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**RESOLUTION NO. 2016-51**

**ZONING APPLICATION VPB-16-007**

**A RESOLUTION OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, RELATING TO ZONING; APPROVING FCI PALMETTO BAY, LLC'S SITE PLAN REQUEST FOR THE PROPERTY LOCATED AT 17945 SW 97<sup>TH</sup> AVENUE BEARING FOLIO NUMBER 33-5033-003-0880; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, the Applicant, FCI Palmetto Bay, LLC made an application for a site plan, which included design considerations and a bonus floor, for the property located at 17945 SW 97<sup>th</sup> bearing the folio number 33-5033-003-0880; 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 June 20, 2016; 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.** A public hearing on the present applications was held on June 20, 2016, in accordance with the Village's "Quasi-judicial Hearing Procedures". Pursuant to the testimony and evidence presented during the hearing, the Village Council makes the following findings of fact, conclusions of law and final order.

**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.

2. The rules that govern the conditions upon which such uses are permitted to be configured and operated are principally at Section 30-30.5 Site Plan Approval, Section 30-50.23, DUV Downtown Urban Village, and Division 30-100, Environmental Regulations, of the Village's Land Development Code. A review of the Code, as evidenced in the analysis of staff, which is incorporated by reference into this resolution, and after hearing the applicant and

1 applicant's experts, the Village Council found the site plan modification request consistent with  
2 those standards.

3  
4 3. The Applicant's traffic study, dated May, 2016, indicates that the number of trips  
5 generated by the proposed site plan does not cause the adjacent roadway to exceed the maximum  
6 capacity thresholds established by Miami-Dade County. The Village's traffic engineering  
7 consultant accepts this finding.

8  
9 4. The Village Council accepted the findings of Village Staff as it relates to  
10 compliance with the following provisions of the Village's Code: Section 30-30.5, 30-50.23, and  
11 30-100, and the accepted the findings of the traffic study as confirmed by the Village's traffic  
12 engineering consultant.

13  
14 5. The Village adopts and incorporates by reference the Planning & Zoning  
15 Department staff report, which expert report is considered competent substantial evidence.

16  
17 6. The applicant has agreed to all proposed modifications and conditions in the  
18 section entitled Order.

19  
20 7. The Village Council had not substantive disclosures regarding ex-parte  
21 communications and the applicant raised no objections as to the form or content of any  
22 disclosures by the Council.

23  
24 **Section 3. Conclusions of law.**

25  
26 The site plan modification for the specific use was reviewed pursuant to Section 30-  
27 30.5(j)(1) of the Village of Palmetto Bay's Code of Ordinances, and was found to be conditionally  
28 consistent.

29  
30 **Section 4. Order.**

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32 The Village Council grants the site plan request as it would be in keeping with the applicable  
33 Land Development Regulations with the Village's Comprehensive Plan. The Village Council,  
34 pursuant to Section 30-30.5(j)(1) approves the plans entitled "Atlantico at Palmetto Bay" as  
35 prepared by MSA Architects, consisting of 16 sheets, dated stamped received May 9, 2016,  
36 together with the traffic study, prepared and updated on May, 2016, by David Plumber &  
37 Associates, dated stamped received May 19, 2016 with the following conditions:

- 38  
39 1) The project is allocated 162 residential reserve units, which allocation shall expire within  
40 two years of the adoption of the site plan resolution unless building permits are issued for  
41 their construction prior to said expiration, and provided said building permits for the  
42 construction thereto remain active and/or receive final certificate of occupancy.  
43

- 1 2) The bonus floor shall be granted provided the development continues to include the  
2 provided public open space and said project is built thereto accordingly.
- 3
- 4 3) Design consideration from Section 4.03.C.a.(i), is granted provided the applicant provides  
5 the open space as indicated on the plans dated May 28<sup>th</sup>, 2016.
- 6
- 7 4) Design consideration from Section 4.03.C.4, is granted provided the project is built in  
8 substantial compliance with the approved plans and provided the applicant commits to  
9 the application of an Art in Public Places treatment to those portions of the laterally  
10 street exposed portions of the garage structure.
- 11
- 12 5) Design consideration from Section 4.03.G.3, is granted provided a pedestrian only paseo  
13 is built in substantial compliance with the approved plan.
- 14
- 15 6) Design consideration from Section 4.03.H.1(a), is granted provided the buildings are  
16 constructed in substantial compliance with the approved plan.
- 17
- 18 7) Design consideration from Section 4.03.H.b.(1), is granted provided the buildings are  
19 constructed in substantial compliance with the approved plan.
- 20
- 21 8) Design consideration from Section 4.04.8.(b) is granted provided the buildings are  
22 constructed in substantial compliance with the approved plan.
- 23
- 24 9) The project shall comply with all Village Public Works Department comments in the  
25 memo dated April 15, 2016 and the Villages traffic engineer memo dated May 26, 2016.
- 26
- 27 10) The project shall plant ten trees on the east side of Palmetto Bay Park and planting ten  
28 trees on the east side of Park Drive.

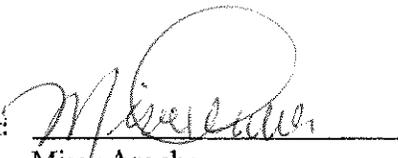
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30 **Section 5. Record.**

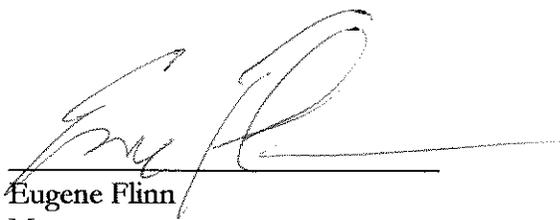
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32 The record shall consist of the notice of hearing, the applications, documents submitted  
33 by the applicant and the applicants' representatives to the Village of Palmetto Bay Department of  
34 Planning and Zoning in connection with the applications, the county recommendation and  
35 attached cover sheet and documents, the testimony of sworn witnesses and documents presented  
36 at the quasi-judicial hearing, and the tape and minutes of the hearing. The record shall be  
37 maintained by the Village Clerk.

38  
39 **Section 6.** This Resolution shall take effect immediately upon approval.

40  
41 PASSED and ADOPTED this 20<sup>th</sup> day of June, 2016.

1 Attest:

2   
3 Missy Arocha  
4 Village Clerk

  
Eugene Flinn  
Mayor

5  
6 APPROVED AS TO FORM AND LEGAL SUFFICIENCY FOR THE  
7 USE AND RELIANCE OF THE VILLAGE OF PALMETTO BAY ONLY:

8  
9   
10 Dexter W. Lehtinen  
11 Village Attorney

12  
13 FINAL VOTE AT ADOPTION:

14 Council Member Karyn Cunningham YES

15  
16 Council Member Tim Schaffer YES

17  
18 Council Member Larissa Siegel Lara YES

19  
20 Vice-Mayor John DuBois ABSENT

21  
22 Mayor Eugene Flinn YES  
23  
24