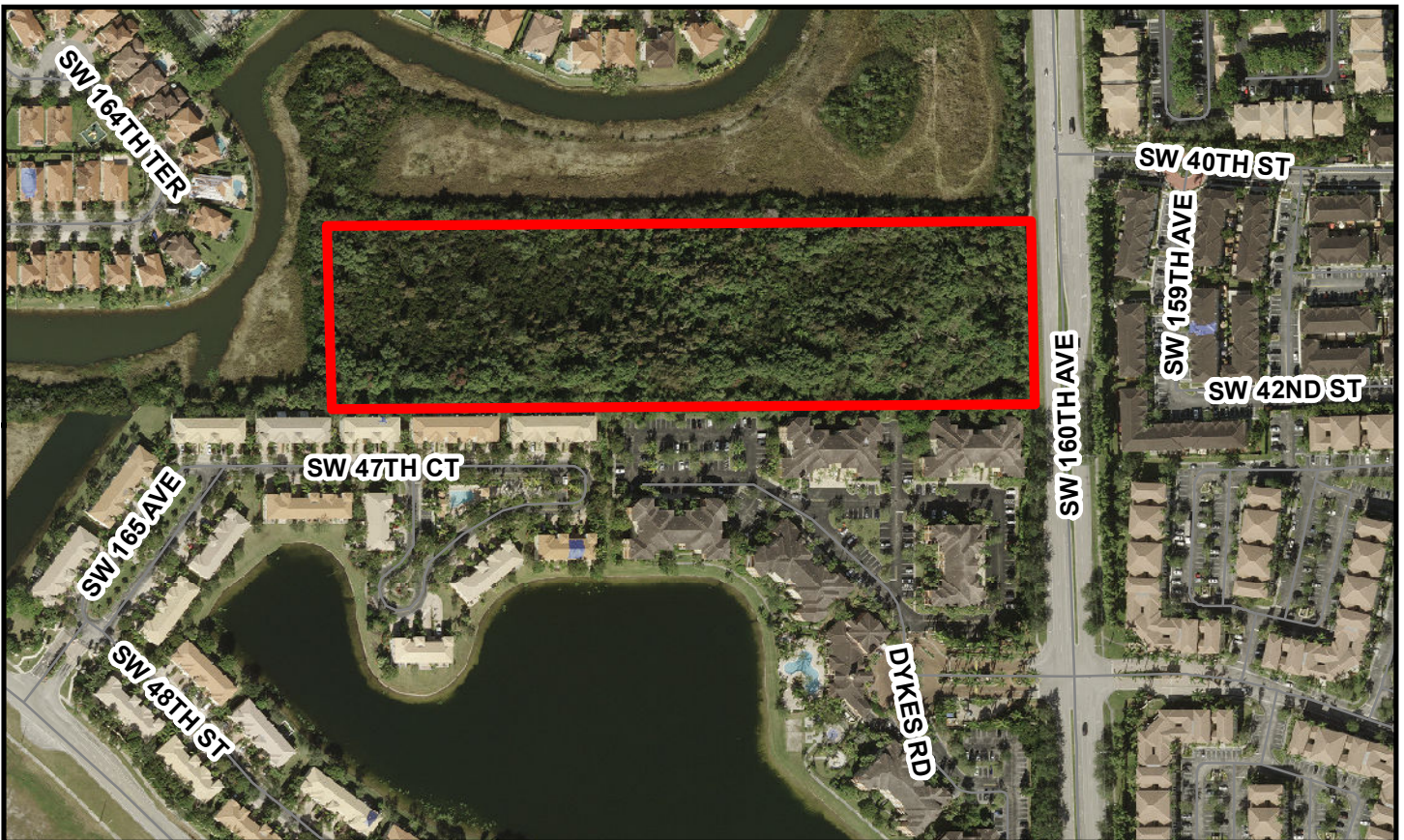
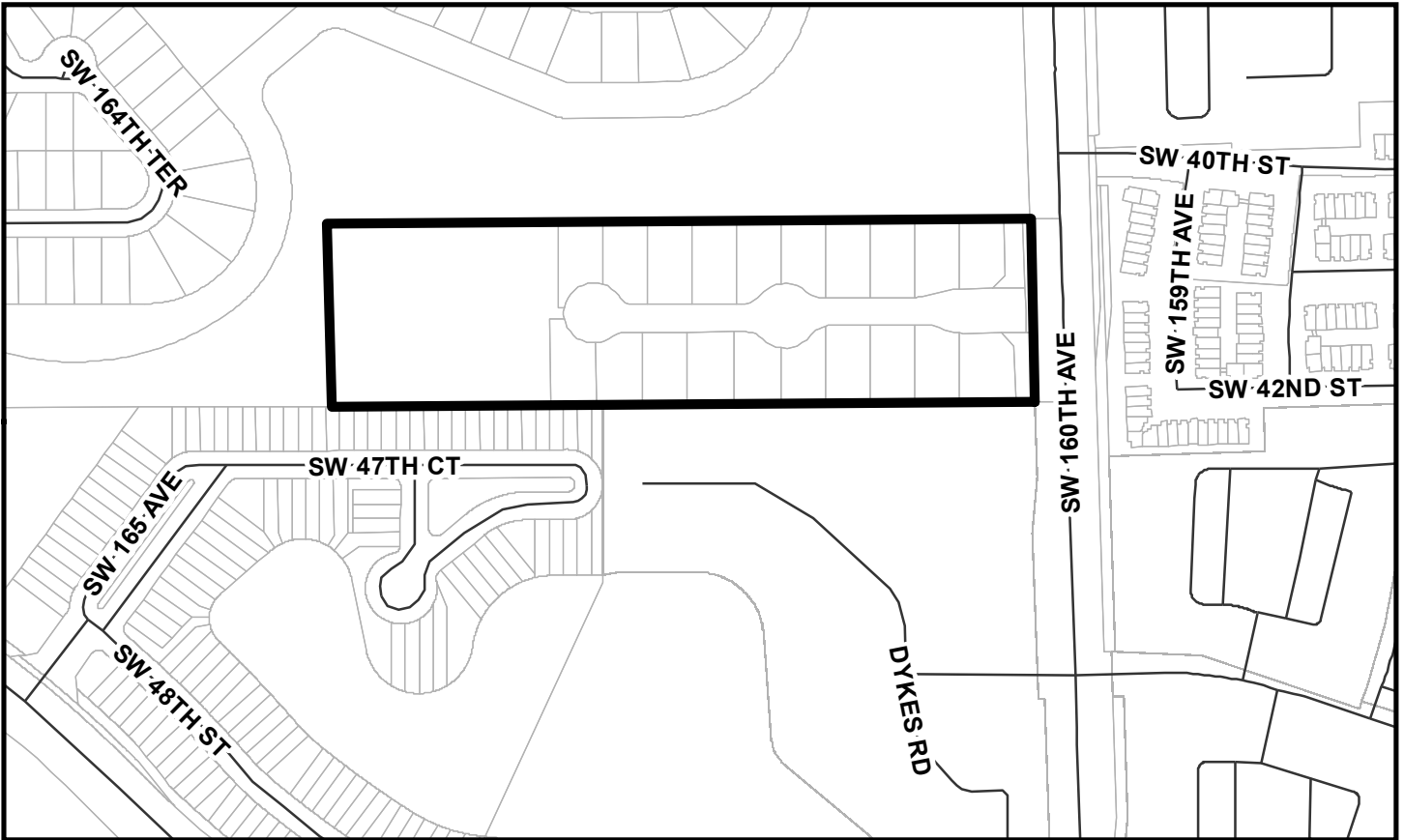
**Voted**

