

**RESOLUTION NO. 2018-97**

**ZONING APPLICATION VPB-16-018**

**A RESOLUTION OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, RELATING TO ZONING; APPROVING MR. WAYNE ROSEN OF SHORES AT PALMETTO BAY, LLC, FOR: ALLOCATION OF 129 RESERVE RESIDENTIAL UNITS ; DEVELOPMENT BONUS OF ONE (1) ADDITIONAL FLOOR ABOVE MAXIMUM; AND APPROVING THE PROPOSED SITE PLAN WITH DESIGN CONSIDERATIONS FOR THE PROPERTY LOCATED AT: 17800 SW 97<sup>TH</sup> AVENUE; BEARING FOLIO NUMBER 33-5033-000-0860; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, The applicant, Mr. Wayne Rosen of the “Shores at Palmetto Bay, LLC” filed an application, accepted by the Village of Palmetto Bay on February 22, 2017, for a mixed use development, including a development bonus of 3 additional floors above maximum height, and 309 residential units, of which 176 were requested allocation of reserve residential units; and

**WHEREAS**, the application accepted by the Village was for a 5.02-acre site that includes folios 33-5033-000-0860, 33-5033-000-0862, 33-5033-000-0863; of which the folios 33-5033-000-0862, 33-5033-000-0863 have now been purchased by the Village for public use, and can no longer be a part of a private development; and

**WHEREAS**, the application is for the remainder 2.75-acre land that is the entirety of Folio 33-5033-000-0860 that is the logical remainder part of the February 22, 2017 application;

**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 July 16 and 23, 2018; and

**WHEREAS**, the Mayor and Village Council finds, based on substantial competent evidence in the record, that the application for the site plan is

1 consistent with the Village of Palmetto Bay Comprehensive Plan and the  
2 applicable Land Development Regulations; and  
3

4 **WHEREAS**, based on the foregoing finding, the Mayor and Village  
5 Council determined to grant the application, as provided in this resolution.  
6

7 **NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND**  
8 **VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA,**  
9 **AS FOLLOWS:**

10  
11 **Section 1.** A public hearing on the present application was held on  
12 July 16, 2018, in accordance with the Village's "Quasi-judicial Hearing  
13 Procedures". Pursuant to the testimony and evidence presented during the  
14 hearing, the Village Council makes the following findings of fact,  
15 conclusions of law and final order.  
16

17 **Section 2. Findings of fact.**  
18

19 1. The requested site plan is consistent with the Village's  
20 Comprehensive Plan, as further specified in the Analysis Section of the  
21 Village's Staff report.  
22

23 2. The rules that govern the conditions upon which such uses are  
24 permitted to be configured and operated are principally at Section 30-30.5  
25 Site Plan Approval, Section 30-50.23, DUV Downtown Urban Village, and  
26 Division 30-100, Environmental Regulations, of the Village's Land  
27 Development Code. A review of the Code, as evidenced in the analysis of  
28 staff, which is incorporated by reference into this resolution, and after  
29 hearing the applicant and applicant's experts, the Village Council found the  
30 site plan request consistent with those standards.  
31

32 3. The Applicant's traffic study, dated May 18, 2018, indicates that the  
33 number of trips generated by the proposed site plan does not cause the  
34 adjacent roadway to exceed the maximum capacity thresholds established  
35 by Miami-Dade County.  
36

37 4. The Village Council accepted the findings of Village Staff as it relates  
38 to compliance with the following provisions of the Village's Code: Section  
39 30-30.5, 30-50.23, and 30-100, and the accepted the findings of the traffic  
40 study.

1 5. The Village adopts and incorporates by reference the Planning &  
2 Zoning Division staff report, which expert report is considered competent  
3 substantial evidence.

4  
5 7. The Village Council has provided substantive disclosures regarding  
6 ex-parte communications and the applicant raised no objections as to the  
7 form or content of any disclosures by the Council.

8  
9  
10 **Section 3. Conclusions of law.**

11  
12 The allocation of reserve residential units, development bonus request,  
13 and site plan for the specific use was reviewed pursuant to Sections 30-  
14 30.5, Section 30-50.23, and Division 30-100, of Palmetto Bay's Code of  
15 Ordinances, and was found to be conditionally consistent.

16  
17 **Section 4. Order.**

18  
19 The Village Council grants the allocation of 129 reserve residential units,  
20 a development bonus of one (1) additional floor in height, and site plan  
21 approval request as it would be in keeping with the applicable Land  
22 Development Regulations with the Village's Comprehensive Plan. The  
23 Village Council, pursuant to Section 30-30.5(j)(1), 30-50.23, and 30-100,  
24 approves the plans entitled "Multi-Use Building, Village of Palmetto Bay"  
25 as prepared by Design Tech International and signed by Carlos Pizarro,  
26 RA, consisting of 25 sheets, date-stamped received June 29, 2018 and as  
27 presented to Village Council on July 16 and 23, 2018, together with the  
28 traffic study prepared by Richard Garcia & Associates, Inc., dated May 18<sup>th</sup>,  
29 2018, with the design considerations, modifications and conditions listed in  
30 this section. The applicant has agreed to all proposed design  
31 considerations, modifications and conditions in the section entitled Order.

