



***Application No.: ZC-2015-016***

**Attachment "B"**

**Letter of Intent**

**Vista Del Lago Amend NC**

**AN ORDINANCE OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, AMENDING SECTION 3-58 OF THE CODE OF ORDINANCES NC, NEIGHBORHOOD CENTER DISTRICT REGARDING RESIDENTIAL USES AND RELATED LAND DEVELOPMENT REGULATIONS; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTS; PROVIDING FOR CODIFICATION; AND PROVIDING FOR AN EFFECTIVE DATE.**

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**VIA ELECTRONIC MAIL**

June 9, 2017

Ms. Kathryn Lyon  
Planning and Zoning Director  
Department of Community Development  
Town of Cutler Bay  
10720 Caribbean Boulevard, Suite 105  
Cutler Bay, Florida 33189

**Re: Arc/Treo 216, LLC / Folio No. 36-6016-000-0027 / Vista del Lago / Revised Letter of Intent for Amendment to Town of Cutler Bay Land Development Regulations / (Submitted 3.31.16)**

Dear Kathryn:

As a follow up my telephone conversation of yesterday with Mr. Chad Friedman, please accept this Revised Letter of Intent on behalf of ARC/Treo 216, LLC (“Applicant”), the owner of that certain parcel of land located south of SW 216 Street, between SW 92 Avenue and SW 89 Place, in the Town of Cutler Bay (the “Town”), further identified by Miami-Dade County Folio No. 36-6016-000-0027 (the “Property”). The Property is commonly known as the “Lakes by the Bay” mixed use parcel.

The current NC-2 zoning classification would not allow the inclusion of a residential component (whether vertically or horizontally integrated) as part of a mixed use development on the Property. However, the NC-2’s floor area ratio allowance would allow over 322,000 square feet of non-residential development, including commercial, office, restaurant, medical, civic, and places of public assembly, such as a church or temple. Yet, despite the NC-2’s generous development allowance, and notwithstanding an earlier approval by the Town Council of a site plan for the development of large scale commercial and office project, the Property has remained vacant as the surrounding community has been developed into a vibrant and attractive residential community.

In early 2016, the Applicant introduced a different vision for the development of a true mixed use community on the Property. One that would include a well-balanced mix of retail/service uses and residential units in one of the Town’s premier residential neighborhoods. Seeking the implementation of its vision for the Property, the Applicant filed with the Town several applications for development approvals, including an application for site plan approval. While the site plan has evolved over the

last 24 months to respond to input from the Town and the community, the Applicant has been consistent in its vision for a far more balanced development program than that which would be permitted under the current NC-2 regulations.

As recently revised, the site plan calls for the development of a mixed use community, consisting of 38,327 square feet of specialty retail and 148 attached single family/townhome units (the "Proposed Development Program"). The development of the Property would include the full range of neighborhood retail and personal services, including restaurants, that would serve the needs of the surrounding Lakes by the Bay community, but would also provide housing opportunities to the many who wish to reside in the community. Indeed, other than small single family homes subdivisions that are scattered throughout the Town, the development of the Property will replenish the Town's housing stock as the first new residential neighborhood of its kind in a few years. The retail and residential components would be horizontally integrated to take full advantage of the Property's privileged lakefront location. Both will be arranged along a central, landscaped boulevard that would also provide public viewing access to the lake.

The community will be completely open to its neighbors. Here, our future residents (as well as their neighbors) will be able to enjoy a cup of coffee on the way to work, after dropping off at the cleaners, or perhaps a meal with the family on the way home. No longer will the surrounding residents be forced to drive up and down Old Cutler to fulfill the most basic retail needs of daily living. The proposed homes will cater to those young families who are attracted to the area by the Town's well-deserved reputation as a great place to raise a family. Still, those residents who have enjoyed the Town's many assets for years, but have grown weary of the responsibilities of a larger home, will also be attracted to the neighborhood's location and maintenance free amenities (as they will be maintained by a homeowners association), including the walking proximity to retail and services.

