

**RESOLUTION NO. 16- \_\_\_\_**

**A RESOLUTION OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, APPROVING A VARIANCE APPLICATION TO ARTICLE VII, SECTION 3-102 (F) (1) AND (4) OF THE TOWN CODE RELATING TO THE REQUIRED BUFFER AREAS FOR VILLAGE OF OLD CUTLER CORP LOCATED AT 36-6009-003-0310 AND 36-6009-003-0290; AND PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, Village of Old Cutler Corp. (the “Applicant”) has submitted a Site Plan Application to permit a development containing a CVS Building with a drive-thru and Mixed-Use Building on a site consisting of approximately 3.64 acres located at 36-6009-003-0310 and 36-6009-003-0290 (the “Property”), as legally described in Exhibit “A”, has submitted a variance application (the “Application”) to the Town’s landscape buffer area requirements pursuant to Sections 3-102 (F) (4) and 3-36 of the Town Code; and

**WHEREAS**, this Mixed-Use Development is to be located along S.W. 87<sup>th</sup> Avenue and Old Cutler Road on property zoned NC-1; and

**WHEREAS**, the Town of Cutler Bay (the “Town”) held two (2) Zoning Workshops regarding the proposed site plan in order to receive comments from both residents and the members of the Town Council; and

**WHEREAS**, Town staff has reviewed the Application and is recommending denial; and

**WHEREAS**, public notice was provided in accordance with law; and

**WHEREAS**, after a duly noticed public hearing, the Town Council, based upon competent substantial evidence in the record, found that the Application does not meet the requirements of the Town Land Development Regulations and is not consistent with the Town’s Comprehensive Plan.

**NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, AS FOLLOWS:**

**Section 1.** **Recital.** The above recitals are true and correct and are incorporated herein by this reference.

**Section 2.** **Approval.** The Town Council, after review of competent substantial evidence in the record and a duly noticed public hearing, hereby approves the Application to permit a ten (10) foot landscape buffer within the property along SW 200 Street where twenty-five (25) feet is required. The Town Council further finds that the Application does meet the variance criteria set forth in Section 3-36 of the Town Code.

**Section 3.** **Condition.** The approval granted by this Resolution is subject to compliance with the following conditions, to which the Applicant stipulated and agreed to at the public hearing:

1. That if the Variance is approved by the Town Council additional landscape material of adequate size and maturity shall be added to increase the opaqueness of the buffer.
2. Approval of the Buffer Area is subject to Town Council approval of Variance No. V-2015-017 (Building Frontage).
3. Approval of the Buffer Area is subject to Town Council approval of Conditional Use No. CU-2015-012.
4. Approval of the Buffer Area is subject to Town Council approval of Site Plan No. SP-2015-001.

**Section 4.** **Effective Date.** This Resolution shall take effect immediately upon enactment.

PASSED and ADOPTED on this \_\_\_\_\_ day of July, 2016.

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PEGGY R. BELL  
Mayor

Attest:

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JACQUELINE N. WILSON  
Town Clerk

APPROVED AS TO FORM AND  
LEGAL SUFFICIENCY FOR THE SOLE  
USE OF THE TOWN OF CUTLER BAY:

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WEISS SEROTA HELFMAN  
COLE & BIERMAN, P.L.  
Town Attorney

Moved By: \_\_\_\_\_  
Seconded By: \_\_\_\_\_

FINAL VOTE AT ADOPTION:

Mayor Peggy R. Bell \_\_\_\_\_

Vice Mayor Ernest N. Sochin \_\_\_\_\_

Council Member Roger Coriat \_\_\_\_\_

Council Member Sue Ellen Loyzelle \_\_\_\_\_

Council Member Mary Ann Mixon \_\_\_\_\_