



Application No.: SP-2015-001

Variance No.: V-2015-017

Attachment "A"

**Letter of Intent, Site Plan and
Variance Applications**

Village of Old Cutler Corp.

A RESOLUTION OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, APPROVING A VARIANCE APPLICATION TO ARTICLE IV, DISTRICTS AND DEVELOPMENT STANDARDS, SEC. 3-58(5) OF THE TOWN CODE RELATING TO THE MINIMUM PERCENTAGE REQUIRED FOR BUILDING FRONTAGE FOR VILLAGE OF OLD CUTLER CORP LOCATED AT 36-6009-003-0310 AND 36-6009-003-0290; AND PROVIDING FOR AN EFFECTIVE DATE.



DIRECT LINE: (305) 377-6229
E-Mail: gpenn@BRZoningLaw.com

VIA HAND DELIVERY

July 8, 2016

Kathryn Lyon
Director
Community Development Department
Town of Cutler Bay
10720 Caribbean Boulevard
Suite 110
Cutler Bay, Florida 33189

RE: Village of Old Cutler - Amended Letter of Intent for Site Plan, Variance and Conditional Use Approval Applications (Folios 36-6009-003-0310 and 36-6009-003-0290)

Dear Ms. Lyon:

Our firm represents Boos Development Group on behalf of CVS Pharmacy, lessee of the above-referenced property (the "Property"). We have, along with Village of Old Cutler Corporation, filed site plan, variance and conditional use applications and hereinafter will collectively be described as the "Applicant." Please consider this letter the Applicant's amended letter of intent in support of the applications.

Reduction/Removal of Variances and Plan Revisions. As we have provided in separate letters, the Applicant has been able to make revisions to the development plans in order to withdraw three (3) variance requests: (1) the variance to permit a driveway exceeding 24 feet; (2) the variance seeking a waiver of Section 3-80(F) to allow reduced fenestration along SW 87 Avenue; and (3) the variance seeking to permit the parking count to exceed the required parking by more than ten (10) percent. The Applicant has also widened the landscape buffer along SW 87 Avenue to be consistent with the

Kathryn Lyon
Director
Community Development Department
July 8, 2016
Page 2 of 11

Town's standards. The project is now in complete compliance with these requirements.

The Applicant has also been able to reduce another variance by expanding the building frontage on Old Cutler and has agreed to enter into a maintenance agreement with the Town to ensure that the landscape buffer proposed for the SW 200 Street right of way will be maintained in perpetuity at no cost to the Town or taxpayers.

The Property. The Property consists of two tax folios (36-6009-003-0310 and 36-6009-003-0290) that together include 3.64 net acres of land. The Property is a triangular assemblage located at the northeast corner of Old Cutler Road and SW 87 Avenue and is bordered on the north by SW 200 Street. The Property is designated "Mixed Use" under the Town's Growth Management Plan and is zoned "Neighborhood Center 1" (NC-1).

The Property is surrounded by NC-1 zoning to the southwest and single family (SR-1) zoning to the north, east, and immediate south. The Property is currently undeveloped. The site is an unusual triangular shape, with its longest side along the north and comes to a point along Old Cutler Road to the east. As compared to typical sites, therefore, the Property is unusually wide and especially narrow on its eastern end.

Revised Development Plan. The Applicant proposes to develop the Property with a mixed-use commercial and residential development, including a single story CVS drug store on the western portion of the land and a three-story commercial and residential building on the east. The development has been designed to maximize building frontage along Old Cutler Road while still allowing for a mixed-use development that can accommodate all of its parking requirements. The three-story structure will have retail/restaurant uses at the ground level, with residential uses above. The buildings will have attractive colonnades that will encourage pedestrian activity and a focal point plaza will be located at the intersection of S.W. 87 Avenue and Old Cutler Road.

Parking. The project proposes to provide 129 parking spaces, of which 60 will be turf or pervious concrete. The plan assumes that all commercial

uses in the three-story building will be retail. In the event that one or more of the commercial spaces is instead developed with a restaurant, the Applicant has provided some additional parking to ensure that the project will continue to meet the Town's parking requirements for decades to come. In order to ensure that residents will always have adequate parking, the Applicant has agreed to assign residential parking spaces on the northeast side of the parking lot, guaranteeing one space for each unit at all times.

Drive Thru. The drug store portion of the development proposes to include a drive thru, which has been located in a manner that it is not visible from Old Cutler Road or SW 87 Avenue and will be buffered from view by extensive landscaping. Overall, the landscaping design meets and exceeds the relevant standards, with the introduction of over 190 new trees and just under 1,900 new shrubs and groundcover plants.

Landscape Buffer on SW 200 Street. Under the terms of Section 3-102(F)(4) of the Town Code, a twenty-five (25) foot wide landscape buffer is required between the Property and adjacent residential uses across SW 200 Street. Due to the unusual shape of the Property, this buffer area is impossible to accommodate within the Property while still allowing for the reasonable development of the site.

The Applicant has therefore proposed a hybrid solution for the buffer, providing ten (10) feet of the buffer within the Property and an additional fifteen (15) foot wide buffer within the right of way of SW 200 Street. The proposed buffer will include both significant landscaping and a decorative fence. As you know, the City Code contemplates the possibility for the location of a portion of a required buffer on adjacent land. Although the right of way does not technically qualify for the location of a buffer, the eighty (80) feet of SW 200 Street's right of way is an excellent location for the dense buffer of trees and shrubs that will limit the visual impact of the proposed development of the Property from the residential uses to the north.

The Applicant has agreed to enter into a maintenance agreement with the Town to guarantee the perpetual maintenance of the portion of the buffer within the right of way.

Truck Access Route. Because of concerns related to the impact of truck traffic on local streets, including SW 200 Street, the Applicant has agreed to the following route for large delivery trucks serving the Property: Entrance to the Property from the north at SW 87 Avenue, exit the Property on Old Cutler Road, and departure from the area northbound on SW 87 Avenue.

