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Memorandum

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Date: November 13, 2019

To: Rafael G. Casals, ICMA-CM, CFM, Town Manager

From: Alex A. David, AICP, Consultant Planner

Subject: Cutler Properties (Application No. SP-2015-022)

Project: Site Plan Approval

CC: Sarah Sinatra Gould, AICP, Consultant Planner

REQUEST

A RESOLUTION OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, APPROVING THE SITE PLAN OF VILLAGE OF CUTLER PROPERTIES LC TO PERMIT TWENTY-NINE (29) SINGLE FAMILY HOMES ON PROPERTY LOCATED AT 18551 OLD CUTLER ROAD (FOLIO # 36-6003-001-0013), AS LEGALLY DESCRIBED IN EXHIBIT "A", CONSISTING OF APPROXIMATELY +/- 8.43 ACRES; AND PROVIDING FOR AN EFFECTIVE DATE.

APPLICANT

Cutler Properties, LC

Submitted: Letter of Intent, Site plan and Application

Applicant/Representative: Juan J. Mayol, Jr.
 Holland & Knight
 701 Brickell Avenue, Suite 3300
 Miami, FL 33131
 305-789-7787
Juan.mayol@hklaw.com

Staff Coordinator: Alex A. David, AICP
 Interim Community Development Director

PROPERTY INFORMATION

Location: Southeasterly of the intersection of SW 184 and Old Cutler Road

Folio Number: 36-6003-001-0013



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Legal Description: A portion of land in Section 3, Township 56 South, Range 40 East in Miami-Dade County, being more particularly described as follows:

Commence at the Northeast corner of said Section 3; thence S00°52'56"E, as basis of bearing along the East line of the Northeast ¼ of said Section 3 for a distance of 215.05 feet to the point of beginning of the following described parcel of land; thence continue S00°52'56"E along said West line for a distance of 133.28 feet; thence S25°26'43"W for a distance of 83.85 feet; thence S31°25'21"W for a distance of 91.99 feet; thence S12°05'47"W for a distance of 86.85 feet; thence S28°56'34"W for a distance of 155.31 feet; thence S23°43'49"W for a distance of 102.19 feet; thence S24°08'59"W for a distance of 375.62 feet; thence S63°27'40"W for a distance of 85.82 feet; thence S48°01'12"W for a distance of 82.65 feet; thence S07°00'01"W for a distance of 28.73 feet; thence S37°11'21"E for a distance of 69.66 feet; thence S31°54'24"W for a distance of 95.33 feet; thence S36°05'51"W for a distance of 225.55 feet; thence N00°52'54"W for a distance of 299.32 feet; thence S88°43'09"W for a distance of 145.49 feet to a point of intersection with the easterly right-of-way line of Old Cutler Road (Ingram Highway) and also a point of intersection with a non-tangent curve to the left, said curve having a radius of 11494.20 feet and a central angle of 2°12'31" to a point of tangency; thence N27°33'01"E for a distance of 782.01 feet; thence N88°10'53"E along a line 215.03 feet South of and parallel to the North line of the Northeast ¼ of said Section 3 for a distance of 229.19 feet to the point of beginning, containing 367,447.55 square feet, 8.43 acres, more or less (**Exhibit "A"**).

BACKGROUND AND ANALYSIS

The proposed development, if approved, will be located on a vacant parcel approximately ±8.43 acres in size. The property is located east of Old Cutler Road, south of SW 184 Street and north of theoretical SW 186 Street. The parcel is served with power and telephone from Florida Power and Light Company and AT&T, respectively. Municipal water and sewer and solid waste will be provided by Miami-Dade County. The site currently has access to the County roadway network through Old Cutler Road and as proposed this will remain the only ingress/egress from the development.

Initially, the property owned by the Applicant totaled ± 132 acres in size. As part of the Comprehensive Everglades Restoration Plan (CERP), the eastern ± 123.57 acres were sold to the State of Florida/South Florida Water Management District (SFWMD) for the Acceler8 initiative. This Coastal Wetlands project's aim is to expand and restore the wetlands adjacent to Biscayne Bay to enhance the ecological health of Biscayne National Park. It should be noted that the State of Florida/SFWMD had the option to purchase the remaining ±8.43 acres at that time, however this site was designated as uplands, with no sensitive environmental value. As such, and as confirmed by the SFWMD and Department of Environmental Resources Management (DERM) (**Exhibit "B"**) this proposed development will take place wholly within non-jurisdictional wetlands.