32  
33 Design Considerations:

- 34  
35 1) Pursuant to Section 30-50.23, Subsections 1.05, and 2.06, A. Table 2  
36 (p.14), the minimum residential unit size allowed is 600 square feet,  
37 while maintaining an average dwelling unit size of 750 square feet for  
38 all 220 dwelling units that are a part of the project; and  
39

- 1       2) Pursuant to Section 30-50.23, Subsections 1.05, and 3.02, A. DV  
2       Sector (p.19), the secondary built-to line will be provided above the  
3       1<sup>st</sup> floor and 4<sup>th</sup> floor instead above the 2<sup>nd</sup> floor, in substantial  
4       compliance with the plans provided at the hearing; and  
5
- 6       3) Pursuant to Section 30-50.23, Subsections 1.05, and 3.02, A. DV  
7       Sector (p.19), the setbacks will be provided as follows: 7'-5" setback  
8       on Franjo Road (SW 97<sup>th</sup> Avenue), 2'-5" setback on SW 178<sup>th</sup> Street,  
9       3'-0" setback on SW 179<sup>th</sup> Street, and 0'-0" setback at the rear lot line  
10      (east lot line) with the condition that no penetrations or openings are  
11      to be located on the east façade of the building where the façade  
12      abuts the rear lot line except as already provided in the plans  
13      provided at the hearing; and  
14
- 15     4) Pursuant to Section 30-50.23, Subsections 1.05, and 3.02, A. DV  
16     Sector (p.19), the sidewalk width along Franjo Road is permitted at  
17     17'-3", in substantial compliance with the plans provided at the  
18     hearing; and  
19
- 20     5) Pursuant to Section 30-50.23, Subsections 1.05, and 4.03, C. Parking  
21     Standards (p.37), the structured parking at the 2<sup>nd</sup> and 3<sup>rd</sup> levels is to  
22     be constructed without habitable building spaces along street  
23     frontages, with the condition that decorative screening fenestrated in  
24     a pattern consistent with the overall design of the project that  
25     effectively shields the view of vehicles is to be constructed and  
26     maintained, in substantial compliance with the plans provided at the  
27     hearing; and  
28
- 29     6) Pursuant to Section 30-50.23, Subsections 1.05, and 3.02, A. DV  
30     Sector (p.19), private open space is to be constructed and maintained  
31     with an area equal to 10% of the site, with the condition that public  
32     open space is constructed and maintained in substantial compliance  
33     with the plans provided at the hearing.  
34

35   Conditions:

- 36
- 37     1) The applicant will modify plans to provide additional parking through  
38     underground parking consistent with the requirements for  
39     underground parking, such that on-site parking spaces are increased  
40     by a minimum of ninety (90) parking spaces, increasing the total of

- 1 provided parking from 217 to a minimum of 307. The increase in  
2 parking may include the provision of self-park spaces as well as  
3 valet-tandem or mechanical spaces. Parking spaces are to comply  
4 with the requirements of Section 30-50.23, Subsections 4.03 C.  
5 Parking Standards, and Section 30-70, Parking and Loading  
6 Standards; and  
7
- 8 2) The project will provide ground floor retail space of 1,500 square feet  
9 or more (gross leasable area) for a period of three (3) calendar years  
10 to the Village of Palmetto Bay as business incubator space without  
11 cost to the Village; after-which the Village may continue to lease the  
12 area at a rent that is calculated at the market rate at that time; and  
13
- 14 3) Additional retail space will be provided in the form of four (4) kiosks  
15 with necessary utility connections to be located along SW 178<sup>th</sup>  
16 Street, and in size and form to be approved by the Village Planning  
17 Director; and  
18
- 19 4) Additional gym space is to be provided in the form of a mezzanine  
20 above the main gym floor on the 4<sup>th</sup> level to add private amenity  
21 space for the residents of the project, with the additional private open  
22 space to be in addition to that allowed by Design Consideration #6;  
23 and  
24
- 25 5) A transit pick-up / drop-off turnout lane with transit stop amenities is  
26 to be constructed along Franjo Road, designed to accommodate  
27 Village, private provider or County transit vehicles; and  
28
- 29 6) A covenant running with the land is to be provided requiring that open  
30 space, landscaping and hardscape design features as shown on the  
31 site plan shall be constructed and maintained, in substantial  
32 compliance with the plans provided at the hearing; and  
33
- 34 7) Fiber-optic communications will be required throughout the project;  
35 and  
36
- 37 8) The project shall comply with the conditions in the staff  
38 recommendation, as approved by Village Council; and  
39

9) The project shall comply with all Village Public Services Department comments and the Village's traffic engineer.

**This is a final order.**

**Section 5. Record.**

The record shall consist of the notice of hearing, the Village of Palmetto Bay Staff Report, the applications, documents submitted by the applicant and the applicants' representatives to the Village of Palmetto Bay Division of Planning and Zoning in connection with the applications, the testimony of sworn witnesses and documents presented at the quasi-judicial hearing, and the tape and minutes of the hearing. The record shall be maintained by the Village Clerk.

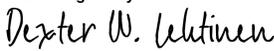
**Section 6.** This resolution shall take effect immediately upon approval.

**PASSED and ADOPTED** this 23<sup>rd</sup> day of July, 2018.

Attest:   
Missy Arocha  
Village Clerk

  
Eugene Flinn  
Mayor

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

  
Dexter W. Lehtinen  
Village Attorney

1 **FINAL VOTE AT ADOPTION:**  
2  
3 Council Member Karyn Cunningham YES  
4  
5 Council Member David Singer YES  
6  
7 Council Member Larissa Siegel Lara YES  
8  
9 Vice-Mayor John DuBois ABSENT  
10  
11 Mayor Eugene Flinn YES