\_\_\_\_\_  
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\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

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**Location Map/Aerial View**  
**VAR 1900213**

Attachment 1



0 250 500 Feet





**City of Miramar**  
**Community & Economic Development Department**  
**Development Review Report – Variance**

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## I. Project Summary

**Project Name:** TOLEDO ISLES (TERRAZA ISLES)

**Application:** 1900213 – Setback Variance

**Application Summary:** The applicant is seeking a variance from the City of Miramar Land Development Code Section 402.7 Table 402-2 – Bulk Regulations to allow for 8 homes to have a 20-foot front yard setback instead of the required 25’.

**Applicant:** Carlos Ballbé, Ballbé & Associates, INC.  
2737 Northeast 30th place  
Fort Lauderdale, Florida 33306  
Phone: 954-491 7811  
Email: [carlos@baeng.us](mailto:carlos@baeng.us)

**Owner:** Anthony J. Palumbo III  
Mattamy Palm Beach, LLC  
1500 Gateway Blvd Suite 220  
Boynton Beach, Florida 33426  
Phone: (561)739-7902  
E-mail: [Tony.Palumbo@mattamy.com](mailto:Tony.Palumbo@mattamy.com)

**Related Application(s):** 1401956 - Site Plan  
1401963 – Community Appearance Board  
04-DRC-35 – Toledo Isles Site Plan (original)  
04-SUB-07 – Toledo Isles Plat  
04-CAB-95 - Community Appearance Board

## Planning Information

**Site Location:** DYKES ROAD, 160<sup>th</sup> AVENUE FL 33027  
(Folio No. 514029140220)

**Land Use Plan Designation:** ESTATE

**Existing Zoning:** Residential 3 (RS3)

**Existing Use:** Vacant land

**Proposed Use:** 20 single-family dwelling units

Adjacent properties:

	EXISTING USE	ZONING	LAND USE PLAN
North	Nautica Wetland Mitigation, Single-family	RS5 & RS7	Low 3 Residential
East	Dykes Road, Villas at Nautica, Multi-family	RM2	Dashed Line Residential 3.06
South	Villagio at Riviera Isles, Multi-family	RM2	Dashed Line Residential 3.06
West	Nautica Wetland Mitigation, Single-family	RM3	Low 3 Residential



## II. Background

Toledo Isles is an approved single-family residential luxury community located on the west side of Dykes Road, south of Miramar Parkway. The project consists of 20 detached homes on a 9.58-acre net parcel, including an on-site and off-site mitigation area.