Unfortunately, the Applicant's vision for the Property, as depicted in the proposed site plan, cannot be implemented under its current NC-2 zoning classification. As a result, on March 31, 2016, we filed an application on behalf of the Applicant (the "Application") seeking to rezone the Property from "NC-2 (Neighborhood Center 2)" to "NC-1 (Neighborhood Center 1)". By contrast to the NC-2 exclusion of residential development, under the NC-1 regulations, residential development is permitted at a density of up to 15 dwelling units per gross acre (30 dwelling units with a green a green bonus). The permitted density of 15 dwelling units per gross acre would translate into the potential development of 277 units (or 555 with the application of the green bonus) on the Property. The Applicant's site plan with a proposed density of 7.99 units per gross acre and a little over 38,000 square feet of non-residential uses strikes a far better balance than the 322,000 square feet of non-residential uses that would be allowed under the NC-2 regulations and the up to 555 dwelling units allowed in the NC-1 district. The Proposed Development Program would attain approximately 12% of the non-residential development allowed under NC-2 and just over a quarter of the residential density that would be allowed under the proposed NC-1 zoning classification.

As you are aware, the Property is designated on the Town's Growth Management Plan for mixed-use development under the text of the "Lakes-by-the-Bay Mixed Use Site," which not surprisingly reflects the same exclusion of residential units found in the NC-2 regulations as one of the components of a mixed-use project. Indeed, the only site in the Town that is zoned NC-2 is the Property. In an effort to obtain the approvals for the implementation of the Applicant's Proposed Development Program, along with the application for site plan approval and the application to rezone

the Property, we filed a request to amend the text of the Town's Comprehensive Plan as it affects the "Lakes-by-the-Bay Mixed Use Site." The main purpose of the proposed Comprehensive Plan amendment is to allow the introduction of dwelling uses to the universe of uses that would be allowed on the Property as part of a mixed use project.

In an effort to insure internal consistency among the Proposed Development Program in the site plan, the requested land use text change, and the balance of the necessary zoning approvals, the Applicant now wishes to modify the pending zoning application, as follows: *in lieu of the previously sought rezoning to NC-1 (Neighborhood Center 1), the Applicant seeks to maintain the exiting NC-2 (Neighborhood Center 2) zoning classification, and amend the text of Section 3-58 of the Town of Cutler Bay Land Development Regulations (the "Town Code")*, as follows:

FROM:

"Sec. 3-58. – NC, Neighborhood Center District

The neighborhood center district provides for the location of pedestrian scaled shops, restaurants, services, small workplaces, and residential buildings central to a neighborhood (or grouping of neighborhoods) and within walking distance of dwellings. The neighborhood center district shall be developed on an interconnected pattern of streets and typically limited to approximately one-fourth mile in radius. Uses in the district will have a primary market area of three miles and are intended to service the daily needs of the residents of the surrounding neighborhoods. The pedestrian is expected to be able to walk from one end of the district to the other in ten to 15 minutes.

(1) *Permitted uses.*

- a. Commercial and retail (not exceeding 25,000 square feet as a single use).
- b. Office (requiring less than 50 parking spaces).
- c. Restaurant.
- d. Multifamily (within a vertical mixed use development).
- e. Civic (excluding educational facility/school).
- f. Medical.
- g. Civic.
- h. Park and open space.
- i. Place of public assembly (with a minimum distance of 1,000 feet between another place of public assembly).

- j. Outdoor dining (see supplemental standards for further regulations)."

TO:

"Sec. 3-58. – NC, Neighborhood Center District

The neighborhood center district provides for the location of pedestrian scaled shops, restaurants, services, small workplaces, and residential buildings central to a neighborhood (or grouping of neighborhoods) and within walking distance of dwellings. The neighborhood center district shall be developed on an interconnected pattern of streets and typically limited to approximately one-fourth mile in radius. Uses in the district will have a primary market area of three miles and are intended to service the daily needs of the residents of the surrounding neighborhoods. The pedestrian is expected to be able to walk from one end of the district to the other in ten to 15 minutes.

- (1) *Permitted uses.*
  - a. Commercial and retail (not exceeding 25,000 square feet as a single use).
  - b. Office (requiring less than 50 parking spaces).
  - c. Restaurant.
  - d. Multifamily (within a vertical mixed use development)- in the Neighborhood Center 1 (NC-1) zoning district. Residential uses (within a mixed use development) in the Neighborhood Center 2 (NC-2) zoning district.
  - e. Civic (excluding educational facility/school).
  - f. Medical.
  - g. Civic.
  - h. Park and open space.
  - i. Place of public assembly (with a minimum distance of 1,000 feet between another place of public assembly).
  - j. Outdoor dining (see supplemental standards for further regulations)."

