



AGENDA
VIRTUAL ZONING HEARING
TUESDAY, SEPTEMBER 1, 2020 – 7:00 PM

THE VILLAGE OF PALMETTO BAY SHALL CONDUCT A VIRTUAL ZONING HEARING/PUBLIC HEARING ON **TUESDAY, SEPTEMBER 1, 2020 AT 7:00 P.M.** THE MEETING WILL BE STREAMED LIVE **ONLINE**, ON **WBAY** AND ON **FACEBOOK**. INSTRUCTIONS ON HOW THE PUBLIC CAN PARTICIPATE IS PROVIDED.

AT THE REQUEST OF THE APPLICANT, THIS MEETING WILL OPEN AND THE ITEM WILL BE CONTINUED TO A DATE AND TIME ANNOUNCED AT THE VIRTUAL MEETING.

1. **CALL TO ORDER, ROLL CALL, INVOCATION, PLEDGE OF ALLEGIANCE, AND DECORUM STATEMENT, IN THAT ORDER.**
2. **REQUESTS, PETITIONS, AND PUBLIC COMMENTS SUBMITTED**

Public comments forum (Option 1): Prior to the meeting, the public can submit a web form available at this web address: <https://www.palmettobay-fl.gov/FormCenter/Public-Comments-Form-10/Public-Comments-Form-52>. Form submissions received prior to the meeting will be read before the item is heard. Form submissions received after 7:00 p.m. will be read at the end of the Village Council's Agenda.

Public comments forum (Option 2): Public attendees wishing to provide real-time, audible public comments during the meeting may do so using GoToWebinar's desktop, laptop, tablet, or smartphone app. Once registered, attendees will receive GTW session information and call-in telephone numbers for those wishing to use a telephone. Telephone attendees may not participate in public comment as the system has no way to mute or unmute. Attendees wishing to speak during public comment time must use the GoToWebinar application on their desktop, laptop, or smart device. Attendees may not use a webcam whatsoever. In lieu of no availability to participate through the webinar, please submit your public comment using the web form as described above.

Please register to attend the session as follows:

<https://attendee.gotowebinar.com/register/6044215938072479245>

After registering, you will receive a confirmation email containing information about joining the webinar.

3. **RESOLUTION REQUIRING A PUBLIC HEARING (PUBLIC COMMENTS SUBMITTED)**
 - A. A RESOLUTION OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, REQUESTING SITE PLAN APPROVAL FOR A MULTI-FAMILY DEVELOPMENT AT 17777 OLD CUTLER ROAD; ACCEPTING A SPECIAL WARRANTY DEED, A RESTRICTIVE COVENANT AND A COVENANT RUNNING WITH THE LAND; AND PROVIDING AN EFFECTIVE DATE. *(Sponsored by Village Administration)*
4. **COUNCIL COMMENTS**
5. **ADJOURNMENT**

WE, THE VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, HEREBY COMMIT OURSELVES TO MAINTAINING CIVILITY IN OUR PUBLIC AND POLITICAL DISCOURSE AND PLEDGE TO THE FOLLOWING PRINCIPLES:

- **We will respect the right of all citizens in our community to hold different opinions;**
- **We will avoid rhetoric intended to humiliate or question the wisdom of those whose opinions are different from ours;**
- **We will strive to understand differing perspectives;**
- **We will choose our words carefully;**
- **We will speak truthfully without accusation and we will avoid distortion;**
- **We will speak out against violence, prejudice, and incivility in all of their forms, whenever and wherever they occur.**

NOTICE OF APPEAL RIGHTS

Decisions of the Village of Palmetto Bay Council (VPB) are appealed to the Circuit Court. Appeals to Circuit Court must be filed within 30 days of the execution of the Village of Palmetto Bay resolution. Pursuant to Florida Statutes 286.0105, the Village hereby advises the public that if a person decides to appeal any decision made by this Council with respect to any matter considered at its meeting or hearing, he or she will need a record of the proceedings, and that for such purpose, the affected person may need to ensure that a verbatim record of the proceeding is made, which record includes the testimony and evidence upon which the appeal is to be based. This notice does not constitute consent by the Village for the introduction or admission of otherwise inadmissible or irrelevant evidence, nor does it authorize challenges or appeals not otherwise allowed by law. Further information and assistance may be obtained by contacting the Village Clerk at (305) 259-1234. For filing or status of Appeals to Circuit Court, you may call the Clerk of the Circuit Court at (305) 375-5955.



APPLICANTS REQUEST TO DEFER THE ITEM

From: [Jerry B. Proctor](#)
To: [Greg Truitt](#); [Missy Arocha](#); [John Dellagloria](#)
Cc: [Maria Pineda](#); [Jerry B. Proctor](#)
Subject: 17777 Old Cutler Rd., LLC Zoning Application/September 1, 2020
Date: Wednesday, August 26, 2020 5:04:13 PM

CAUTION: EXTERNAL SENDER -- Please avoid opening any unexpected attachments or clicking any strange links.

