

Holland & Knight

701 Brickell Avenue, Suite 3300 | Miami, FL 33131 | T 305.374.8500 | F 305.789.7799
Holland & Knight LLP | www.hklaw.com

Pedro Gassant
305.789.7430
pedro.gassant@hklaw.com

April 16, 2019

VIA ELECTRONIC MAIL

Mr. Mark Alvarez
Village of Palmetto Bay
Interim Planning and Zoning Director
9705 East Hibiscus Street
Palmetto Bay, FL 33157

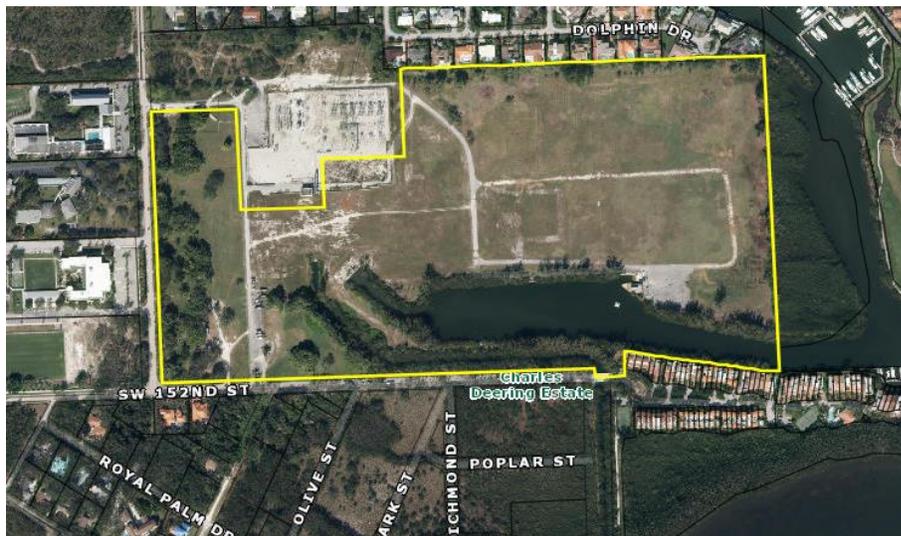
**Re: Letter of Intent / Hospital Site Plan Application /Yacht Club by Luxcom, LLC
("Applicant")**

Dear Mr. Alvarez,

This Letter of Intent ("LOI") is submitted in support of the request by Yacht Club by Luxcom, LLC ("Applicant") for site plan approval to facilitate the future development of a hospital on that certain parcel of land located on the northeast corner of the intersection of SW 152nd Street and SW 67th Avenue, which parcel of land is identified by Miami-Dade Property Appraiser Folio No. 33-5024-000-0025 (the "Property"). The Property contains approximately 71 acres, but for purposes of this application, the Applicant is only seeking approval for the eastern 60.11 acres.¹

The purpose of this LOI is to provide the basis of support for the Applicant's request to obtain site plan approval for a premiere hospital resort campus. As part of this LOI, we will address the land use, zoning, and land development regulations and case law that allow the Applicant to proceed directly to site plan approval for the proposed Hospital Resort Campus. For your convenience, a rough depiction of the boundaries of the Property is provided below.

¹ The acreage includes the area of the access canal.



General Background

The Property is one of the last large parcels of land located in Miami-Dade County that will enable the development of a premiere hospital resort campus that will provide needed services to the public and, in particular, Palmetto Bay residents. The hospital resort campus will help to address the need of the rapidly growing and aging population of Miami-Dade County, which is growing at a rate of approximately 36,000 people annually.

The Property provides the opportunity to have a state of the art hospital in the Village of Palmetto Bay that will provide efficient medical services and address dire medical needs for residents of Palmetto Bay and the general Miami-Dade County population. Specifically, the hospital resort campus is being designed to promote mental and physical healing to patients with the latest technology and unprecedented service amenities. It's unique design will promote mental and physical healing to patients due to its enviable waterfront views.

The hospital resort campus creates a unique opportunity to provide residents with unparalleled access to the needed medical resources of the South Florida Community. North of the Property is the Kings Bay subdivision of the City of Coral Gables; west of the Property are several major institutional uses such as the Westminster Christian Private School, the Christ Congregational Church, and the Alexander School; northeast of the Property are the Deering Bay Club Villas, and the Deering Bay Condos; southeast of the Property is the Royal Harbour Yacht Club residential community. Each of these communities and institutions, as well as Palmetto Bay residents in general, will enjoy access to premier medical services. Indeed, the approval of the hospital will substantially increase emergency response times in this area of the County. By approving the hospital, the Village will join the ranks of other great cities in the County and elsewhere which enjoy the benefits of having medical facilities in the midst of great residential neighborhoods.

