

RESOLUTION NO. 2017-79

ZONING APPLICATION VPB-16-008

A RESOLUTION OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, RELATING TO ZONING; APPROVING 9700 EAST INDIGO STREET, LLC AND INDIGO GARDENS DEVELOPERS, LLC SITE PLAN ENTITLED SANDPIPER VILLAGE OF PALMETTO BAY, REQUEST FOR THE PROPERTY LOCATED AT 9701 WAYNE STREET BEARING FOLIO NUMBERS 33-5032-007-0190, 33-5032-007-0180, 33-5032-007-0170, 33-5032-007-0160; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Applicant, Indigo Gardens Developers, LLC made an application for a site plan entitled “Sandpiper Village of Palmetto Bay”, which included design considerations and bonus floors, for the property located at 9701 Wayne Street, bearing the folio numbers 33-5032-007-0190, 33-5032-007-0180, 33-5032-007-0170, 33-5032-007-0160; and

WHEREAS, the Village Council of the Village of Palmetto Bay conducted a quasi-judicial public hearing on the application at Village Hall, 9705 East Hibiscus Street on May 15, 2017; and

WHEREAS, the Mayor and Village Council finds, based on substantial competent evidence in the record, that the application for the site plan 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 RESOLVED BY THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, AS FOLLOWS:

Section 1. Public hearing. A public hearing on the present application was held on May 15, 2017, in accordance with the Village's

1 “Quasi-judicial Hearing Procedures”. Pursuant to the testimony and
2 evidence presented during the hearing, the Village Council makes the
3 following findings of fact, conclusions of law and final order.
4

5 **Section 2. Findings of fact.**
6

7 1. The requested site plan is consistent with the Village's
8 Comprehensive Plan, as further specified in the Analysis Section of the
9 Village's Staff report.
10

11 2. The rules that govern the conditions upon which such uses are
12 permitted to be configured and operated are principally at Section 30-30.5
13 Site Plan Approval, Section 30-50.23, DUV Downtown Urban Village, and
14 Division 30-100, Environmental Regulations, of the Village's Land
15 Development Code. A review of the Code, as evidenced in the analysis of
16 staff, which is incorporated by reference into this resolution, and after
17 hearing the applicant and applicant's experts, the Village Council found the
18 site plan modification request consistent with those standards.
19

20 3. The Applicant's traffic study, dated February 13th, 2017,
21 indicates that the number of trips generated by the proposed site plan does
22 not cause the adjacent roadway to exceed the maximum capacity
23 thresholds established by Miami-Dade County. The Village's traffic
24 engineering consultant accepts this finding.
25

26 4. The Village Council accepted the findings of Village Staff as it
27 relates to compliance with the following provisions of the Village's Code:
28 Section 30-30.5, 30-50.23, and 30-100, and the accepted the findings of
29 the traffic study as confirmed by the Village's traffic engineering consultant.
30

31 5. The Village adopts and incorporates by reference the Planning
32 & Zoning Division staff report, which expert report is considered competent
33 substantial evidence.
34

35 6. The applicant has agreed to all proposed modifications and
36 conditions in the section entitled Order.
37

38 7. The Village Council had not substantive disclosures regarding
39 ex-parte communications and the applicant raised no objections as to the
40 form or content of any disclosures by the Council.

1 **Section 3. Conclusions of law.**
2

3 The site plan for the specific use was reviewed pursuant to Sections
4 30-30.5, Section 30-50.23, and Division 30-100, of Palmetto Bay's Code of
5 Ordinances, and was found to be conditionally consistent.
6

7 **Section 4. Order.**
8

9 The Village Council grants the site plan request as it would be in keeping
10 with the applicable Land Development Regulations with the Village's
11 Comprehensive Plan. The Village Council, pursuant to Section 30-
12 30.5(j)(1), 30-50.23, and 30-100, approves the plans entitled "Sandpiper
13 Village of Palmetto Bay" as prepared by Axioma3 Architects, consisting of
14 23 sheets, dated stamped received March 31st, 2017, together with the
15 traffic study prepared by David Plumber & Associates, dated stamped
16 received February 13th, 2017, with the following conditions:
17

- 18 1. The project is allocated 95 residential reserve units, which
19 allocation shall expire within two years of the adoption of the
20 site plan resolution unless building permits are issued for their
21 construction prior to said expiration, and provided said building
22 permits for the construction thereto remain active and/or
23 receive final certificate of occupancy.
24
- 25 2. The bonus floors shall be granted, provided the development
26 continues to include the provided public open space and said
27 project is built thereto accordingly.
28
- 29 3. Design consideration from Section 3.02.C.2, is granted
30 provided the buildings are constructed in substantial
31 compliance with the approved plan.
32
- 33 4. Design consideration from Section 4.03.C.4, is granted
34 provided the buildings are constructed in substantial
35 compliance with the approved plan.
36
- 37 5. Design consideration from Section 4.04.A.8.d, is granted
38 provided the buildings are constructed in substantial
39 compliance with the approved site plan.
40

- 1 6. Design consideration from Section 4.06.A.3.b is granted
2 provided the buildings are constructed in substantial
3 compliance with the approved site plan.
4
- 5 7. The project shall comply with all Village Public Services
6 Department comments in the memo dated April 13th, 2017.
7
- 8 8. Parking shall comply with Village parking requirements without
9 waiver or design consideration; and no building permit shall be
10 issued until the applicant's application documents reflect a
11 certification by the architect that the parking facilities meet the
12 requirements of Palmetto Bay Code, approved in writing by the
13 Planning Director.
14
- 15 9. The setback from the western property line which is contiguous
16 to the adjoining property which itself is contiguous to E. Indigo
17 Street shall be three (3) feet.
18
- 19 10. There shall be installed and maintained a suitable landscape
20 buffer to provide a noise moderation buffer at the western
21 boundary adjacent to Wayne Avenue.
22

23 **This is a final order.**

24

25 **Section 5. Record.**

26

27 The record shall consist of the notice of hearing, the applications,
28 documents submitted by the applicant and the applicants' representatives
29 to the Village of Palmetto Bay Division of Planning and Zoning in
30 connection with the applications, the testimony of sworn witnesses and
31 documents presented at the quasi-judicial hearing, and the tape and
32 minutes of the hearing. The record shall be maintained by the Village
33 Clerk.
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35 **Section 6. Effective date.**

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37 This Resolution shall take effect immediately upon approval.
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PASSED and ADOPTED this 19th day of June, 2017.

Attest:

DocuSigned by:
Missy Arocha
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Missy Arocha
Village Clerk

DocuSigned by:
Eugene Flinn
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Eugene Flinn
Mayor

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

DocuSigned by:
Dexter W. Lehtinen
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Dexter W. Lehtinen
Village Attorney

FINAL VOTE AT ADOPTION:

- Council Member Karyn Cunningham YES
- Council Member David Singer YES
- Council Member Larissa Siegel Lara YES
- Vice-Mayor John DuBois YES
- Mayor Eugene Flinn YES