Mr. Manager, Madame Clerk and Mr. Village Attorney:

Good afternoon, I hope you are all well. for next week's zoning hearing on September 1, please accept this request to defer the application until the evening of Thursday, November 19, 2020. Please give me a call if you have any questions.

Thank you,
Jerry B. Proctor
Attorney
Jerry B. Proctor, P.A.
9130 S. Dadeland Blvd., Suite 1700
Miami, FL 33156
305.779.2924
jproctor@proctorpa.com

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AGENDA ITEM 3A

RESOLUTION NO. 2020-____

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2
3 **A RESOLUTION OF THE MAYOR AND VILLAGE COUNCIL OF THE**
4 **VILLAGE OF PALMETTO BAY, FLORIDA, REQUESTING SITE PLAN**
5 **APPROVAL FOR A MULTI-FAMILY DEVELOPMENT AT 17777 OLD**
6 **CUTLER ROAD; ACCEPTING A SPECIAL WARRANTY DEED, A RE-**
7 **RESTRICTIVE COVENANT AND A COVENANT RUNNING WITH THE**
8 **LAND; AND PROVIDING AN EFFECTIVE DATE.** *(Sponsored by Village*
9 *Administration)*

10
11 **WHEREAS**, the applicant, “17777 Old Cutler Road, LLC” filed an
12 application for a site plan for a multi-family development consisting of 480
13 multifamily development units pursuant to including amenities, landscap-
14 ing and parking facilities, with application that is dated September 15,
15 2017 and stamped received by the Village of Palmetto Bay on October
16 5, 2017; and

17
18 **WHEREAS**, 400 multi-family residential units without age re-
19 striction are permissible on the land that is zoned “VMU”; and

20
21 **WHEREAS**, building heights are permitted up to 85-feet to the roof-
22 line on the land that is zoned “VMU”; and

23
24 **WHEREAS**, the Restrictive Covenant provides that certain trip
25 generation and assignment limitations related to vehicular traffic on Old
26 Cutler Road are to be applied as criteria to approve residential develop-
27 ment on the land that is zoned “VMU”; and

28
29 **WHEREAS**, the Special Warranty Deed conveys to the Village of
30 Palmetto Bay the “Library Donation Site”, consisting of 1.03 acres: and

31
32 **WHEREAS**, the Special Warranty Deed conveys to the Village of
33 Palmetto Bay the “West Donation Site”, consisting of 21.22 acres of
34 wooded upland along Old Cutler Road for use by the Village as passive
35 parkland, recreational facilities ancillary structures and a conservation
36 area; and

37
38 **WHEREAS**, the VMU-zoned land may participate in the Village’s
39 “Transfer of Development Rights” (TDR) Program, permitting the transfer
40 of 85 residential units from 17901 Old Cutler Road also known as the

1 “West Donation Site” to 17777 Old Cutler Road as known as the “Re-
2 ceiver Site), allowing the residential density of the VMU-zoned land to
3 exceed Land Use Policy 1.1.1 by a maximum of 25% via TDR, and ac-
4 cepting as a condition of the TDR, ownership by the Village of Palmetto
5 Bay of the land as described in the Special Warranty Deed; and
6

7 **WHEREAS**, a trending analysis established that the “West Dona-
8 tion Site” would accommodate 85 single-family homes at 5 dwelling units
9 per acre on 17+/- of the 22+/- acres, with the remaining 5+/- acres re-
10 maining wooded to meet the buffer requirement; and
11

12 **WHEREAS**, upon conveyance of the “West Donation Site”, the
13 transfer of development rights from the parcel becomes effective and do-
14 nates 85 residential units to the land that is zoned Village Mixed Use
15 (VMU) and is the subject of this site plan; and
16

17 **WHEREAS**, the Special Warranty Deed conveys to the Village of
18 Palmetto Bay the “Southeast Donation Site”, consisting of 13.13 acres of
19 vegetated upland and wetland for use by the Village as preservation area
20 or passive parkland with possible access to Biscayne Bay National Park;
21 and
22

23 **WHEREAS**, the application accepted by the Village is for approxi-
24 mately 79.55 acres of land, including two tax folios of the Miami-Dade
25 County Property Appraiser: folio #33-5035-013-0020 which is generally
26 the site of the existing office development, and folio #33-5035-013-0010
27 which is generally comprised of donation sites and includes some of the
28 existing office development; and
29

30 **WHEREAS**, the Village Council of the Village of Palmetto Bay con-
31 ducted a quasi-judicial hearing on the application at Village Hall, 9705
32 East Hibiscus Street on _____, 2020; and
33

34 **WHEREAS**, the Mayor and Village Council finds, based on sub-
35 stantial competent evidence in the record, that the application for the site
36 plan, the Special Warranty Deed, A Covenant Running with Land, and
37 the Restrictive Covenant are consistent with the Village of Palmetto Bay
38 Comprehensive Plan and the applicable Land Development Regulations;
39 and
40

1 **WHEREAS**, based on the foregoing finding, the Mayor and Village
2 Council determined to grant the application, as provided in this Resolu-
3 tion.