On February 21, 2018 the Town Council voted to deny an application for Site Plan approval. Subsequently, the Applicant (Cutler Properties, LC) submitted a request for relief from the denial under the Florida Land Use and Environmental Dispute Resolution Act, Fla. Statute § 70.51 (FLUEDRA). This process allows for negotiations to take place between both parties with the aid of a third-party magistrate. Based in part by



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this discussion that applicant has submitted revised plans. On June 19, 2019 the item was re-scheduled for hearing but was withdrawn due to not receiving a revised DERM report on the project prior to the hearing.

On September 20, 2019 FLUEDRA proceedings were held before a Special Magistrate. Subsequent to the proceedings and after reviewing all the facts were presented the Special Magistrate recommended that the Town Council approve the site plan designated Option D (as revised). The site plan proffered by Cutler Properties was determined to be “as-of-right” that is consistent with the Town’s Growth Management Plan and complies with the Town’s Land Development Regulations. The Special Magistrate took note that the plan requires no zoning relief nor does it show an opening or access to SW 77th Avenue for either vehicles or utilities. Finally, the Special Magistrate stated that the failure to adopt Option D (as revised) would be unreasonable and unduly burden the property (owner) and strongly recommended the Town Council adopt the Option D (as revised) site plan (**Exhibit “C”**).

Proposed Development Project

The proposed project is a 29-unit, single family development. The proposed density is 3.43 units per gross acre and which is less than the 5 units per gross acres permitted under the Town’s Low Density Residential Future Land Use Category and corresponding SR Zoning District. The applicant is proposing four model options: A (3,025 sq. ft), B (2,986 sq. ft.), C (3,816 sq. ft.) and D (3,843 sq. ft.). A central street is proposed with Live Oaks. Three Pigeon Plums are proposed per each lot in the front yard. The existing trees along Old Cutler Road are proposed to remain.

The residential units abutting Old Cutler Road are designed to have two “fronts” so that there is pedestrian access to and from the Old Cutler Road pedestrian path/bikeway.

The single ingress/egress to the development will be via Old Cutler Road. No part of SW 77th Avenue is proposed to be dedicated for roadway purposes. With respect to the CERP it was determined that the eastern half of the R-O-W was adequate to serve the needs of the Plan.

Land Development Regulations

Section 3-33 establishes the development standards for the review and approval of site plans in the Town of Cutler Bay. According to this section of the LDRs, no certificate(s) of occupancy shall be issued for any building or buildings unless all facilities included in the approved site plan have been provided. Section 3-33(B) of the Code provides the approval standards used by the Town Council to evaluate a proposed site plan application.

Section 3-55 SR, Single-Family Residential District establishes the permitted uses and development parameters of any development within this zoning district. Cutler Properties as proposed meets the requirements of this section and does not require any variances.

In addition to the above referenced Sections, the proposed development must comply with: Article VII, Landscaping and Tree Preservation; Chapter 18A, Miami-Dade County Code of Ordinances; Article X, Off-Street



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Parking and Loading Areas; Article XII, Subdivision of Land; Chapter 28, Miami-Dade County Code of Ordinances; and, any other regulations required in order to develop this parcel of land.

Land Use and Zoning

The Future Land Use Map designation is Low Density Residential-Conservation. This land use category permits 2.5 to 5 units per gross acre, until such time as the land is transferred in ownership for conservation purposes or other public use, or otherwise protected from development via conservation mechanisms. The proposal is consistent with the property's Future Land Use Designation.

The development as proposed is consistent with the following Goal and Policies found in the Town's Growth Management Plan:

Future Land Use Element

Goal 1

PROTECT AND IMPROVE THE TOWN'S BUILT AND NATURAL ENVIRONMENT THROUGH THE USE OF LAND IN A MANNER THAT ENHANCES EXISTING NEIGHBORHOODS, CONSERVES RESOURCES, ENSURES THE AVAILABILITY OF PUBLIC FACILITIES AND SERVICES, AND REALIZES THE COMMUNITY'S VISION FOR ITS FUTURE.

