

RESOLUTION NO. 18-

A RESOLUTION OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, APPROVING A CONDITIONAL USE APPLICATION TO PERMIT A GROCERY STORE WITH A DRIVE-THRU PHARMACY ON PROPERTY LOCATED EAST OF OLD CUTLER ROAD, WEST OF SW 92ND PLACE, NORTH OF SW 212 STREET, AND SOUTH OF SW 208TH STREET, AS LEGALLY DESCRIBED IN EXHIBIT “A”, CONSISTING OF APPROXIMATELY 13.18 ACRES; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Publix Supermarkets, Inc. (the “Applicant”) has submitted a conditional use application (the “Application”) to permit a drive-thru on the proposed 13.6 acres development site consistent with the requirements set forth in Section 3-39(2) of the Town Code; and

WHEREAS, the proposed grocery store with a pharmacy and drive-thru will be located behind the commercial mixed-use buildings that will be built along the Old Cutler Road corridor between SW 212 Street and SW 208 Street on property zoned NC-1, as legally described in Exhibit “A”; and

WHEREAS, in addition to the Application, on February 23, 2018, the Applicant submitted a new development application to the Town for conditional use, variance and site plan approvals; 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, finds that the Application meets the requirements of the Town Code and is consistent with the Town’s Comprehensive Plan; and

WHEREAS, the Town Council finds that this Resolution is in the best interest and welfare of the residents of the Town.

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

Section 1. **Recitals.** 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 and finds that it meets the conditional use requirements set forth in Sections 3-211 and 3-212(5) of the Town Code.

Section 3. **Conditions.** 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. This approval is subject to approval of site plan application # SP-2018-010.
2. The maximum illumination at the property line shall not exceed 0.3 foot candles and 0.01 foot candles ten (10) feet beyond the property line. The intensity of illumination for exterior lighting across the site shall not exceed an average of six (6) foot candles measured at grade. Fixtures shall be placed to provide uniform distribution of light and to avoid excessive glare. Lighting fixtures in scale with pedestrian activities shall provide for uniform distribution of lighting to produce minimal shadows.
3. LED lighting shall be provided and mounted on structures no greater than five (5) feet above grade along the sidewalk /trail behind the grocery store.
4. The finish on the wall behind the grocery store which separates the residential area from the grocery shall be coated or constructed with graffiti resistant material.
5. Service, delivery and storage areas and equipment shall be adequately screened and located away from view of adjacent properties, in accordance with the proposed site plan. The compactor area shall be kept clean and odor free at all times.
6. Testing of the emergency generator shall be restricted to Monday through Friday, between the hours of 7:00 a.m. and 7:00 p.m. No testing shall occur during the weekends.
7. Sound barrier panels shall be installed on the roof to shield the sound from rooftop mechanical equipment.

Section 4. **Violation.** Failure to adhere to the terms of this approval shall be considered a violation of the Town Code. Penalties for such violation shall be as prescribed by the Town Code, which include, but are not limited to, the revocation of the approval granted by this Resolution.

Section 5. **Effective Date.** This Resolution shall take effect immediately upon enactment.

PASSED AND ADOPTED this _____ day of October, 2018.

PEGGY R. BELL
Mayor

Attest:

DEBRA E. EASTMAN, MMC
Town Clerk

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

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

Moved By: _____
Seconded By: _____

FINAL VOTE AT ADOPTION:

Mayor Peggy R. Bell _____

Vice Mayor Sue Ellen Loyzelle _____

Council Member Mary Ann Mixon _____

Council Member Michael P. Callahan _____

Council Member Roger Coriat _____