4
5 **NOW, THEREFORE, BE IT ENACTED BY THE MAYOR AND**
6 **VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLOR-**
7 **IDA, AS FOLLOWS:**

8
9 **Section 1.** The above recitals are incorporated as if set forth in
10 full.

11
12 **Section 2. Findings of fact.**

13
14 A. The requested site plan is consistent with the Village's Com-
15 prehensive Plan, as further specified in the Analysis Section of the Vil-
16 lage's Staff report.

17
18 B. The rules that govern the conditions upon which such uses
19 are permitted to be constructed and operated are principally at Section
20 30-30.5 Site Plan Approval, Section 30-50.19, Village Mixed Use District
21 (VMU) as of October 5, 2017, and Section 30-30-15, Transfer of Devel-
22 opment Rights. A review of the Code, as evidenced in the Village staff
23 analysis which is incorporated by reference into this Resolution, and after
24 hearing the applicant and applicant's experts, the Village Council found
25 the site plan request is consistent with those standards.

26
27 C. The proposed site plan has been reviewed for traffic impacts
28 by the Village's Traffic consultant that concluded that the study intersec-
29 tions and roadway segments are expected to operate at adopted levels
30 of service or better under all analysis conditions during the A.M and P.M.
31 peak hours, in the report completed and submitted to the Village in Oc-
32 tober, 2019 by Kimley Horn & Associates, Inc.

33
34 D. The proposed site plan has been reviewed for compliance
35 with Ordinance 2016-14 requirements for limitations of trip generation to
36 Old Cutler Road by the Village's Traffic consultant and concluded that the
37 proposed development meets the requirements of the Ordinance.

1 E. The Village Council accepted the findings of the Village staff
2 analysis that the Restrictive Covenant meets the requirements of Ordinance 2016-14. and incorporates by reference the Planning & Zoning Division staff report, which expert report is considered competent substantial evidence.
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7 F. The Village Council has provided substantive disclosures regarding ex-parte communications and the applicant raised no objections as to the form or content of any disclosures by the Council.
8
9
10

11 **Section 3. Conclusions of law.**

12 The site plan, acceptance of the accompanying Special Warranty Deed, the Covenant Running with the Land and the Restrictive Covenant and was reviewed pursuant to Sections 30-30.5, 30-30.15 and 30-50.19, of Palmetto Bay's Code of Ordinances and are found to be consistent.
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17 **Section 4. Order.**

18 **A.** The Village Council grants the site plan approval, Special Warranty Deed, the Covenant Running with the Land and acceptance of the Restrictive Covenant, consistent with the Land Development Regulations and the Village's Comprehensive Plan. The Village Council, pursuant to Section 30-30.5(j)(1), 30-30.15, 30-50.19 and Resolution 2016-28 approves the plans entitled "17777 Old Cutler Road" for a multi-family development consisting of 480 multifamily development units including amenities, landscaping and parking facilities as dated September 15, 2017 and stamped received by the Village of Palmetto Bay on October 5, 2017, with final non-substantial revisions and responses to staff comments on thirty (30) site plan sheets as signed and sealed on November 21, 2019 by Jose I. Saumell of MSA Architects, and stamped received by the Village on November 22, 2019; and as accompanied by final survey revisions signed and sealed on December 17, 2019 by Antonio Abeleira of E. R. Brownell & Associates, Inc, and stamped received by the Village on December 17, 2019.
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35 **B.** Site Plan Conditions: The Village grants the site plan approval subject to the conditions that a continuous protected pedestrian and bicycle path is designed, constructed and maintained through the site extending to the south access location at Old Cutler Road and SW 184th Street and to the north entrance at Old Cutler Road just south of Ludovici Park.
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37
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1 **C.** Warranty Deed: The Village accepts the Restrictive Covenant
2 and the Special Warranty Deed to 1) convey to the Village of Palmetto
3 Bay the “Library Donation Site”, consisting of 1.03 acres of land; 2) con-
4 vey to the Village of Palmetto Bay the “West Donation Site”, consisting of
5 22.22 acres; and 3) convey to the Village of Palmetto Bay the “Southeast
6 Donation Site”, consisting of 13.13 acres.

7
8 **D.** Transfer of Development Rights: The Village approves the trans-
9 fer of development rights of 85 residential development units from the
10 “West Donation Site” to the land that is zoned Village Mixed Use (VMU)
11 for use in the site plan entitled “17777 Old Cutler Road” pursuant to the
12 development order as approved by this Resolution.

