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RESOLUTION NO: 2015-102

ZONING APPLICATION VPB-15-013

A RESOLUTION OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA; RELATING TO ZONING; AUTHORIZING MODIFICATION OF A COVENANT PROVISIO, REMOVING RESTRICTIONS TO THE PROPERTY LOCATED AT 8950 SW 152 STREET PERTAINING TO SPECIFIC MEDICAL USES; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, on April 18, 2001, the Miami-Dade Zoning Appeals Board 13 approved resolution CZAB 13-6-01, approving, among other items, the rezoning of 8950 SW 152 Street from RU-2 and EU-1, to RU-5A;

WHEREAS, that resolution included language accepting but not requiring a declaration of restrictions which, among other things, placed certain restrictions with regard to permitted uses at the property;

WHEREAS, on May 9, 2001, that declaration of restrictions was recorded at Official Record, Book 19805, Pages 3959-3975;

WHEREAS, in 2009, the Village of Palmetto Bay adopted its own zoning map which aligned those lands zoned RU-5A under Miami-Dade County's Code, to the Village's zoning designation of R-5, which action included the property in question;

WHEREAS, the new owners of the property are requesting a modification to the declaration of restrictions removing certain medical uses from the limited usage provisions provided therein and to provide additional protections to the adjacent neighborhood;

WHEREAS, the modification of the self-imposed declaration of restriction requires the approval of the local governing body, the Village of Palmetto Bay;

WHEREAS, pursuant to the declaration, the applicant must first notify the Alliance of Coral Reef Estates Homeowners Association (ACRE) 30 days prior to applying for a modification, however ACRE provided documentation of no objection to allow application prior to expiration of the full 30 days;

WHEREAS, the requested modification is consistent with the R-5 zoning and is agreeable to ACRE;

WHEREAS, the Mayor and Village Council authorize amending the previous declaration of restriction, as more particularly provided at Attachment A, to permit medical uses while providing for additional protections to the adjacent neighborhood.

1
2 **NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND VILLAGE**
3 **COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, AS FOLLOWS:**
4

5 **Section 1.** Hearings on the present application were held on November 16, 2015, in
6 accordance with section 2-105, of the Village's Code of Ordinances. Pursuant to the hearing, the
7 Mayor and Village Council make the following findings of fact, and conclusions of law.
8

9 **Section 2.** **Findings of fact.**

- 10
11 1. The subject properties are located at 8950 SW 152nd Street
12
13 2. The above whereas clauses incorporated herein are true.
14
15 3. The rules that govern the deletion are principally at Section 30-30.9(c). After hearing
16 the Applicant and applicant's experts, the Village Council found the request consistent with those
17 standards.
18
19 4. The Village Council accepts the findings of staff as so presented in the written
20 analysis and as presented at the hearing as it relates to compliance with the Village's Code.
21
22 5. The Village adopts and incorporates by reference the Planning & Zoning
23 Department staff report, which expert report is considered competent substantial evidence.
24
25 6. The Village Council did not have any substantive disclosures regarding ex-parte
26 communications and the applicant did not raise any objections as to the form or content of any
27 disclosures by the Council.
28

29 **Section 3.** **Conclusions of law.**

- 30
31 1. The Application is in compliance with the adopted 2009, Village of Palmetto Bay
32 Comprehensive Plan and Future Land Use Map.
33
34 2. The standard of review for the deletion is found at 30-30.9(c) of the Village of
35 Palmetto Bay's Land Development Code. The Applicant's request is in compliance with the
36 applicable standards.
37

38 **Section 4.** **Order.**

39
40 The Village Council, pursuant to Section 30-30.9(c), of the Land Development Code,
41 approves the request to modify the declaration of restriction recorded at Official Record, Book
42 19805, Pages 3959-3975, with the proposed declaration of restriction provided herein at Attachment
43 A.
44

1 The applicant shall be required to record in the public record the proposed declaration of
2 restriction provided at Attachment A of this resolution within 60 days of the effective date of this
3 order.
4

5 This is a final order.
6

7 **Section 5. Record.**
8

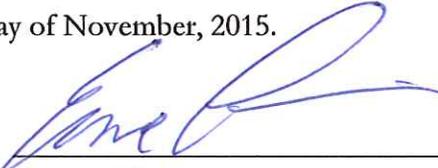
9 The record shall consist of the notice of hearing, the application, documents submitted by
10 the Applicant and the Applicant's representatives to the Village of Palmetto Bay Planning and
11 Zoning Department in connection with the application, the Village's recommendation and attached
12 cover sheet and documents, the testimony of sworn witnesses and documents presented at the
13 quasi-judicial hearing, and the tape and minutes of the hearing. The record shall be maintained by
14 the Village Clerk.
15

16 **Section 6.** This resolution shall take effect immediately upon approval.
17

18 PASSED and ADOPTED this 18th day of November, 2015.
19

20
21 Attest:


22 Meighan Alexander
23 Village Clerk
24


25 Eugene Flinn
26 Mayor
27

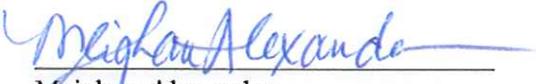
28 APPROVED AS TO FORM AND LEGAL SUFFICIENCY FOR THE
29 USE AND RELIANCE OF THE VILLAGE OF PALMETTO BAY ONLY:
30


31 Dexter W. Lehtinen
32 Village Attorney
33

34 FINAL VOTE AT ADOPTION:

35
36 Council Member Karyn Cunningham YES
37
38 Council Member Tim Schaffer YES
39
40 Council Member Larissa Siegel Lara YES
41
42 Vice-Mayor John DuBois YES
43
44 Mayor Eugene Flinn YES
45

1
2 This Resolution was filed in the Office of the Village Clerk on this 7th day of December, 2015.

3 
4 _____
5 Meighan Alexander
6 Village Clerk