On August 17, 2005, the City Commission approved the original Site Plan, CAB, Rezoning and Plat for this site. This project was never developed by the original applicant. However, Site Plan (*Application 1401956*) and Community Appearance Board (“CAB”) (*Application 1401963*) approvals were originally granted for the Toledo Isles

project on March 25, 2015 by Reso. Nos. 15-94 and 15-95, respectively, and the project has been granted two site plan extensions.

The current applicant, Matamy Homes, is in the process of developing the site based on the approved site plan from 2015, renaming the development to Terraza Isles, and is now seeking a variance from the City of Miramar LDC Section 402.7 Table 402-2 to allow for a front yard minimum setback of 20 feet instead of the required 25 feet, for eight of the homes, based on lot configuration, in order to provide a variety of floor plans and sizable rear yards for a high-end product that requires additional amenities and landscaping enhancement.

### III. Review Criteria

The City's Land Development Code (Section 315.7) provides that a variance can only be granted if a preponderance of the evidence demonstrates that the conditions listed herein are met.:

- 1) *The particular physical surroundings, shape, topographical condition, or other physical or environmental condition of the specific property involved would result in a particular hardship upon the owner, as distinguished from a mere inconvenience, if the regulations were carried out literally.*

**Applicant's Response:** The variance is necessary to be able to fit the proposed models in lots which were platted back in 2006; at the time that the plat was recorded, the owner did not account for models to fit the layout, especially in all of the lots fronting the roundabout and cul-de-sac. If the variance is not approved, it would create a hardship for future residents as lots will be restricted to model sizes that are not conducive to the estate residential nature of the subdivision. This is the only large-lot subdivision in this area and the current front setback requirement will restrict the lots to small houses.

Also, the front setback will restrict the ability to offer a variety of product. Owner proposes to offer five models with amenities and options to complement the size of the lots.

**Staff's Evaluation:** The shape of this site and its surrounding properties including the internal roadway roundabout, mitigation areas and easements, did not leave enough room for some of these 20 residential lots, especially taking into consideration that the developer is trying to accommodate Estate-type homes including a variety of amenities and options on the rear yards to the future owners.

- 2) *The conditions upon which the request for a variance is based are unique to the parcel and would not be generally applicable to other property within the vicinity.*

**Applicant's Response:** The condition is unique to the parcel as there are no other properties in the vicinity that match the land use and zoning requirements of this parcel. Also, there are no other subdivisions which have a roundabout and cul-de-sac that restrict 40% of the lots.

**Staff's Evaluation:** The applicant has demonstrated, through the potential approval of this variance for certain lots, that it would allow for sufficient space for accessory structures and amenities on the rear of the properties.

- 3) *That the special conditions or circumstances do not result from the deliberate actions of the applicant or property owner of the subject property to establish a use or structure which is not otherwise consistent with this Code.*

**Applicant's Response:** Special conditions were not the result of deliberate actions of the applicant or property owner as the layout of the subdivision which restricts the lots was designed and platted by the previous property owner in the year 2006. This project was originally designed and permitted with a cul-de-sac and a roundabout which push the houses away from the front lot line a significant distance and consequently narrowing the depth of the lot. Many lots are affected by this condition; by reducing the front setback we are creating additional area in the rear of the lots to add pools and other amenities. Also, reducing the front setback allows the addition of models to the options for the lots.

**Staff's Evaluation:** Staff concurs with this response.

- 4) *That the granting of the variance will not confer on the applicant or the property owner of the subject property any special privilege that is denied by the Code to other similarly situated lands, buildings, or structures in the same zoning district.*

**Applicant's Response:** The property owner will be able to provide a much better product to future owners by adding more model diversity and better amenities to the lots. The granting of the variance is not absolutely necessary for the proposed development, but it will greatly improve the final product.

**Staff's Evaluation:** Staff agrees that the variance is not absolutely necessary in order to develop the subdivision, but that the impact of a few of the homes having a shallower front yard setback not only doesn't create any significant impact to the neighborhood itself, nor the larger region, but also provides more architectural interest and landscaping variety along the street.

- 5) *The granting of the variance will not be detrimental to the public welfare or injurious to other property or improvements in the vicinity; and*

**Applicant's Response:** The granting of the variance will not be detrimental to the public welfare or injurious to other property or improvements in the vicinity as it only pertains to the front setback and the ability to fit the proposed units.

**Staff's Evaluation:** Staff agrees with the applicant's response. This variance will not be detrimental to the public welfare.

- 6) *The proposed variance will not substantially increase the congestion in the public streets, or increase the danger of fire, or endanger the public safety, or substantially diminish or impair property values within the vicinity.*

**Applicant's Response:** The granting of the variance will not increase the congestion in the public streets, or increase the danger of fire, or endanger the public safety, or substantially diminish or impair property values within the vicinity as the property owner is not seeking to increase the number of units nor is seeking to modify the approved and recorded lot and street configuration.

**Staff's Evaluation:** Staff concurs with the applicant. There will not be any increase on the density, nor would this request endanger public safety or diminish property values.

#### IV. Staff Recommendation

Staff recommends approval.