13
14 **Section 5.** The applicant has agreed to the conditions in the section
15 entitled Order.

16
17 **Section 6.** This Resolution shall become effective upon the record-
18 ing of the Special Warranty Deed to the Village of Palmetto Bay as
19 Grantee.

20
21
22 **PASSED** and **ADOPTED** this 14th day of September 2020.

23
24
25 Attest: _____
26 **Missy Arocha** **Karyn Cunningham**
27 **Village Clerk** **Mayor**

28
29
30
31 **APPROVED AS TO FORM AND LEGAL SUFFICIENCY FOR THE USE**
32 **AND RELIANCE OF THE VILLAGE OF PALMETTO BAY, FLORIDA**
33 **ONLY:**

34
35
36
37 _____
38 **John C. Dellagloria, Esq.**
39 **Village Attorney**
40

1 **FINAL VOTE AT ADOPTION:**

2

3 Council Member Patrick Fiore _____

4

5 Council Member David Singer _____

6

7 Council Member Marsha Matson _____

8

9 Vice-Mayor John DuBois _____

10

11 Mayor Karyn Cunningham _____

**This instrument prepared by:
and return to:**

John Dellagloria, Esq.
Village of Palmetto Bay
7502 E. Hibiscue St.
Palmetto Bay, FL 33157
Parcel ID No: 33-5035-013-0010 and 33-5035-013-0020

COVENANTS RUNNING WITH THE LAND

This Declaration Of Restrictive Covenant (“Declaration”) is made and entered into this _____ day of _____, 2020, by 17777 Old Cutler Road, LLC, a Georgia limited liability company, whose principal mailing address is 3390 Peachtree Road, N.E. Suite 1200, Atlanta, GA 30326 (“**Declarant**”).

BACKGROUND STATEMENTS:

- A. Declarant is the fee simple title owner of certain real property (the “**Property**”) in Palmetto Bay, Miami-Dade County, Florida (the “**Village**”) as more particularly described in the attached **Exhibit "A"**.
- B. The Property is generally depicted in the sketch attached as **Exhibit “A-1,”** and consists of three (3) sites, identified in **Exhibit "A-1"** as the “**West Donation Site**”, the “**Southeast Donation Site,**” and the “**Library Donation Site**”, respectively. The “**Fire Station Site**” as identified on **Exhibit “A-1”** is wholly located within the West Donation Site and more particularly described on the attached **Exhibit “B”**. The Library Donation Site is more particularly described on **Exhibit “C”**.
- C. Declarant is the fee simple title owner of certain real property in Palmetto Bay, Miami-Dade County, Florida, adjacent to the Property, as more particularly described in the attached **Exhibit “D”** (the “**Retained Parcel**”).
- D. The Village of Palmetto Bay Mayor and Council adopted Resolution No. 2016-28 that authorized: (i) the transfer of development rights from the West Donation Site to the Retained Parcel and (ii) in exchange for allowing the transfer of development rights, the Village was to receive fee ownership of the Donation Sites to be used for public facilities, parks, ancillary structures and conservation purposes.
- E. Declarant plans to convey the Property to the Village, at no cost to the Village, simultaneously with (i) the transfer of certain development rights from the West Donation Site to the Retained Parcel; (ii) the approval by the Village of a site plan for the Retained Parcel; and (iii) the expiration of any appeal period from that approval and the transfer of the development rights, or, if a judicial or administrative proceeding is filed challenging that approval and transfer, the entry of a final, non-appealable order upholding the approval and transfer.
- F. The Village has, in partial consideration for the conveyance of the Property to the Village, agreed that the use and development of the Property shall be limited to the specified uses

and purposes as stated in the agreed exchange between the parties as stated in Resolution No. 2016-28, for the benefit of the citizens of the Village and to preserve the natural environment of the Village.

THEREFORE, Declarant freely, voluntarily and without duress, declares that the Property, shall be held and conveyed subject to the following Restrictive Covenants, and shall be binding on all parties having any right, title or interest in the Property or any part thereof, their heirs, successors and assigns.

1. **Covenants Running With The Land.** All restrictions in this Declaration are binding upon any transferees, lessees, heirs or assigns of the Declarant, and all parties having any right, title or interest in the Property or any part thereof, and their heirs, successors and assigns. This Declaration shall constitute covenants running with the land.

2. **Village Use of the Property.** The Property shall be protected and preserved as a public passive park with public facilities and ancillary structures and as a natural conservation area to ensure the continued preservation of the Village's environmental assets. The Property shall be protected from commercial development and exploitation, of any kind, and its natural landscape, flora, fauna and scenic beauty shall be preserved. Passive park activities shall place minimal stress on the Property's natural resources. Hiking, walking, running, bicycling, wildlife viewing and photographing are among the passive park activities to be enjoyed by the public. Active recreational facilities such as sports fields, bleachers or pavilions are not permitted. The Village reserves the right to have a fire station facility built on the property identified on the attached exhibits as the "Fire Station Site". These covenants shall be perpetual in nature and run to the benefit of the residents of the Village.