Old Cutler Road Entrances. As noted above, the Applicant has reduced both of the proposed Old Cutler Road entrances to twenty-four (24) feet wide. There has been some suggestion that the Applicant consider providing a deceleration/turn lane for the western Old Cutler Road entrance. The construction of such a lane would necessitate widening of the paved right of way, which, as you know, is inconsistent with the prohibition of Old Cutler Road widening provided in Section 9-2 of the Miami-Dade County Code. That Code Section only permits widening of Old Cutler Road intersections following the approval by the Miami-Dade County Board of County Commissioners. As creating a deceleration/turn lane for the Property would not be consistent with the limits of Section 9-2, it is not possible for the Applicant to build such a lane.

Zoning Requests. In order to realize the above-described development plan, the Applicant hereby makes the following amended zoning requests:

1. Site plan approval.
2. Conditional use approval for a drive thru.
3. Variances for the following:
 - a. Waiving Section 3-58(5) of the Town Code relating to the minimum percentage required for building frontage - allowing 51.87% along Old Cutler and 31.65% on SW 87 Avenue where 70% and 50% would be required;
 - b. Waiving Section 3-102(F)(4) of the Town Code relating to the required rear buffer abutting residential uses, permitting ten (10) feet where 12'6" would be required to be located on the

Property, with the remainder located on the SW 200 Street right of way.

Conditional Use Requirements. As noted above, the proposed drug store component of the project will incorporate a drive thru. As required by the Town's regulations, the Applicant is hereby seeking conditional use approval for the drive. Below are the relevant physical standards that apply to drive thrus in the Neighborhood Center districts, as well as a description of the proposed use's consistency with the requirements.

1. Vehicle storage for drive-thru windows shall be located outside of and physically separated from right-of-way of any street. The area shall not interfere with efficient internal circulation of traffic on the site, adjacent property, or adjacent street right-of-way.

The proposed drive thru and queuing area have been fully contained within the Property and have been designed in a manner that will not interfere with circulation either within or outside of the Property. The drive thru and queuing have been removed from the western buffer area completely.

2. Drive-thru window facilities shall be screened from off-site view and street rights-of-way by a landscape buffer with a minimum width of ten (10) feet, extending along the entire length of the drive thru queuing or stacking area. A permanent porte-cochere may be constructed over the drive thru at the service window area. It shall be a minimum of ten (10) feet in width, extend the width of the drive, be integrated structurally into the building, and match the architecture of the building. The porte-cochere may not encroach into the side setback.

The drive thru area has been screened by adjacent rights of way in two ways. First, the building has been angled to make the drive thru window face north, away from both Old Cutler Road and SW 87 Avenue. Second, the plan includes the required landscape buffer of the queuing area.

The Applicant believes that the proposed drive thru is consistent with the development requirements for a conditional use in the Neighborhood Center zoning districts.

Below are the evaluation standards that apply to all conditional use requests, as well as a description of the proposed use's consistency with the requirements.

1. Compliance with the Town's Growth Management Plan.

The proposed commercial use, with integrated drive thru, is consistent with the Property's Growth Management Plan designation.

2. Consistent with the "character and purpose" of the zoning district.

The Neighborhood Center district encourages the development of uses serving the immediate neighborhood. A drug store is such a use. In addition, the architectural design has a consistent vocabulary with the overall zoning district.

3. The size, shape and character of the property are suited for the proposed use.

The proposed drug store with drive thru is of a design and scale that is well suited for the Property.

4. Is compatible with the existing uses near the property.

A well-buffered and internalized drug store drive thru is a low impact use that is compatible with nearby existing uses.

5. Will not adversely affect the development of the general neighborhood or district.

The proposed drug store with drive thru is compatible with the character of the area and the development of the Property as

proposed will help the Town's efforts in developing the Old Cutler Road corridor.

6. *Will not generate vehicular traffic or create vehicular circulation problems or parking demands that have an unfavorable impact on surrounding properties when compared with uses permitted by right in the same district.*

The proposed drive thru has been designed in a manner that will not create negative traffic impacts.

7. *Potential for fire and/or other equally or greater dangerous hazards.*

There is no risk of hazard from the proposed drive thru.

8. *Create an unfavorable environment impacts on surrounding uses (e.g. noise, glare, smoke, dust, odor, fumes, water pollution, or general nuisance).*

The design and buffering of the drive thru will ensure that there will be no unfavorable environmental impacts.

9. *Is consistent with existing and planned pedestrian and vehicular circulation adjacent to and near the property.*

The drive thru has been internalized so that it will have no impact on nearby vehicular or pedestrian circulation.

10. *Site is adequately served by essential public services and facilities not requiring additional public expense in infrastructure improvements.*

The development of the Property as proposed will not create the need for additional public expenditures for infrastructure.

Variances. As explained above, the Applicant had originally requested five minor variances. Through changes to the design, the Applicant has been able to completely withdraw three of the variances and reduce the scope of

Kathryn Lyon
Director
Community Development Department
July 8, 2016
Page 8 of 11

the two remaining variances. We believe that the variances are consistent with the Town's standards.

Application Requirements. As you know, Section 3-36(a) sets forth multiple pre-requisites for any variance application. We believe that all but a few of the pre-requisites have been dealt with elsewhere in our submittal and this letter. The following will address the remaining requirements, which include a description of the "[t]he special circumstances, conditions or characteristics of the land, building or structure that prevent the use of the [Property]" in full compliance with the City's Land Development Regulations and the "particular hardship that would result if the specified provisions" were applied without modification.

As explained above, the Property is an unusual triangle shape, which has made site planning a challenge, as the shape and size of the Property is not one that is usually seen or contemplated in the Town's regulations. The Property is much wider than it is deep and therefore has much more frontage than a typical rectangular lot of the same size. It is also surrounded on three sides by roadways, another very unusual circumstance. The Applicant has found it impossible to develop vibrant mixed-use commercial project on the site without the need for two minor variances. Details of the justifications for each variance are below.

Variance of Building Frontage. As noted above, the Applicant is seeking a variance of Section 3-58(5) of the Town Code relating to the minimum percentage required for building frontage, in order to allow 51.87% along Old Cutler and 31.65% on SW 87 Avenue where 70% and 50% would be required.

The Property's unusual shape has created a situation where the primary frontage is significantly larger than a typical commercial site of the same size. A square site of 3.64 acres would have a primary frontage of approximately 400 feet, requiring a building frontage of 280 feet. The Property, in contrast, has a principal frontage of 735 linear feet, which would require a building frontage of an additional 234 feet over a comparable typical lot.