Policy FLU-5B: Development and redevelopment in the Town shall provide for pedestrian friendly street design, an interconnected street network and hierarchy to reduce congestion and improve traffic flow, design that promotes the use of non-motorized transportation modes, connectivity to transit, and a range of uses in a compact area to reduce the need for external trips.

Policy FLU-5F: The Town shall require aesthetically pleasing and environmentally sensitive landscaping as an important component of development and redevelopment projects. To the maximum extent feasible, existing on-site native vegetation shall be preserved.

Policy FLU-7C: The Town, through its Land Development Regulations, shall require developers to provide for the necessary on-site infrastructure improvements, including: parking; safe and convenient traffic circulation; sidewalks and multi-modal transportation facilities, as appropriate; open space; water and wastewater connections or facilities, and drainage and stormwater management.

Transportation Element

Policy T1-1H: The Town shall control vehicular access onto Town and County streets through its Land Development Regulations and site plan review process in order to reduce existing or potential congestion and safety problems. Access Management studies shall be undertaken by the Town and financed by the developers on facilities when appropriate. Access to state highways is controlled by the Florida Department of Transportation.



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Policy T1-3L: All requests for development shall be required to install safe and convenient pedestrian and bicycle access, as provided for in the Land Development Regulations.

Recreation and Open Space

Policy ROS-4C: The Town will promote non-motorized access to all existing and future parks and recreation open spaces within Cutler Bay by creating and improving greenways, trails, bike lanes, sidewalks and improved connectivity between parks and residences, schools, community centers, activity centers and transportation hubs.

Zoning

This parcel is zoned SR, Single-Family Residential District. The Single-Family Residential District is coded to permit development of new or the completion of previously approved development of lands within the district and/or annexation of conventional single-family residential subdivisions existing or approved prior to the effective date of these regulations.

Permitted uses include: Detached single-family dwelling; Group home limited to six resident clients on the premises. (See supplemental regulations for additional requirements.); Family day care home; Single-family zero lot line if based on a site plan approved prior to the adoption of this code. The proposed development meets the standards of the zoning district and all other requirements of the Town and County Codes. The following Table provides an overview of the land use designations and zoning districts:

FUTURE LAND USE MAP DESIGNATION	EXISTING ZONING DISTRICT
Subject Property:	Subject Property:
Low Density Residential-Conservation	SR, Single-Family Residential
Surrounding Properties:	Surrounding Properties:
North Low Density Residential-Conservation	North SR, Single-Family Residential
South Low Density	South SR, Single-Family Residential CON, Conservation
East Low Density Residential-Conservation	East CON, Conservation



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Estate Density Residential-Conservation	
West Estate Density	West ER, Estate Residential

The following Table provides an overview of the existing conditions surrounding the site:

EXISTING CONDITIONS
Subject Property:
Vacant
Surrounding Properties:
North MDWASD Sewer Pump Station
South Cutler Cay Single-Family Homes and Lake
East SFWMD Conservation Area
West Whispering Pines Single-Family Homes

An aerial photograph (*Exhibit "D"*) depicts the location of the property and surrounding uses. The Future Land Use and Zoning Maps are also provided in *Exhibit "D"*.

SITE PLAN APPROVAL EVALUATION CRITERIA (Section 3-33)

In evaluating an approval of a site plan application under the Town’s Land Development Regulations, the following evaluation criteria are to apply:

- 1. The development permitted by the application, if granted, conforms to the Growth Management Plan; is consistent with applicable area or neighborhood studies or plans, and would serve a public benefit warranting the granting of the application at the time it is considered.

Staff Comment: *The proposed development is generally consistent with the Growth Management Plan and more specifically with Policy FLU-1D and the associated Low Density Residential Land Use Designation which*



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permits 2.5 to 5 units per gross acre. It will implement the Goal and Policies referenced under the Land Use and Zoning Section of this report.

2. The development permitted by the application, if granted, will have a favorable impact on the environmental and natural resources of the Town of Cutler Bay, including consideration of the means and estimated cost necessary to minimize the adverse impacts; the extent to which alternatives to alleviate adverse impacts may have a substantial impact on the natural and human environment, and whether any irreversible or irretrievable commitment of natural resources will occur as a result of the proposed development.