3. **Parking.** The Village shall consult with the Declarant regarding the parking areas the Village deems necessary to facilitate the public's use of the Property. The Village shall make the final decision regarding the location, area size and number of spaces for use by the public.

4. **Term.** The restrictions, covenants and conditions of this Declaration shall run with and bind the Property, the Declarant and all subsequent owners of the Property, for a term of thirty (30) years from the date of recording, after which time the restriction shall be extended automatically for successive periods of ten (10) years each, for the Property to which the covenants, conditions and restrictions apply.

5. **Amendments.** All amendments to this Declaration shall be in writing and must be signed by the Declarant, or its respective successors or assigns, and the Village. All amendments shall be recorded in the Public Records of Miami-Dade County, Florida.

6. **Section Headings.** Section headings, where used in this Declaration, are inserted for convenience only and are not intended to be a part of this Declaration nor in any way define, limit or describe the scope and intent of the particular section to which they refer.

7. **Effective Date.** This Declaration will become effective upon the recordation of this Declaration in the Public Records of Miami-Dade County, Florida.

8. **Governing Law.** This Declaration and the enforcement of the rights and obligations established hereby shall be subject to and governed by the laws of the State of Florida, without application of conflict of law principles.

9. **Recordation.** The Village shall, at the Declarant's sole cost and expense, record this Declaration in the Public Records of Miami-Dade County, Florida, after receipt of an Opinion of Title from the Declarant or its attorney and approval of same by the Village Attorney, and prior to the recordation of a Deed to the Property transferring the Property to the Village.

10. **Severability.** Invalidation of any one of these covenants, by judgment of Court, shall not affect any of the other provisions, which shall remain in full force and effect.

Declarant, has caused this Declaration to be executed on the day and year first above written.

Signed, sealed and delivered in the presence of:

Witnesses:

print name

Manager

partner

print name

Declarant

By: Old Cutler Road 17777 Investor,
LLC, a Georgia limited liability company,

By: GIG-OLD CUTLER ROAD, LP, a
Georgia limited partnership, its

By: GIG GP, LLC, a Georgia limited
Liability company, its sole general

By: _____
Name: Robert C. Goddard, III
Title: Manager

State of Georgia)

County of Fulton)

The foregoing instrument was acknowledged before me this _____ day of _____, 2020 by Robert C. Goddard, III, on behalf of GIG GP, LLC, the sole general partner of GIG-Old Cutler Road, LP, the Manager of Old Cutler Road 17777 Investor, LLC, the manager of 17777 Old Cutler Road, LLC, a Georgia limited liability company. He is personally known to me or has produced a driver's license as identification.

[Notary Seal]

Notary Public

Printed Name: _____

My Commission Expires:

Instrument prepared by:
Jerry B. Proctor, Esq.
Jerry B. Proctor, P.A.
9130 S. Dadeland Boulevard, Suite 1700
Miami, FL 33156

SPECIAL WARRANTY DEED

THIS INDENTURE, made effective as of the _____ day of _____, _____ between 17777 Old Cutler Road., LLC, a Georgia limited liability company, whose address is 3390 Peachtree Road, NE, Atlanta, Georgia 30326, hereinafter referred to as the Grantor and The Village of Palmetto Bay, Florida, a political jurisdiction of the State of Florida, whose address is 9705 East Hibiscus Street, Palmetto Bay, FL 33157, hereinafter referred to as the Grantee.

WITNESSETH that the said Grantor, for an in consideration of the sum of TEN AND NO/100 DOLLARS (\$10.00) and other good and valuable considerations to said Grantor in hand paid by said Grantee, the receipt of which is hereby acknowledged, has granted, bargained and sold to the said Grantee, all of Grantor's interest in and to the following described land, situate, lying and being in the County of Miami-Dade, State of Florida, to-wit:

SEE EXHIBIT "A"

Parcel ID No. 33-5035-013-0010 and 33-5035-013-0020

~~SUBJECT TO: Declaration of Restrictions, Covenants and Reservations recorded in Official Records Book _____ at Pages _____ of the Public Records of Miami-Dade County, Florida, and Ordinance No. _____, adopted by Village of Palmetto Bay on _____.~~

And the said Grantor does hereby fully warrant the title to said land, and will defend the same against the lawful claims of all persons claiming by or through Grantor.

Grantor hereby avers that the real property described herein is not now his residence or homestead nor is his homestead or residence contiguous thereto nor is it the homestead or residence of any member of Grantor's family or any person to whom Grantor owes a legal or natural obligation of support.