Because of the odd shape of the Property, this additional 234 feet of building frontage is essentially impossible to accommodate on the site, especially on the narrow eastern portion of the land. The eastern portion of this site cannot accommodate a building while remaining compliant with the remainder of the Town's standards. The same issue holds for the western property line of the site, which abuts SW 87 Avenue. The need to provide a twenty-five foot wide landscape buffer, orient the building to Old Cutler Road, push buildings away from the residential uses on SW 200 Street, and maintain existing trees has necessitated the shifting of the proposed drug store building to the south and east, which, in turn, has resulted in a minor variance of the frontage requirements. The Property simply cannot accommodate significant additional building floor area without it becoming impossible for adequate parking, access, and landscaping to be provided.

In summary, a regularly shaped lot allows a property owner to intelligently layout a commercial design with relative ease. It is that kind of lot that the Town Code contemplates with its frontage requirements. The Property is decidedly not that kind of lot. We therefore believe that the requested variance is justified.

With those issues in mind, the Applicant has modified its plans to reduce the actual variance, by extending the eastern building's frontage along Old Cutler. The Applicant has also reduced the appearance of a variance by proposing a trellis/pergola system on the eastern edge of the site. This system will provide a pedestrian-friendly experience in this area of the Property (one of the major goals of the Town's frontage requirements), will help screen the parking spaces to the rear, and will provide the appearance of additional building frontage.

Landscape Buffer on SW 200 Street. As noted above, the Applicant is seeking a variance to permit a hybrid landscape buffer along the northern property line. While the Applicant is proposing a buffer twenty-five (25) in width, only ten (10) feet of the buffer can be accommodated within the Property, where the Town's regulations would require 12'6". The Applicant is proposing to locate the remaining buffer area within the SW 200 Street right of way and has agreed to enter into a maintenance agreement guaranteeing the perpetual maintenance of the buffer. As you know, SW 200 Street is

technically a “section line” road, which requires it be dedicated at eighty (80) feet in width. Functionally, however, SW 200 Street is a local street lined with single family homes on the north and terminating one block to the east. Because there is no anticipated need for the widening of the SW 200 Street pavement, the Applicant believes that the proposed buffer is a reasonable use of space that otherwise would be an empty sodded area.

The unusual nature of the Property’s shape has made it impossible to locate the buffer fully on the Property. As you will note from the plans, a twenty-five foot wide buffer area located solely on the Property would remove the entire rear row of parking, nearly 50 parking spaces. Losing that parking would make a reasonable development of this site impossible as the Property is too narrow to accommodate parking elsewhere. A similar impact would be felt if the parking would be reduced to accommodate the additional 2’6” of buffer that the Applicant is proposing to locate in the right of way. As noted above, the City Code requirements for the Property would mandate an increase in the amount of building area to accommodate frontage requirements while, at the same time, the Code would work through the buffer requirement to make it impossible to provide the necessary parking for such uses. It is exactly these kind of unusual situations in which variances are justified.

Variance Approval Standards. To supplement the above narratives on the individual requests, we are including below the evaluation standards that apply to all variance use requests, as well as a description of the project’s consistency with the requirements.

- 1. The variance will result in conditions that maintain and are consistent in all material respects with the intent and purpose of these Regulations, and that the general welfare, stability and appearance of the community will be protected and maintained.*

The requested variances will allow the development of a compatible, well-designed mixed-use project on a parcel that has long been slated for such development. The proposed project has been carefully designed to minimize impacts on the surrounding area.

Kathryn Lyon
Director
Community Development Department
July 8, 2016
Page 11 of 11

2. *The variance will be compatible with the surrounding land uses, and otherwise consistent with these Regulations and the Comprehensive Plan, and will not be detrimental to the community.*

The proposed variances will have a negligible impact on surrounding uses and will allow the development of the Property in a manner consistent with the goals of the Neighborhood Center zoning.

3. *That the request for a variance is not based on an economic disadvantage to the owner or occupant of the property upon which the variance is sought.*

The variances are not related to any economic loss for the Applicant. Instead, they are necessary for the reasonable development of the proposed project.

Thanks again for your help. Should you have any questions or concerns, please do not hesitate to phone my direct line at (305) 377-6229.

Sincerely,

Graham Penn

Enclosures

cc: Danlys Hernandez
Andres Stefano
Eduardo Carcache
Javier E. Giraud, Esq.



DEPARTMENT OF COMMUNITY DEVELOPMENT
PLANNING AND ZONING

APPLICATION FOR SITE PLAN APPROVAL

LIST ALL FOLIO #S: 36-6009-003-0310 & 0290

DATE RECEIVED: _____

PROPOSED PROJECT NAME: Village of Old Cutler

- 1. NAME OF APPLICANT** (Provide complete name of applicant, exactly as recorded on deed, if applicable. If applicant is a lessee, an executed 'Owner's Sworn-to-Consent' and copy of a valid lease for 1 year or more is required. If the applicant is a corporation, trust, partnership, or like entity, a 'Disclosure of Interest' is required).

Village of Old Cutler Corp.

2. APPLICANT'S MAILING ADDRESS, TELEPHONE NUMBER:

Mailing Address: 3870 SW 137 Avenue

City: Miami FL State: 33175 Phone#: 786-205-8853

3. OWNER'S NAME, MAILING ADDRESS, TELEPHONE NUMBER:

Owner's Name (Provide name of ALL owners): Village of Old Cutler Corp.

Mailing Address: 3870 SW 137 Avenue

City: Miami State: FL Zip: 33175 Phone#: 786-205-8853

4. CONTACT PERSON'S INFORMATION:

Name: Eduardo L. Carcache Company: CKE Group, Inc.

Mailing Address: 15500 New Barn Road, Suite 106

City: Miami Lakes State: FL Zip: 33014

Phone# 305-553-4124 Fax# 305-326-0619 E-mail: carcache@ckegroup.com





5. LEGAL DESCRIPTION OF ALL PROPERTY COVERED BY THE APPLICATION

(Provide complete legal description, i.e., lot, block, subdivision name, plat book & page number, or metes and bounds. Include section, township, and range. If the application contains multiple rezoning requests, then a legal description for each sub-area must be provided. Attach separate sheets, as needed).

