

RESOLUTION NO. 19-_____

A RESOLUTION OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, APPROVING THE SITE PLAN OF CEDAR HOLDING, LLC TO PERMIT A ONE HUNDRED NINETY-NINE (199) UNIT RESIDENTIAL APARTMENT BUILDING AT THE POINT ROYALE SHOPPING CENTER, WHICH IS ON PROPERTY LOCATED AT 18901 SOUTH DIXIE HIGHWAY (FOLIO # 36-6005-070-0010), AS LEGALLY DESCRIBED IN EXHIBIT “A”, CONSISTING OF APPROXIMATELY 3.58 ACRES; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Cedar Holding, LLC (the “Applicant”) has submitted a site plan application (the “Application”) to permit a 199-unit residential apartment building on a proposed 3.58 acres development site consistent with the requirements set forth in Section 3-33 of the Town Code; and

WHEREAS, the mixed-use development is to be located at 18901 South Dixie Highway (the “Property”), which is zoned TRC and SF, as legally described in Exhibit “A”; and

WHEREAS, the Town of Cutler Bay (the “Town”) held a Zoning Workshop 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 approval; 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 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. 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 with the plans entitled “Point Royal Apartments,” prepared by Modis Architects, LLC, and Landscapede, LLC, and received November 8, 2019, as amended.

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

1. General Conditions

- 1.1** The proposed development will be built in accordance with the plans submitted entitled “Point Royale Apartments”, consisting of a total of 45 sheets and prepared by Modis Architects, LLC, dated 10/25/2019 and 10/31/2019, Landscapede, LLC dated 11/8/2019, and Ford Engineers, dated 11/5/2019, 11/6/2019 and 11/7/2019. The survey was prepared by Narciso J. Ramirez and consists of one page dated 12/28/2018. The Traffic Study was performed by David Plummer & Associates and was dated 5/13/2019 with a revised trip generation letter dated 11/5/2019. The Green Building Program application was prepared by Abney + Abney Green Solutions and was dated 11/1/2019.
- 1.2** All applicable 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** A building permit must be issued within one year of site plan approval in accordance with Section 3-30(10)(b).

1.8 Revisions to both the Covenant Running with the Land In Lieu of Unity of Title and Easement and Operating Agreement shall be required.

1.9 The building west of the proposed apartments shall receive deliveries in the front entrances only, to avoid conflict with residents' vehicles to and from the parking garage.

1.10 The final location and design of traffic control devices (i.e.: speed tables, traffic signs, traffic diversion island) in the Point Royale Plaza shall be approved by Town Staff prior to receipt of a building permit for the residential building.

1.11 Prior to Certificate of Occupancy for the residential building, the applicant shall install the traffic safety improvements in the Point Royale Plaza.

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.
- 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. The Town of Cutler Bay has the right of first refusal for trees which are removed.
- 3.4** The planting areas on the pool deck shall be designed to sustain the trees and be architecturally sound in accordance with the Florida Building Code and best practices.

4. Green Building Program Designation

- 4.1** The applicant shall fulfill the requirements of Section 3-74, Green Building Program Designation, for the two-story height bonus and 10% parking reduction
- 4.2** The applicant shall comply with Town of Cutler Bay Land Development Code Section 3-74(1)(d):
- d. Prior to the issuance of the first principal building permit the applicant shall post a performance bond equal to five percent of the total cost of the construction in order to secure performance and fulfillment of the applicant's obligation to obtain the applicable level of certification. In lieu of the bond required by this section, the town may accept an irrevocable letter of credit from a financial institution authorized to do business in the state or provide evidence of cash deposited in an escrow account in a financial institution in the state in the name of the applicant and the town. The letter of credit or escrow shall be in the same amount of the bond if it were posted. If the project fails to meet the criteria required for certification by the Green Building Certification Institute or other nationally recognized certifying agency within one year after receiving the town's certificate of occupancy, the applicant shall either request an extension or forfeit 100 percent of the bond. The applicant, for good cause shown, may request an extension of time of up to one additional year to achieve certification. Such extension may be granted at the sole discretion of the town council after having considered the factors and improvements necessary to achieve the requisite certification. If certification is not achieved within two years after receiving the town's certificate of occupancy, the applicant shall forfeit 100 percent of the bond. Funds that

become available to the town from the forfeiture of the performance bonds shall be deposited in a green building fund established by the town.

5. Environmental

5.1 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.

5.2 All storm water shall be retained inside the property. All storm water drainage systems shall be maintained in working order 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. Environmental

6.1 That the applicant complies with the Traffic and Pedestrian Circulation Assessment, dated by KCI Technologies, Inc. dated on October 8, 2019.

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.

8.2 Paving materials for sidewalks, courtyards, and non-covered parking lots with a minimum solar reflective index (SRI) of 29.

9. Enforcement

8.1 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.

Section 4. Violation. Failure to adhere to the terms of any 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 on this _____ day of November, 2019.

TIM MEERBOTT
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 Tim Meerbott _____

Vice Mayor Sue Ellen Loyzelle _____

Council Member Robert "BJ" Duncan _____

Council Member Michael P. Callahan _____

Council Member Roger Coriat _____