STAFF ANALYSIS



To: Honorable Mayor and Village Council

Date: June 2, 2020

From: Gregory Truitt, Village Manager

Re: Site Plan Approval

A RESOLUTION OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, REQUESTING SITE PLAN APPROVAL FOR A MULTI-FAMILY DEVELOPMENT PURSUANT TO ORDINANCE 2016-14 AND RESOLUTION 2016-28; A RESOLUTION TO ACCEPT SPECIAL WARRANTY DEED PURSUANT TO RESOLUTION 2016-28; TO ACCEPT DECLARATION OF RESTRICTIONS, COVENANTS AND RESERVATIONS PURSUANT TO ORDINANCE 2016-14 AND RESOLUTION 2016-28; AND TO ACCEPT A RESTRICTIVE COVENANT PURSUANT TO ORDINANCE 2016-14.

BACKGROUND AND ANALYSIS:

The request consists of three parts, each requiring a separate resolution; however, as requested, each approval is related to and necessary to the others.

- I. The development request is to approve a site plan for a multi-family development consisting of 480 multifamily development units pursuant to Ordinance 2016-14, including amenities, landscaping and parking facilities.
- II. Acceptance by the Village Council of a special warranty deed pursuant to Resolution 2016-28; which:
 - a. conveys to the Village of Palmetto Bay the Library Donation Site, consisting of 1.03 acres of land
 - b. conveys to the Village of Palmetto Bay the West Donation Site, consisting of 21.22 acres of wooded upland along Old Cutler Road for use by the Village as passive parkland
 - c. conveys to the Village of Palmetto Bay the Southeast Donation Site, consisting of 13.13 acres of vegetated upland and wetland for use by the Village as passive parkland and access to Biscayne Bay National Park.
- III. Acceptance by the Village Council of the declaration of restrictions, covenants and reservations pursuant to Ordinance 2016-14 and Resolution 2016-28; and to accept a restrictive covenant pursuant to Ordinance 2016-14.

FISCAL IMPACT:

A positive fiscal impact is expected from the Village portion of the ad-valorem property tax on the 480 residential units. In addition, there is a positive impact to Village assets through the donation of a total of 35 acres of park and preservation land.

RECOMMENDATION:

The requests meet the criteria that are presented in detail in the Staff Analysis. The staff recommendation is to approve to approve the site plan for a multi-family development consisting of 480 multifamily development units pursuant to Ordinance 2016-14, including amenities, landscaping and parking facilities with a condition to assure that a continuous protected pedestrian path is maintained to extends to the south access location at Old Cutler Road and SW 184th Street and to the north entrance at Old Cutler Road just south of Ludovici Park. Staff recommendation includes that the Village Council accept the special warranty deed in support of policy and Council resolutions to improve access to Biscayne Bay and to increase park land in the Village. Staff recommendation includes that Village Council accept the declaration of restrictions that are necessary to compliance of the site plan with Ordinance 2016-28 and Resolution 2016-28 and approve the transfer of development rights (TDR).

1 **WHEREAS**, the special warranty deed conveys to the Village of
2 Palmetto Bay the “Library Donation Site”, consisting of 1.03 acres of
3 land that is currently being used by easement for access drives and
4 parking for Ludovici Park and the Palmetto Bay Public Library branch at
5 17641 Old Cutler Road; and
6

7 **WHEREAS**, the special warranty deed conveys to the Village of
8 Palmetto Bay the “West Donation Site”, consisting of 21.22 acres of
9 wooded upland along Old Cutler Road for use by the Village as passive
10 parkland; and
11

12 **WHEREAS**, the “West Donation Site” also satisfies the
13 requirement, pursuant to Dade County Resolution Z-30-85 which is
14 incorporated pursuant to Village of Palmetto Bay Ordinance 08-09, to
15 provide a landscape buffer sufficient that buildings are not visible from
16 Old Cutler Road; and
17

18 **WHEREAS**, Resolution 2016-28, passed on May 2, 2016 provides
19 that the VMU-zoned land may participate in the Village’s “Transfer of
20 Development Rights” (TDR) Program, permitting the transfer of 85
21 residential units from 17901 Old Cutler Road also known as the “West
22 Donation Site” to 17777 Old Cutler Road (receiver site); allowing the
23 residential density of the VMU-zoned land to exceed Land Use Policy
24 1.1.1 by a maximum of 25% via TDR; and accepting as a condition of
25 the TDR, ownership by the Village of Palmetto Bay of the donation
26 parcels as described in Attachment C to the Resolution; and
27

28 **WHEREAS**, Resolution 2016-28 was based on a trending
29 analysis that the “West Donation Site” would accommodate 85 single-
30 family homes at 5 dwelling units per acre on 17+/- of the 22+/- acres,
31 with the remaining 5+/- acres remaining wooded to meet the buffer
32 requirement pursuant to Dade County Resolution Z-30-85 which is
33 incorporated pursuant to Village of Palmetto Bay Ordinance 08-09; and
34