Tenalla Ocean Farms Addn PB 12-40

Lots 1, 2, 3, 4, 5, 8, 9, 10, 11, 12 & 13

Plus portions of lots 6, 7 & 14

6. ADDRESS OR LOCATION OF PROPERTY (For location, use description such as NE corner of, etc).

NE corner of Old Cutler Road

(SW 37th Avenue)

7. SIZE OF PROPERTY (in acres): 3,644 (divide total sq. ft. by 43,560 to obtain acreage)

8. DATE PROPERTY ☒ acquired ☐ leased: Aug 17, 2004 & Nov. 23, 2005

9. LEASE TERM: N/A Years (Month & year)

10. IF CONTIGUOUS PROPERTY IS OWNED BY THE SUBJECT PROPERTY OWNER(S), provide Complete legal description of said contiguous property.

(Total site bordered by Old Cutler Road, SW 87th Avenue
and SW 200th Street)



11. Is there an option to purchase ☐ or lease ☐ the subject property or property contiguous thereto? ☒ no ☐ yes (if yes, identify potential purchaser or lessee and complete 'Disclosure of Interest' form)

12. PRESENT ZONING AND FLU CLASSIFICATION: GU (Interim District), X

13. PROPOSED USE OF PROPERTY (describe nature of the request in space provided)

Mix use development with a 1-story with mezzanine, CVS Pharmacy
a 3-story retail/residential building with 4 retail stores on ground
floor and 16 2-bedroom units and 2 1-bedroom units on the upper
2 levels.

14. Has a public hearing been held on this property within the last year & a half?

☒ No ☐ yes.

If yes, provide applicant's name, and date, purpose and results of hearing, and resolution number:

15. Is this hearing a result of a violation notice?

☒ No ☐ yes. If yes, give name to whom the Violation notice was served and describe the violation:

16. Does property owner own contiguous property to the subject property? If so, give complete legal description of entire contiguous property:

No

17. Is there any existing use on the property? ☐ No ☐ yes. If yes, what use and when established?

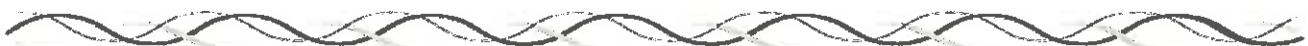
Use: _____ Year: _____



18. Submitted Materials Required:

Please check all that Apply:

- ☐ Substantial Improvement
- ☒ Letter of intent
- ☐ Justifications for change
- ☐ Statement of hardship
- ☒ Poof of ownership or letter from owner
- ☐ Power of attorney
- ☐ Contract to purchase (if applicable)
- ☒ Current survey (2 original sealed and signed and 10 reduced 11x17 copies)
- ☒ Complete set of plans 24'x36", scale 1'=50' (2 original sealed and signed and 10 reduced 11x17 copies)
- ☒ Colored rendering of all 4 sides of each proposed building (If applicable)
- ☐ 20% Property owner signatures (If required)
- ☐ Mailing Labels (set amount depends on number of hearings) and map (if required)
- ☒ Required Fee(s)
- ☐ Plans must be approved by Miami-Dade County Fire and Rescue Department with an original stamp and signature from the Fire Dept.
- ☐ Necessary documentation from DERM and WASD





APPLICANT'S AFFIDAVIT

The Undersigned, first being duly sworn depose that all answers to the questions in this application, and all supplementary documents made a part of the application are honest and true to the best of (my)(our) knowledge and belief. (I)(We) understand this application must be complete and accurate before the application can be submitted and the hearing advertised.

OWNER OR TENANT AFFIDAVIT

(I)(WE), _____, being first duly sworn, depose and say that (I am)(We are) the ☐ owner ☐ tenant of the property described and which is the subject matter of the proposed hearing.

Signature

Signature

Sworn to and subscribed to before me
This _____ day of _____, _____

Notary Public: _____
Commission Expires: _____

CORPORATION AFFIDAVIT

(I)(WE), Andres Stefano, being first duly sworn, depose and say that (I am)(We are) the ☒ President ☐ Vice-President ☐ Secretary ☐ Asst. Secretary of the aforesaid corporation, and as such, have been authorized by the corporation to file this application for public hearing; and that said corporation is the ☒ owner ☐ tenant of the property described herein and which is the subject matter of the proposed hearing.

Attest: _____

Andres Stefano
Authorized Signature

President

Office Held

(Corp. Seal)

Sworn to and subscribed to before me

This 13 day of January, 2015

Notary Public: Javier Giraud

Commission Expires: _____





PARTNERSHIP AFFIDAVIT

(I)(WE), _____, being first duly sworn, depose and say that
(I am)(We are) partners of the hereinafter named partnership, and as such, have been authorized to file this application for a public hearing; and that said partnership is the ☐ owner ☐ tenant of the property described herein which is the subject matter of the proposed hearing.

By _____ %
By _____ %

(Name of Partnership)
By _____
By _____

Sworn to and subscribed to before me
This _____ day of _____, _____

Notary Public: _____
Commission Expires: _____

ATTORNEY AFFIDAVIT

I, _____, being first duly sworn, depose and say that I am a State of Florida Attorney at Law, and I am the Attorney for the Owner of the property described and which is the subject matter of the proposed hearing.

Signature

Sworn to and subscribed to before me
This _____ day of _____, _____

Notary Public: _____
Commission Expires: _____





DISCLOSURE OF INTEREST

If the property, which is the subject of the Application, is owned or leased by a **CORPORATION**, list the Principal Stockholders and the percentage of stock owned by each. NOTE: Where the Principal Officers or Stockholders consist of another Corporation(s), Trustee(s), Partnership(s) or other similar entities, further disclosure shall be required which discloses the identity of the individual(s) (natural persons) having the ultimate ownership interest in the aforementioned entity.

Village of Old Cutler Corp.

Corporation Name

Name, Address and Office

Percentage of stock

Andres Stefano

100%

If the property, which is the subject of the Application, is owned or leased by a **TRUSTEE**, list the Principal Stockholders and the percentage of stock owned by each. NOTE: Where the Principal Officers or Stockholders consist of another Corporation(s), Trustee(s), Partnership(s) or other similar entities, further disclosure shall be required which discloses the identity of the individual(s) (natural persons) having the ultimate ownership interest in the aforementioned entity.