CDMP: Institutional Use

The Property is designated “Institutional Use” on the Village’s Future Land Map. This designation has existed since the Town’s adoption of its Comprehensive Plan following incorporation. However, the Property has been used for institutional purposes since 1953. The “Institutional Use” category allows, among other things, hospitals, non-profit medical facilities, and cemeteries. Thus, the proposed hospital is entirely consistent with the Property’s land use designation of “Institutional Use.”

Zoning: Interim and Public Facilities

The portion of the Property where the Applicant is seeking to develop the hospital is zoned “Interim” on the Village’s Zoning Map. The Interim zoning category typically requires a trend of development report to determine the types of the uses that would be permitted on the Property. However, an exception to this general rule is found in the “Public Facilities” section of the Village’s code. Section 30-50.21 provides that “public hospitals, nursing homes and health facilities” may be approved for development “without regard to the zoning or use classification of any particular site or location.”

Florida case law has been clear that zoning regulations may only relate to the use and not the ownership of property. Specifically, in *City of Kissimmee v. Ellis*, 431 So. 2d 283 (Fla. 5th DCA 1983) Jack Ellis sought approval of a privately owned museum to display artifacts for educational purposes to the public. The applicable zoning ordinance in that case permitted public libraries, public museums, public schools, colleges and similar educational institutions. The City denied Mr. Ellis’s request on the basis that his museum would not constitute a “public museum because it was not owned by the City of Kissimmee.” *Id.* at 284. The Court held that “[z]oning ordinances properly relate to the use, and not to the ownership, of land and improvements and noted that the terms public libraries, public museums, and public schools in this zoning ordinance properly refer to the use of facilities ... and not to their ownership.” *Id.* at 285. As a result, the court held that the City of Kissimmee was without lawful authority to prohibit Mr. Ellis use of the museum and to deny him the necessary permits and licenses needed to conduct that use. Indeed, the Court concluded Mr. Ellis’s “proposed privately owned and operated museum will constitute a public museum as long as it is open to the public.” *Id.* at 285; *see also T-Mobile South, LLC v. City of Port St. Lucie*, 2010 WL 11610298, at *2 (S.D. Fla. June 29, 2010) (noting that zoning ordinances properly relate to the use, and not the ownership, of land and improvements) *citing City of Kissimmee*. Therefore, the proposed hospital, which will be open to the public, may be approved under Section 30-50.1 of the Code.

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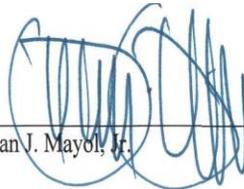
Finally, the site plan for the hospital fully satisfies the following criteria of Section 30-30.5:

- 1a. the hospital is consistent with the land use designation of "Institutional Use," which expressly provides that hospitals and medical facilities are allowed within that land use designation;
- 1b. the hospital complies with all of the requirements of the zoning district, which actually provides no specific limitations for the Property with respect to a public hospital;
- 1c. the site plan complies with the Village's subdivision regulations and the Applicant will submit a tentative plat application demonstrating such conformance;
- 1d. the design for the hospital provides immaculate buffering to the neighboring property to the north and the adjoining property to the west. The site plan also provides well planned internal circulation for vehicles and pedestrian vistas for views of the lush landscaped walking trails. In addition, the building arrangement is designed to allow the buildings to be encapsulated behind lushly landscaped areas.
- 1e. the site plan is in conformance with the Village policy of sufficiency of ownership because it will be developed by the Applicant, which has been awarded 400 preeminent development awards over the past 30 years and has the financial wherewithal and capacity to ensure the development of the Property and any necessary improvements.

For these reasons, we believe that the site plan should be approved. Should you have any questions or require additional information, please do not hesitate to contact me directly at 305-789-7430.

Respectfully yours,

HOLLAND & KNIGHT LLP

By: 
Juan J. Mayol, Jr.

Respectfully yours,

HOLLAND & KNIGHT LLP


Pedro Gassant, Esq.

Enclosures