35 **WHEREAS**, upon conveyance of the “West Donation Site”, per
36 Resolution 2016-28 the transfer of development rights from the parcel
37 becomes effective and donates 85 residential units to the land that is
38 zoned Village Mixed Use (VMU) and is the subject of this site plan; and

1
2 **WHEREAS**, the special warranty deed conveys to the Village of
3 Palmetto Bay the "Southeast Donation Site", consisting of 13.13 acres
4 of vegetated upland and wetland for use by the Village as preservation
5 area or passive parkland with possible access to Biscayne Bay National
6 Park; and

7
8 **WHEREAS**, with the site plan, the applicant requests acceptance
9 by the Village Council of the declaration of restrictions, covenants and
10 reservations pursuant to Ordinance 2016-14 and Resolution 2016-28;
11 and

12
13 **WHEREAS**, the application accepted by the Village is for
14 approximately 79.55 acres of land, including two tax folios of the Miami-
15 Dade County Property Appraiser: folio #33-5035-013-0020 which is
16 generally the site of the existing office development, and folio #33-5035-
17 013-0010 which is generally comprised of donation sites and includes
18 some of the existing office development; and

19
20 **WHEREAS**, the Village Council of the Village of Palmetto Bay
21 conducted a quasi-judicial hearing on the application at Village Hall,
22 9705 East Hibiscus Street on April 7, 2020; and

23
24 **WHEREAS**, the Mayor and Village Council finds, based on
25 substantial competent evidence in the record, that the application for the
26 site plan, the special warranty deed, and the declaration of restrictions,
27 covenants and reservations is consistent with the Village of Palmetto
28 Bay Comprehensive Plan and the applicable Land Development
29 Regulations; and

30
31 **WHEREAS**, based on the foregoing finding, the Mayor and Village
32 Council determined to grant the application, as provided in this
33 resolution.

34
35 **NOW, THEREFORE, BE IT ENACTED BY THE MAYOR AND**
36 **VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY,**
37 **FLORIDA, AS FOLLOWS:**

1 **Section 1. Findings.** The Village Council hereby incorporates the
2 "Whereas" clauses recited above as findings.

3
4 **Section 2. Findings of fact.**

5 1. The requested site plan is consistent with the Village's
6 Comprehensive Plan, as further specified in the Analysis Section of the
7 Village's Staff report; and

8
9 2. The rules that govern the conditions upon which such uses
10 are permitted to be constructed and operated are principally at Section
11 30-30.5 Site Plan Approval, Section 30-50.19 Village Mixed Use District
12 (VMU) as of October 5, 2017, and Section 30-30-15, Transfer of
13 Development Rights. A review of the Code, as evidenced in the Village
14 staff analysis which is incorporated by reference into this resolution, and
15 after hearing the applicant and applicant's experts, the Village Council
16 found the site plan request consistent with those standards; and

17
18 3. The proposed site plan has been reviewed for traffic impacts
19 by the Village's Traffic consultant that concluded that the study
20 intersections and roadway segments are expected to operate at
21 adopted levels of service or better under all analysis conditions during
22 the A.M and P.M. peak hours, with report completed and submitted to
23 the Village, October 2019 by Kimley Horn & Associates, Inc; and

24
25 4. The proposed site plan has been reviewed for compliance
26 with Ordinance 2016-14 requirement for limitations of trip generation to
27 Old Cutler Road by the Village's Traffic consultant and concluded that
28 the proposed development meets the requirements of the ordinance,
29 with report completed and submitted to the Village, November 22, 2019
30 by Kimley Horn & Associates, Inc; and

31
32 5. The Village Council accepted the findings of the Village staff
33 analysis and report by the Village Attorney that the special warranty
34 deed meets the requirements of Resolution 2016-28 and Section 30-30-
35 15, "Transfer of Development Rights", of the Village of Palmetto Bay
36 zoning code, permitting the transfer of 85 residential development units
37 to the land that is zoned VMU; and

1 6. The Village Council accepted the findings of the Village staff
2 analysis that the special warranty deed supports Village of Palmetto Bay
3 Comprehensive Plan Policy, specifically: "Recreation and Open Space"
4 Objective 7.4, and Policy 7.4.1; and supports Resolution 08-19 for
5 perpetual use of the library and Thalatta Park parking lot and access
6 drives which is the 1.03-acre "Library Donation Site"; and
7

8 7. The Village Council accepted the findings of the Village staff
9 analysis that the special warranty deed supports Village of Palmetto Bay
10 Comprehensive Plan Policy, specifically: "Conservation Element"
11 Objective 6.5, Policy 6.5.1, Objective 6.11, Policy 6.11.2; "Recreation
12 and Open Space" Objective 7.4, Policy 7.4.1; and supports Resolution
13 2018-68 affirming the intent of the Village to preserve in its natural state,
14 the land area of the 21.22-acre "West Donation Site"; and
15