Trust Name

Name, Address and Office

Percentage of stock

If the property, which is the subject of the Application, is owned or leased by a **PARTNERSHIP or LIMITED PARTNERSHIP**, list the Principal Stockholders and the percentage of stock owned by each. NOTE: Where the Principal Officers or Stockholders consist of another Corporation(s), Trustee(s), Partnership(s) or other similar entities, further disclosure shall be required which discloses the identity of the individual(s) (natural persons) having the ultimate ownership interest in the aforementioned entity.

Partnership or Limited Partnership Name

Name, Address and Office

Percentage of stock



COST RECOVERY AFFIDAVIT

I hereby acknowledge and consent to the payment of **all applicable fees** involved as part of my application process. These fees include but are not limited to: application fees, postage, advertising, and attorney fees **regardless of the outcome of the public hearing.**

Please type or print the following:

Date: _____ Public Hearing No. _____

Full Name:

Mr. Mrs. Ms. Andres Stefano

Current Address: 3870 SW 137 AVE City: Miami

State: FL Zip: 33175 Telephone Number (786) 205-8853

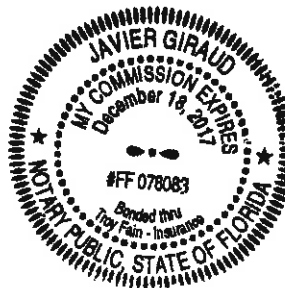
Date of Birth: 2-11-63

Andres Stefano
Signature

SWORN AND SUBSCRIBED BEFORE ME THIS 13 DAY OF January 20 15

Amir Smith
Notary Public, State of Florida at Large

My Commission expires _____ 20 _____



Pursuant to Ordinance No. 2000-09-33-Cost Recovery



RESPONSIBILITIES OF THE APPLICANT

I AM AWARE THAT:

1. The Department Environmental Resources Management (DERM), and other agencies review and critique zoning applications which may affect the scheduling and outcome of applications. These reviews may require additional public hearings before DERM's Environmental Quality Control Board (EQCB), or other boards, and /or the proffering of agreements to be recorded. I am also aware that I must comply promptly with any DERM conditions and advise this office in writing if my application will be withdrawn.
2. Filing fees may not be the total cost of a hearing. Some requests require notices to be mailed to property owners up to a mile from the subject property. In addition to mailing costs, fees related to application changes, plan revisions, deferrals, re-advertising, etc., may be incurred. Application withdrawn within 30 days of the filing are eligible for a refund of 25% of the hearing fee but after that time hearings withdrawn or returned will be ineligible for a refund. I understand that fees must be paid promptly.
3. The South Florida Building Code requirements may affect my ability to obtain a building permit even if my zoning application is approved; and that a building permit will probably be required. I am responsible for obtaining permits and inspections for all structures and additions proposed, or built without permits. And that a Certificate of Use and Occupancy must be obtained for the use of the property after it has been approved at Zoning Hearing, and that failure to obtain the required permits and/or Certificates of Completion or of Use and Occupancy will result in enforcement action against any occupant and owner. Submittal of the Zoning Hearing application may not forestall enforcement action against the property.
4. The 3rd District Court of Appeal has ruled that zoning applications inconsistent with the Comprehensive Development Master Plan (CDMP) cannot be approved by a zoning board based upon considerations of fundamental fairness. Therefore, I acknowledge that if the hearing request is inconsistent with the CDMP and I decide to go forward then my hearing request can only be denied or deferred, but not approved.
5. In Miami-Dade County v. Omnipoint Holdings, Inc. Case No. 3d01-2347 (Fla. 3rd DCA 2002), the 3rd District Court of Appeal has held invalid the standards for non-use variances, special exceptions, unusual uses, new uses requiring a public hearing and modification of covenants. This is not a final decision and the County Attorney's Department professional staff to develop new standards that will address the Court's concerns. While the new standards are being developed, applicants are advised that any non-use variance, special exception, unusual use, new use requiring a public hearing or request for modification of covenants granted under the existing standards are subject to being reversed in the courts. An applicant wishing to avoid the substantial legal risks associated with going forward under the existing standard may seek a deferral until the new standards are developed.



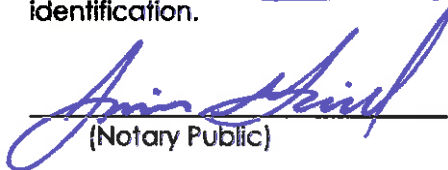


6. Any covenant to be proffered must be submitted to the Town of Cutler Bay Legal Counsel, on Town form, at least 1 month prior to the hearing date. The covenant will be reviewed and the applicant will be notified if changes or corrections are necessary. Once the covenant is acceptable, the applicant is responsible to submit the executed covenant with a current 'Opinion of Title' within 1 week of the hearing. And that Legal Counsel must carry a cover letter indicating subject matter, application number and hearing date.
7. The Town of Cutler Bay Department of Public Works reviews and critiques Zoning applications and may require conditions for approval.
8. **THE APPLICANT IS RESPONSIBLE FOR TRACKING THE STATUS OF THE APPLICATION AND ALL HEARINGS THAT MAY BE ASSOCIATED WITH THIS APPLICATION.**

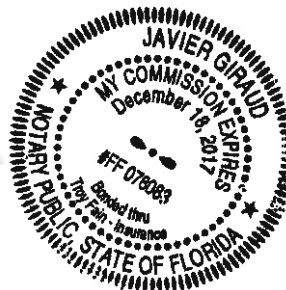

(Applicant's Signature)

Sworn to and subscribed before me this 13 day of January, 2015.

Affiant is personally known to me or has produced _____ as identification.


(Notary Public)

My Commission Expires: _____



This Document Prepared By and Return to:
Margarita Perez, Esq.
Suite 302
7344 SW 48th Street
Miami, FL 33155

CFN 2005R1220199
OR Bk 23989 Ps 1536i (1pg)
RECORDED 11/23/2005 12:42:13
DEED DOC TAX 1,800.00
SURTAX 1,350.00
HARVEY RUVIN, CLERK OF COURT
MIAMI-DADE COUNTY, FLORIDA
LAST PAGE

Parcel ID Number: 30-6009-003-0290

Warranty Deed

This Indenture, Made this 17th day of November, 2005 A.D., Between LILLIAN STAES, a single woman

of the County of Miami-Dade, State of Florida, grantor, and VILLAGE OF OLD CUTLER CORP., a corporation existing under the laws of the State of Florida whose address is: 11350 SW 95th Street, Miami, FL 33176

of the County of Miami-Dade, State of Florida, grantee.