FROM:

"Sec. 3-58. – NC, Neighborhood Center District

- (4) *Site development standards.*
- a. Story. Buildings shall be at least two stories. Office, commercial and retail, residential, civic or finished attic space, or facade design above the ground floor shall count as a second story when more than 50 percent of the building footprint is encompassed by the space. Each upper story shall be a minimum of eight feet in height.
  - b. Mixed use. Buildings are encouraged to be vertically mixed use in design and character. Horizontal mixed use development is encouraged on a site that cannot otherwise accommodate vertical mixed use. Commercial and retail uses shall be located on the ground floor of a multi-story building. Office uses should be located on higher floors, while residential may exist on any level. When residential is part of the mix of uses, it can be no less than 20 percent or more than 80 percent, whether vertical or horizontal in form and function.
  - c. Green designation. Buildings that pursue a height bonus and which exceed two stories shall pursue green designation per the requirements of article V of this chapter.
  - d. Buildings fronting Old Cutler Road . Buildings which are located on Old Cutler Road shall be required to provide an outdoor plaza and/or an area for seating or cafe tables between the building and the right-of-way. No single tenant in a building fronting Old Cutler Road shall exceed 25,000 square feet in size.”

TO:

“Sec. 3-58. – NC, Neighborhood Center District

- (4) *Site development standards.*
- a. Story. Buildings shall be at least two stories. Office, commercial and retail, residential, civic or finished attic space, or facade design above the ground floor shall count as a second story when more than 50 percent of the building footprint is encompassed by the space. Each upper story shall be a minimum of eight feet in height.
  - b. Mixed use. Buildings are encouraged to be vertically mixed use in design and character. Horizontal mixed use development is encouraged on a site that cannot otherwise accommodate vertical mixed use. Commercial and retail uses shall be located on the ground floor of a multi-story building. Office uses should be located on higher floors, while residential may exist on any level. In the Neighborhood Center 1 (NC-1) zoning district, When residential is part of the mix of uses, it can be no less than 20 percent or more than 80 percent, whether vertical or horizontal in form and function.
  - c. Green designation. Buildings that pursue a height bonus and which exceed two stories shall pursue green designation per the requirements of article V of this chapter.

- d. Buildings fronting Old Cutler Road . Buildings which are located on Old Cutler Road shall be required to provide an outdoor plaza and/or an area for seating or cafe tables between the building and the right-of-way. No single tenant in a building fronting Old Cutler Road shall exceed 25,000 square feet in size.”

**AND**

**FROM:**

“Sec. 3-58. – NC, Neighborhood Center District

*(5) Table of Standards.*

Standard	NC-1	NC-2
Maximum lot area (square feet)	NA	NA
Maximum floor area ratio	1.6	0.4
Maximum floor area ratio with green bonus	2.0	0.5
Maximum density (units per acre)	15	NA
Maximum density with green bonus	30	NA
Maximum height (feet)	35	35
Maximum frontage height with green bonus	48	NA
Number of stories	3	2
Number of frontage stories with green bonus	4	NA
Adjoining residential zoning height (feet)	35	NA
Number of stories	3	
Building Frontage (percent)		
Along primary street	70	NA
Along secondary street	50	
Principal structure setbacks (feet)		
Front (maximum)	20	20
Side street	15	15
Interior side	0	0
Rear	20	20
Rear (abutting an alley)	0	0
Setbacks fronting Old Cutler Road when right-of-way is less than 100 feet, as measured from the edge of pavement		
Front (minimum)(feet)	12	NA

Front (maximum)(feet)	20	NA
Maximum impervious surface coverage (percent)	70	70
Minimum lot width (residential) (feet)	25	NA
Minimum lot depth (feet)	NA	NA
Open space (percent)	5	NA
In the form of courtyards, gardens, colonnade, forecourt, balconies, plazas or squares		
Encroachment into ROW (feet)		
Balcony	5	
Awning	5	
Accessory structure height (feet)	6	NA
Only permitted in rear yards of townhomes	6	NA