Staff Comment: *The development will have a favorable impact by on the environment and natural resources by buffering the ± 123.57 State owned Comprehensive Everglades Restoration Plan from the already developed areas of the Town. The low-density development, as proposed, will offer a transition to the natural area to the east. The applicant has proffered that there will be reasonable opportunities to harvest and relocate non-invasive, non-exotic plant materials from within the proposed right-of-way.*

3. The development permitted by the application, if granted, will have a favorable or unfavorable impact on the economy of the Town.

Staff Comment: *The development if permitted will have a favorable economic impact by expanding the Town's tax base without unduly burdening the Town.*

4. The development permitted by the application, if granted, will efficiently use or not unduly burden water, sewer, solid waste disposal, recreation, education or other necessary public facilities which have been constructed or planned and budgeted for construction.

Staff Comment: *The planned development of 29 single family residences has been reviewed in order to determine the impacts on level of service for public facilities. The development as proposed does not negatively impact the referenced public facilities. Miami-Dade County has adequate facilities to provide water, sewer, solid waste disposal and fire services (**Exhibit "E"**), Miami-Dade County Public Schools (**Exhibit "F"**) has reviewed this application and the Town has adequate recreational facilities to provide the recreational needs of this residential community.*

5. The development permitted by the application, if granted, will efficiently use or not unduly burden or affect public transportation facilities, including mass transit, roads, streets and highways which have been constructed or planned and budgeted for construction, and if the development is or will be accessible by public or private roads, streets or highways.

Staff Comment: *The 29 single-family home residential development (Option D, as revised) will only be accessed via Old Cutler Road and will not unduly burden the roadways. This access point will ensure adequate ingress/egress for both automobiles, pedestrians, bicyclists and emergency vehicles.*



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ADVERTISEMENTS

The Public Hearing Notice was published by the Miami Herald on Friday, November 1, 2019 in the Local section (*Exhibit "G"*).

RECOMMENDATION

Town Staff recommends **approval** of the proposed site plan subject to the following conditions:

1. General Conditions

- 1.1 The proposed development will be built in accordance with the plans submitted entitled "Old Cutler Road Residences", consisting of 10 sheets and prepared by Dover, Kohl & Partners and dated stamped received October 18, 2019.
- 1.2 All impact fees shall be paid by the Applicant prior to issuance of building permit.
- 1.3 The Applicant shall provide a letter acknowledging compliance with the applicable Level of Services requirements prior to the issuance of final permit to the property.
- 1.4 Applicant shall submit verification from Miami-Dade County that the proposed new development has been reviewed and approved for all access management consideration prior to the issuance of the final building permit.
- 1.5 Flood elevations shall be reviewed and approved for consistency with FEMA requirements and the Town's National Insurance Flood Program Ordinance prior to building permit approval.
- 1.6 The Applicant shall comply with applicable conditions and requirements by Miami-Dade County Public Works Department, Fire Rescue Department, and the Department of Regulatory and Economic Resources (DRER).
- 1.7 The site plan shall be valid only if a building permit for a principal building has been issued within one year of town council approval of said site plan.
- 1.8 If necessary, the property shall be completely de-mucked prior to the unloading of clean fill.
- 1.9 The applicant must plat the property.



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2. Construction General Conditions

2.1 Construction Staging

2.1.1 The Applicant shall submit a construction staging plan for review and approval prior to commencement of construction.

2.1.2 A Construction and Maintenance of Traffic (MOT) Plan shall be provided by the Applicant to the Building and Public Works Departments for approval prior to start of construction. Access points by construction vehicles shall be provided within the MOT.

2.2 The Applicant shall provide a Construction Air Quality Management Plan to the Department prior to the start of construction.

2.3 A Construction, Demolition and Materials Management Plan (CDMMP) must be submitted by the Applicant at time of building permit.

2.4 The Applicant shall provide an Erosion Control Plan prior to the issuance of any building permit. The Applicant shall submit a plan for erosion and sedimentation control to be implemented before the site is cleared or graded including areas where top soil will be removed and contours of slopes will be cleared. The Plan shall also include location and type of erosion control measures, storm water and sediment management systems, and a vegetative plan for temporary and permanent stabilization. The Plan shall remain on-site for the duration of the construction activity.