Witnesseth that the GRANTOR, for and in consideration of the sum of

-----TEN DOLLARS (\$10)----- DOLLARS,
and other good and valuable consideration to GRANTOR in hand paid by GRANTEE, the receipt whereof is hereby acknowledged, has granted, bargained and sold to the said GRANTEE and GRANTEE'S heirs, successors and assigns forever, the following described land, situate, lying and being in the County of Miami-Dade, State of Florida to wit:

Lots 1 and 2, Block 14, of TENALLA OCEAN FARMS ADDITION, according to the Plat thereof, recorded in Plat Book 12, Page 40, of the Public Records of Miami-Dade County, Florida, less that part deeded for highway purposes in Deed Book 2193, Page 62, of the Public Records of Miami-Dade County, Florida

and

Lot 3, less the South 10 feet, Block 14, of TENALLA OCEAN FARMS ADDITION, according to the Plat thereof, recorded in Plat Book 12, Page 40, of the Public Records of Miami-Dade County, Florida.

Subject to restrictions, reservations and easements of record, if any, and taxes subsequent to December 31, 2005.

and the grantor does hereby fully warrant the title to said land, and will defend the same against lawful claims of all persons whomsoever.

In Witness Whereof, the grantor has hereunto set her hand and seal the day and year first above written.

/ Signed, sealed and delivered in our presence:

Margarita Perez
Printed Name: MARGARITA PEREZ
Witness

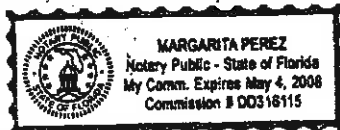
Jaime Rivero
Printed Name: JAIME RIVERO
Witness

Lillian Staes (Seal)
LILLIAN STAES
P.O. Address: 19920 Holiday Road, Miami, FL 33157
AS ATTORNEY IN FACT FOR
LILLIAN STAES

STATE OF Florida
COUNTY OF Miami-Dade

The foregoing instrument was acknowledged before me this 17th day of November, 2005 by LILLIAN STAES, a single woman

she is personally known to me or she has produced her Florida driver's license as identification.



Margarita Perez
Printed Name:
Notary Public
My Commission Expires:



CFN 2004R0710565
OR Bk 22580 Pgs 0602 - 603; (2pgs)
RECORDED 08/17/2004 11:37:50
DEED DOC TAX 5,970.00
SURTAX 4,477.50
HARVEY RUVIN, CLERK OF COURT
MIAMI-DADE COUNTY, FLORIDA

COVER SHEET

WARRANTY DEED

Philip Medvin, Grantor

Village of Old Cutler Corp., Grantee

Legal: Lots 4 thry 13 inclusive Block 14
) Tenalla Ocean Farms Add, PB 12/40

DATE: August 16, 2004

2

WARRANTY DEED

THIS INDENTURE made this 16th day of August, A.D., 2004 between PHILIP MEDVIN, Grantor, whose address is 4112 Aurora Street, Coral Gables, FL 33146, party of the first part, and VILLAGE OF OLD CUTLER CORP. Grantee, whose address is, 11350 SW 95th Street, Miami, FL 33176 party of the second part.

WITNESSETH, That the said party of the first part, for and in consideration of the sum of TEN and 00/100 (\$10.00) Dollars, and O.G. & V.C to him in hand paid, by the said parties of the second part, the receipt whereof is hereby acknowledged, has granted, bargained and sold to the said parties of the second part, their successors and assigns forever, the following described lands, situate, lying, and being in the County of Miami-Dade, State of Florida, to wit:

Lots 4 through 13 inclusive, less the South 10 feet thereof, Block 14, of TENALLA OCEAN FARMS ADDITION, a subdivision, according to the plat thereof, as recorded in Plat Book 12 at Page 40, of the Public Records of Miami-Dade County, Florida

Property Folio No. 30-6009-003-0310

SUBJECT TO: Restrictions, reservations, limitations, and easements of record; Real property taxes for the year 2004 and subsequent years; Applicable zoning ordinances of Miami-Dade County, Florida, and all other governmental regulations affecting captioned lands; Purchase Money First Mortgage of even date herewith in the principal amount of \$200,000.00.

Captioned lands are not now, nor have ever been, nor are adjacent to, Grantor's homestead. Grantor's homestead lies within the city limits of Miami, Florida.

TOGETHER with all the tenements, hereditaments and appurtenances thereunto belonging or in anywise appertaining.

AND the said party of the first part does hereby fully warrant the title to said land, and will defend the same against the lawful claims of all persons whomsoever.

IN WITNESS WHEREOF, the said party of the first part has caused these presents to be executed in his name the day and year above written.

Signed, Sealed and Delivered
In the Presence of:

Sign: Margareta Perry
Print Name: MARGARETA PERRY
Sign: Maria Stefano
Print Name: Maria Stefano

Philip Medvin
PHILIP MEDVIN

STATE OF FLORIDA)
MIAMI-DADE COUNTY)

I HEREBY CERTIFY, That on this 16th day of August A.D. 2004, before me personally appeared PHILIP MEDVIN, to me known to be the person described in and who executed the foregoing instrument, and he acknowledged before me that he executed the same for the purposes therein expressed.

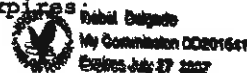
WITNESS my signature and official seal at Miami-Dade County, State of Florida, the day and year last aforesaid.