16 8. The Village Council accepted the findings of the Village staff
17 analysis that the special warranty deed supports Comprehensive Plan
18 Policy, specifically: "Coastal Element" Objective 5.1, Policy 5.1.1, Policy
19 5.1.5, Objective 5.2, Policy 5.2.2; and "Conservation Element" Objective
20 6.5, Policy 6.5.1, Objective 6.11, Policy 6.11.2; with regard to the 13.13-
21 acre "Southeast Donation Site"; and
22

23 9. The Village Council accepted the findings of the Village staff
24 analysis and report by the Village Attorney that the Restrictive Covenant
25 meets the requirements of Ordinance 2016-14; and
26

27 10. The Village adopts and incorporates by reference the
28 Planning & Zoning Division staff report, which expert report is
29 considered competent substantial evidence; and
30

31 11. The Village Council has provided substantive disclosures
32 regarding ex-parte communications and the applicant raised no
33 objections as to the form or content of any disclosures by the Council.
34

35 **Section 3. Conclusions of law.**

36 The site plan, acceptance of the accompanying special warranty
37 deed, and acceptance of the restrictive covenant was reviewed
38 pursuant to Sections 30-30.5, 30-30.15 and 30-50.19, of Palmetto Bay's

1 Code of Ordinances, pursuant to Resolution 2016-28 and was found to
2 be consistent.

3
4
5 **Section 4. Order.**

6 Site Plan: The Village Council grants the site plan approval,
7 special warranty deed, and acceptance of the restrictive covenant,
8 consistent with the Land Development Regulations and the Village's
9 Comprehensive Plan. The Village Council, pursuant to Section 30-
10 30.5(j)(1), 30-30.15, 30-50.19 and Resolution 2016-28 approves the
11 plans entitled "17777 Old Cutler Road" for a multi-family development
12 consisting of 480 multifamily development units pursuant to Ordinance
13 2016-14, including amenities, landscaping and parking facilities as
14 dated September 15, 2017 and stamped received by the Village of
15 Palmetto Bay on October 5, 2017, with final non-substantial revisions
16 and responses to staff comments on thirty (30) site plan sheets as
17 signed and sealed on November 21, 2019 by Jose I. Saumell of MSA
18 Architects, and stamped received by the Village on November 22, 2019;
19 and as accompanied by final survey revisions signed and sealed on
20 December 17, 2019 by Antonio Abeleira of E. R. Brownell & Associates,
21 Inc, and stamped received by the Village on December 17, 2019.

22
23 Site Plan Conditions: The Village grants the site plan approval
24 subject to the conditions that a continuous protected pedestrian and
25 bicycle path is designed, constructed and maintained through the site
26 extending to the south access location at Old Cutler Road and SW 184th
27 Street and to the north entrance at Old Cutler Road just south of
28 Ludovici Park.

29
30 Warranty Deed: The Village accepts the warranty deed to 1)
31 convey to the Village of Palmetto Bay the "Library Donation Site",
32 consisting of 1.03 acres of land; 2) convey to the Village of Palmetto Bay
33 the "West Donation Site", consisting of 22.22 acres; and 3) convey to
34 the Village of Palmetto Bay the "Southeast Donation Site", consisting of
35 13.13 acres.

36
37 Transfer of Development Rights: Pursuant to Resolution 2016-18,
38 the Village approves the transfer of development rights of 85 residential

1 development units from the "West Donation Site" to the land that is
2 zoned Village Mixed Use (VMU) for use in the site plan entitled "17777
3 Old Cutler Road" pursuant to the development order as approved by this
4 resolution.

5
6 Declaration of Restrictions, Covenants and Reservations: The
7 Village accepts the declaration of restrictions, covenants and
8 reservations pursuant to Ordinance 2016-14 and Resolution 2016-28;
9 and accepts a restrictive covenant pursuant to Ordinance 2016-14.

10
11 The applicant has agreed to the conditions in the section entitled
12 Order.

13
14 **PASSED and ENACTED** this ____ day of ____ 2020.

15
16 Attest:

17
18
19
20
21 _____
22 Melissa Dodge
23 Acting Village Clerk

24 _____
25 Karyn Cunningham
26 Mayor

27
28
29 APPROVED AS TO FORM AND LEGAL SUFFICIENCY FOR THE
30 USE AND RELIANCE OF THE VILLAGE OF PALMETTO BAY ONLY:

31 _____
32 John Dellagloria
33 Village Attorney
34
35
36
37
38

1 FINAL VOTE AT ADOPTION:
2
3 Council Member Patrick Fiore _____
4
5 Council Member David Singer _____
6
7 Council Member Marsh Matson _____
8
9 Vice-Mayor John DuBois _____
10
11 Mayor Karyn Cunningham _____