2.5 Construction shall only take place Monday through Friday during the hours of 8:00 a.m. and 5:00 p.m.

3. Landscaping

3.1 The Applicant shall meet all of the minimum requirements of the Town Code, Chapters 18 and 24 of the Miami-Dade County Code and specifically comply with all conditions imposed by Miami-Dade County Department of Regulatory and Economic Resources (DRER) and more specifically, DERM.

3.2 The property shall be landscaped in accordance with the landscape plan, included with the site plan submittal (dated October 18, 2019).

3.3 The Applicant shall preserve existing trees (including native trees) during the development of the project, wherever possible. If the trees must be removed, the Applicant shall be required to mitigate the impact in accordance with DERM requirements. If the relocated trees do not survive, the Applicant shall be required to replace the trees in compliance with DERM requirements.



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4. Traffic

- 4.1** That the Applicant perform traffic monitoring of the site generated trips for the new Cutler Properties development the year after the final Certificate of Occupancy is issued. Should the actual number of site generated vehicle trips for the development exceed 10% of the number of projected vehicle trips calculated in the original traffic study and as amended by subsequent reviews (*Exhibits "H-M"*), the Applicant shall pay for traffic mitigation improvements to ameliorate the condition. The Applicant shall pay all costs including consultant services for design and permitting (approvals) and traffic improvement construction costs. The Applicant will coordinate with the Town and/or their Consultant to establish a traffic study methodology for the travel time and delay study for Old Cutler Road between SW 168 Street and SW 87 Avenue and SW 184 Street between SW 87 Avenue and SW 97 Avenue.

5. Off-Street Parking/Lighting

- 5.1** The Applicant shall install and maintain light fixtures which project the light rays directly to the street, and shall include shields which restrict projection of light rays outward to adjacent properties and also restrict the upward projection of light rays into the night sky.
- 5.2** Due to their high-energy efficiency, long life and spectral characteristics, Pulse-Start Metal Halide or LED lamp sources shall be the illumination sources for outdoor lighting.
- 5.3** At the time of platting, the Owner/Applicant shall cause the establishment of a special taxing district pursuant to Chapter 18 of the Miami-Dade County Code to provide for the installation and maintenance of street lighting within the proposed subdivision.
- 5.4** At the time of platting, the Owner/Applicant shall create a dormant special taxing district pursuant to Chapter 18 of the Miami-Dade County Code to provide for the purpose of maintenance of property.

6. Environmental

- 6.1** The Applicant shall meet the requirements of the Miami-Dade County Water-Use Efficiency Standards Manual, effective January 2009, as may be amended from time to time.
- 6.2** All storm water shall be retained inside the property. All storm water drainage systems shall be maintained in working at all times in order to avoid localize flooding during and after a storm. Parking shall be prohibited on top of any drainage inlet or drainage manhole.
- 6.3** The Applicant shall comply with the comments, as warranted, in the DERM Municipal Site Plan Review #MZ2017000017-3rd Revision Memo (dated October 23, 2019) (*Exhibit "N"*).



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7. Signs

- 7.1 Provide the Signage Plan, if any, prior to submitting for building permit approval.
- 7.2 All signs should be consistent with the Town's Sign Regulation in Article VIII of the Town Code.

8. Building

- 8.1 The Applicant shall use interior paints and wood finishes with low volatile organic compound levels that do not exceed 50 grams per liter flat, or 150 grams per liter non-flat. This shall be noted on the approved plans.

9. Enforcement

- 9.1 Noncompliance with the approved site plan and the terms of this approval shall be considered a violation of the Town Code. Penalties for such violation(s) shall be prescribed by the Town Code, which include, but are not limited to, the revocation of the approval granted by this Resolution.

EXHIBITS:

- Exhibit "A" – Letter of Intent and Site Plan Application
- Exhibit "B" – Department of Regulatory and Economic Resources Wetland Delineation Verification
- Exhibit "C" – Land Use and Environmental Dispute Resolution Act Special Magistrate Proceeding
- Exhibit "D" – Aerial Photograph, Future Land Use Map, and Zoning Map
- Exhibit "E" – Miami Dade County Fire Rescue, Site Plan Approval
- Exhibit "F" – Miami Dade County Public Schools, School Concurrency Determination
- Exhibit "G" – Miami Herald Advertisement Local Section (*dated November 1, 2019*)
- Exhibit "H - M" – Original Traffic Study including Subsequent Revisions
- Exhibit "N" – Municipal Site Plan Review (DERM)