SWORN TO AND SUBSCRIBED before me, this 16th day of August 2004. Personally known ✓ or produced ID Type of identification

Isabel Delgado
NOTARY PUBLIC, State of Florida

This Instrument prepared by:
Philip Medvin
4112 Aurora St.,
Coral Gables, FL 33146
305-448-3302

My Commission Expires:





Community Development Department
10720 Caribbean Boulevard, Suite 120
Phone: 305-234-4262 Fax: 305-234-4251

**ZONING, VARIANCE, SPECIAL EXCEPTION, ADMINISTRATIVE WAIVER,
AND/OR UNUSUAL USE APPLICATION**

LIST ALL FOLIO #S: 36-6009-003-0310 & 36-6009-003-0290

DATE RECEIVED: _____

- 1. NAME OF APPLICANT** (Provide complete name of applicant, exactly as recorded on deed, if applicable. If applicant is a lessee, an executed 'Owner's Sworn-to-Consent' and copy of a valid lease for 1 year or more is required. If the applicant is a corporation, trust, partnership, or like entity, a 'Disclosure of Interest' is required).

Village of Old Cutler Corp.

2. APPLICANT'S MAILING ADDRESS, TELEPHONE NUMBER:

Mailing Address: 11350 SW 95 Street

City: Miami State: FL Zip: 33176 Phone#: _____

3. OWNER'S NAME, MAILING ADDRESS, TELEPHONE NUMBER:

Owner's Name (Provide name of ALL owners): Village of Old Cutler Corp.

Mailing Address: 11350 SW 95 Street

City: Miami State: FL Zip: 33176 Phone#: _____

4. CONTACT PERSON'S INFORMATION:

Name: Eduardo L Carcache Company: CKE Group, Inc.

Mailing Address: 15500 New Barn Rd - Suite 106

City: Miami Lakes State: FL Zip: 33014

Phone# 305-558-4124 Fax# 305-826-0619 E-mail: carcache@ckegroup.com



10720 Caribbean Boulevard, Suite 105 • Cutler Bay, FL 33189 • 305-234-4262 • www.cutlerbay-fl.gov



Community Development Department
10720 Caribbean Boulevard, Suite 120
Phone: 305-234-4262 Fax: 305-234-4251

5. LEGAL DESCRIPTION OF ALL PROPERTY COVERED BY THE APPLICATION

(Provide complete legal description, i.e., lot, block, subdivision name, plat book & page number, or metes and bounds. Include section, township, and range. If the application contains multiple rezoning requests, then a legal description for each sub-area must be provided. Attach separate sheets, as needed).

Tenalla Ocean Farms Addn PB 12-40

Lots 1, 2, 3, 4, 5, 8, 9, 10, 11, 12, & 13 plus portions of lots 6, 7 and 14.

6. ADDRESS OR LOCATION OF PROPERTY (For location, use description such as NE corner of, etc.)

NE Corner of old Cutler Road and SW 87th Avenue

7. SIZE OF PROPERTY (in acres): 3.644 (divide total sq. ft. by 43,560 to obtain acreage)

8. DATE property ☒ acquired ☐ leased: _____ **9. LEASE TERM:** _____ Years
(Month & year)

10. IF CONTIGUOUS PROPERTY IS OWNED BY THE SUBJECT PROPERTY OWNER(S), provide
/ Complete legal description of said contiguous property.

Total site bordered by Old Cutler Road & SW 87th Avenue and 200 Street



Community Development Department
10720 Caribbean Boulevard, Suite 120
Phone: 305-234-4262 Fax: 305-234-4251

11. Is there an option to purchase ☐ or lease ☒ the subject property or property contiguous thereto?

☐ no ☒ yes (if yes, identify potential purchaser or lessee and complete 'Disclosure of Interest' form)

CVS Pharmacy will lease a portion of the property

12. PRESENT ZONING CLASSIFICATION: NC-1, X

13. APPLICATION REQUESTS (check all that apply and describe nature of the request in space provided) (DBC's require special exception to permit site plan approval unless rezoning 3 acres or less to residential categories)

☐ District Boundary Changes (DBC) (Zone class requested):

☐ Unusual Use:

☒ Variance: See attached

☐ Alternative Site Development (PUD):

☐ Special Exception:

☐ Administrative Waiver:

☐ Modification of previous resolution/plan:

☐ Modification of Declaration or Covenant:

☐ Other:

14. Has a public hearing been held on this property within the last year & a half? ☐

No ☐ Yes.

If yes, provide applicant's name, and date, purpose and results of hearing, and resolution number.



Community Development Department
10720 Caribbean Boulevard, Suite 120
Phone: 305-234-4262 Fax: 305-234-4251

15. Is this hearing is as a result of a violation notice? ☒ **No** ☐ **Yes.** If yes, give name to whom the Violation notice was served: _____ and describe the violation:

16. Describe structures on the property? Vacant land

17. Is there any existing use on the property? ☒ **No** ☐ **Yes.** If yes, what use and when established?

Use: Vacant Land Year: _____

18. Submitted Materials Required:
Please check all that Apply:

- ☐ Letter of intent
- ☐ Justifications for change
- ☐ Statement of hardship
- ☐ Proof of ownership or letter from owner
- ☐ Power of attorney
- ☐ Contract to purchase
- ☐ Current survey (1 original sealed and signed/ 1 reduced copy at 11" x 17")
- ☐ (12) Copies of Site Plan and Floor Plans
- ☐ (1) Reduced copy at 11"x 17"
- ☐ 20% Property owner signatures (If required)
- ☐ Mailing Labels (3 sets) and map (If required)
- ☐ Required Fee(s)





Community Development Department
10720 Caribbean Boulevard, Suite 120
Phone: 305-234-4262 Fax: 305-234-4251

APPLICANT'S AFFIDAVIT

The Undersigned, first being duly sworn depose that all answers to the questions in this application, and all supplementary documents made a part of the application are honest and true to the best of (my)(our) knowledge and belief. (I)(We) understand this application must be complete and accurate before the application can be submitted and the hearing advertised.

OWNER OR TENANT AFFIDAVIT

(I)(WE), _____, being first duly sworn, depose and say that (I am)(We are) the ☐ owner ☐ tenant of the property described and which is the subject matter of the proposed hearing.

Signature

Signature

Sworn to and subscribed to before me
This _____ day of _____, _____

Notary Public: _____
Commission Expires: _____

CORPORATION AFFIDAVIT

(I)(WE), Andres Stefano, being first duly sworn, depose and say that (I am)(We are) the ☒ President ☐ Vice-President ☐ Secretary ☐ Asst. Secretary of the aforesaid corporation, and as such, have been authorized by the corporation to file this application for public hearing; and that said corporation is the ☒ owner ☐ tenant of the property described herein and which is the subject matter of the proposed hearing.

