VILLAGE OF PALMETTO BAY

Mayor Karyn Cunningham
Vice Mayor John DuBois
Council Member Patrick Fiore (Seat 1)
Council Member David Singer (Seat 2)
Council Member Marsha Matson (Seat 3)

Interim Village Manager Gregory Truitt
Village Attorney John Dellagloria
Acting Village Clerk Melissa Dodge

In accordance with the Americans with Disabilities Act of 1990, persons needing special accommodation, a sign language interpreter, or hearing impaired to participate in this proceeding should contact the Village Clerk at (305) 259-1234 for assistance no later than four days prior to the meeting.

AGENDA
VIRTUAL SPECIAL VILLAGE COUNCIL MEETING
TUESDAY, JUNE 2, 2020 – 7:00 PM

(305) 259-1234

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1. CALL TO ORDER, ROLL CALL, INVOCATION, PLEDGE OF ALLEGIANCE, DECORUM STATEMENT, IN THAT ORDER: Any person making impertinent or slanderous remarks, or who becomes boisterous, while addressing the Council may be barred from further appearance before the Council by the Mayor, unless permission to continue or again address the Council is granted by a majority vote of the Council. Applauding speakers shall be discouraged. Heckling or verbal outbursts in support or opposition to a speaker, or his or her remarks, shall be prohibited. No signs or placards shall be allowed in the Council meeting. Persons exiting the Council meeting shall do so quietly. All cellular telephones and beepers are to be silenced during the meeting.

2. REQUESTS, PETITIONS AND PUBLIC COMMENTS SUBMITTED

3. RESOLUTIONS WITH PUBLIC COMMENTS SUBMITTED

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.

The meeting will open and this item will be continued to a date and time to be announced at the virtual meeting.

4. COUNCIL COMMENTS

5. NEXT MEETING AND 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.

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.

ITEM 3A

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).

RESOLUTION NO. 2020-___

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.

WHEREAS, the applicant, "17777 Old Cutler Road, LLC" filed an application for 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, with application that is dated September 15, 2017 and stamped received by the Village of Palmetto Bay on October 5, 2017; and

WHEREAS, Ordinance 2016-13 and 2016-14, adopted on May 2, 2016 provide that 400 multi-family residential units without age restriction are permissible on the land that is zoned "VMU"; and

WHEREAS, Ordinance 2016-14, adopted on May 2, 2016 provides that building heights are permitted up to 85-feet to the roofline on the land that is zoned "VMU"; and

WHEREAS, Ordinance 2016-14, adopted on May 2, 2016 provides that certain trip generation and assignment limitations related to vehicular traffic on Old Cutler Road are to be applied as criteria to approve residential development on the land that is zoned "VMU"; and

WHEREAS, with the site plan, the applicant requests acceptance by the Village Council of a special warranty deed pursuant to Resolution 2016-28; and

Additions shown by underlining and deletions shown by ~~overstriking~~.
"***" indicates portions of code excluded.

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

WHEREAS, the special warranty deed 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; and

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

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

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

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

Additions shown by underlining and deletions shown by ~~overstriking~~.
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WHEREAS, the special warranty deed 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 preservation area or passive parkland with possible access to Biscayne Bay National Park; and

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

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

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

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

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

NOW, THEREFORE, BE IT ENACTED BY THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, AS FOLLOWS:

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

Section 2. Findings of fact.

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

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

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

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

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

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

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

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

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

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

11. 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.

Section 3. Conclusions of law.

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

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

Section 4. Order.

Site Plan: The Village Council grants the site plan approval, special warranty deed, 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 pursuant to Ordinance 2016-14, 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.

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.

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

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

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

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

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

PASSED and ENACTED this ___ day of _____ 2020.

Attest:

_____	_____
Melissa Dodge	Karyn Cunningham
Acting Village Clerk	Mayor

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

_____

John Dellagloria
Village Attorney

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FINAL VOTE AT ADOPTION:

Council Member Patrick Fiore _____

Council Member David Singer _____

Council Member Marsh Matson _____

Vice-Mayor John DuBois _____

Mayor Karyn Cunningham _____

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