TO:

“Sec. 3-58. – NC, Neighborhood Center District

*(5) Table of Standards.*

Standard	NC-1	NC-2
Maximum lot area (square feet)	NA	NA
Maximum floor area ratio	1.6	<del>0.4</del> <u>0.6</u>
Maximum floor area ratio with green bonus	2.0	<del>0.5</del> <u>0.7</u>
Maximum density (units per acre)	15	<del>NA</del> <u>8</u>
Maximum density with green bonus	30	NA
Maximum height (feet)	35	35
Maximum frontage height with green bonus	48	NA
Number of stories	3	2
Number of frontage stories with green bonus	4	NA
Adjoining residential zoning height (feet)	35	<del>NA</del> <u>35</u>
Number of stories	3	<u>2</u>
Building Frontage (percent)		
Along primary street	70	<del>NA</del> <u>70</u>
Along secondary street	50	<u>50</u>



Principal structure setbacks (feet)		
Front (maximum)	20	20
Side street	15	15
Interior side	0	0
Rear	20	<del>20</del> <u>15</u>
Rear (abutting an alley)	0	0
Setbacks fronting Old Cutler Road when right-of-way is less than 100 feet, as measured from the edge of pavement		
Front (minimum)(feet)	12	NA
Front (maximum)(feet)	20	NA
Maximum impervious surface coverage (percent)	70	70
Minimum lot width (residential) (feet)	25	<u>21</u>
Minimum lot depth (feet)	NA	NA
Open space (percent)	5	<del>NA</del> <u>5</u>
In the form of courtyards, gardens, colonnade, forecourt, balconies, plazas or squares		
Encroachment into ROW (feet)		
Balcony	5	<u>5</u>
Awning	5	<u>5</u>
Accessory structure height (feet)	6	<del>NA</del> <u>6</u>
Only permitted in rear yards of townhomes	6	<del>NA</del> <u>6</u>

The proposed amendment to Section 3-58 (1) is simply meant to resolve an internal inconsistency in the NC regulations which while appearing to allow townhomes in the zoning district (even to the point of providing required lot dimensions), currently only list “multifamily within a vertical mixed use development” as a permitted use. Because of the location of the Property in a much more residential areas than the existing NC-1 zoned parcels in the Town, the proposed amendment would keep density at 8 dwelling units per acre, while making a slight additional floor area allowance than currently permitted to allow and promote a more robust retail presence. The 2 story/35 feet height restriction, which again is sensitive to the surrounding community, as well as the fact that floor area ratio is measured project wide, would maintain a sensible cap on the overall amount of permitted development. Lastly, the suggested lot width for the townhome lots is more appropriate than the required 25 foot width, which appears to have been exported from the Town’s townhome zoning district, and is more suitable in conventional suburban neighborhoods than in mixed-use projects.

As depicted in the site plan filed by the Applicant, the development program would meet or exceed all of the requirements of the NC-2 regulations, as amended. The result will be a well-balanced, fully integrated mixed use project that will serve the needs of the Town’s growing diverse community, by contributing to the Town’s economic prosperity and viability by creating much-needed jobs, improving access to quality housing and retail, cultivating the aesthetic character of the surrounding neighborhood, preserving property values, and increasing the Town’s ad valorem tax base. Perhaps most importantly, however, the development of the Property under the revised NC-2

Ms. Kathryn Lyon  
Planning and Zoning, Director  
June 9, 2017  
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regulations would fulfill the vision of the Town, as expressed through the Growth Management Plan and the Town Code, to promote sensible and sustainable mixed use development.

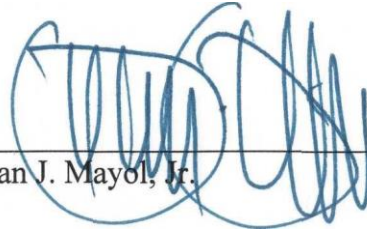
Based on the foregoing, we would request the Town's favorable consideration of our proposed amendment to Sections 3-58 (1) and 3-58(5) of the Town Code.

Respectfully submitted,

HOLLAND & KNIGHT LLP

By: \_\_\_\_\_

Juan J. Mayol, Jr.



JJM:sf