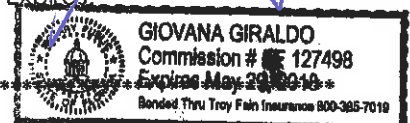
Attest: _____

(Corp. Seal)

Sworn to and subscribed to before me
This 08 day of Oct, 2015

Andres Stefano
Authorized Signature
President
Office Held

Notary Public: Giovana Giraldo
Commission Expires: _____





Community Development Department
10720 Caribbean Boulevard, Suite 120
Phone: 305-234-4262 Fax: 305-234-4251

PARTNERSHIP AFFIDAVIT

(I)(WE), _____, being first duly sworn, depose and say that (I am)(We are) partners of the hereinafter named partnership, and as such, have been authorized to file this application for a public hearing; and that said partnership is the owner or tenant of the property described herein which is the subject matter of the proposed hearing.

By _____ %
By _____ %

(Name of Partnership)
By _____
By _____

Sworn to and subscribed to before me
This _____ day of _____, _____

Notary Public: _____
Commission Expires: _____

ATTORNEY AFFIDAVIT

I, _____, being first duly sworn, depose and say that I am a State of Florida Attorney at Law, and I am the Attorney for the Owner of the property described and which is the subject matter of the proposed hearing.

Signature

Sworn to and subscribed to before me
This _____ day of _____, _____

Notary Public: _____
Commission Expires: _____





Community Development Department
10720 Caribbean Boulevard, Suite 120
Phone: 305-234-4262 Fax: 305-234-4251

RESPONSIBILITIES OF THE APPLICANT

I AM AWARE THAT:

1. The Department Environmental Resources Management (DERM), and other agencies review and critique zoning applications which may affect the scheduling and outcome of applications. These reviews may require additional public hearings before DERM's Environmental Quality Control Board (EQCB), or other boards, and /or the proffering of agreements to be recorded. I am also aware that I must comply promptly with any DERM conditions and advise this office in writing if my application will be withdrawn.
2. Filing fees may not be the total cost of a hearing. Some requests require notices to be mailed to property owners up to a mile from the subject property. In addition to mailing costs, fees related to application changes, plan revisions, deferrals, re-advertising, etc., may be incurred. Application withdrawn within 30 days of the filing are eligible for a refund of 25% of the hearing fee but after that time hearings withdrawn or returned will be ineligible for a refund. I understand that fees must be paid promptly.
3. The South Florida Building Code requirements may affect my ability to obtain a building permit even if my zoning application is approved; and that a building permit will probably be required. I am responsible for obtaining permits and inspections for all structures and additions proposed, or built without permits. And that a Certificate of Use and Occupancy must be obtained for the use of the property after it has been approved at Zoning Hearing and that failure to obtain the required permits and/or Certificates of Completion or of Use and Occupancy will result in enforcement action against any occupant and owner. Submittal of the Zoning Hearing application may not forestall enforcement action against the property.
4. The 3rd District Court of Appeal has ruled that zoning applications inconsistent with the Comprehensive Development Master Plan (CDMP) cannot be approved by a zoning board based upon considerations of fundamental fairness. Therefore, I acknowledge that if the hearing request is inconsistent with the CDMP and I decide to go forward then my hearing request can only be denied or deferred, but not approved.
5. In Miami-Dade County v. Omnipoint Holdings, Inc. Case No. 3d01-2347 (Fla. 3rd DCA 2002), the 3rd District Court of Appeal has held invalid the standards for non-use variances, special exceptions, unusual uses, new uses requiring a public hearing and modification of covenants. This is not a final decision and the County Attorney's Department professional staff to develop new standards that will address the Court's concerns. While the new standards are being developed, applicants are advised that any non-use variance, special exception, unusual use, new use requiring a public hearing or request for modification of covenants granted under the existing standards are subject to being reversed in the courts. An applicant wishing to avoid the substantial legal risks associated with going forward under the existing standard may seek a deferral until the new standards are developed.





Community Development Department
10720 Caribbean Boulevard, Suite 120
Phone: 305-234-4262 Fax: 305-234-4251

6. Any covenant to be proffered must be submitted to the Town of Cutler Bay Legal Counsel, on Town form, at least 1 month prior to the hearing date. The covenant will be reviewed and the applicant will be notified if changes or corrections are necessary. Once the covenant is acceptable, the applicant is responsible to submit the executed covenant with a current 'Opinion of Title' within 1 week of the hearing. And that Legal Counsel must carry a cover letter indicating subject matter, application number and hearing date.
7. The Town of Cutler Bay Department of Public Works reviews and critiques Zoning applications and may require conditions for approval.
8. **THE APPLICANT IS RESPONSIBLE FOR TRACKING THE STATUS OF THE APPLICATION AND ALL HEARINGS THAT MAY BE ASSOCIATED WITH THIS APPLICATION.**

(Applicant's Signature)

Sworn to and subscribed before me this 08 day of October 2015
Affiant is personally known to me or has produced _____ as
identification.

(Notary Public)



My Commission Expires: May 29, 2018



Community Development Department
10720 Caribbean Boulevard, Suite 120
Phone: 305-234-4262 Fax: 305-234-4251

COST RECOVERY AFFIDAVIT

I hereby acknowledge and consent to the payment of **all applicable fees** involved as part of my application process. These fees include but are not limited to: application fees, postage, advertising, and attorney fees **regardless of the outcome of the public hearing.**

Please type or print the following:

Date: _____ Public Hearing No. _____

Full Name:

Mr. Mrs. Ms. Andres Stefano, President

Current Address: 11350 SW 95th Street City: Miami

State: Florida Zip: 33176 Telephone Number (786) 205-8853

Date of Birth: 2-11-1963

Andres Stefano
Signature

SWORN AND SUBSCRIBED BEFORE ME THIS 08 DAY OF Oct 20 15

[Signature]
Notary Public, State of Florida at Large

My Commission expires May 29 20 18



Pursuant to Ordinance No. 2000-09-33-Cost Recovery

10720 Caribbean Boulevard, Suite 105 • Cutler Bay, FL 33189 • 305-234-4262 • www.cutlerbay-fl.gov