



***Application No.: ZC-2018-004***

**Attachment "B"**

**Rezoning Application**

**COUGAR HOLDINGS, LLC**

**REZONING**

AN ORDINANCE OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, APPROVING THE REQUEST OF COUGAR HOLDINGS, LLC TO PERMIT A REZONING FROM SR (SINGLE- FAMILY RESIDENTIAL DISTRICT) TO NC-1 (NEIGHBORHOOD CENTER 1 DISTRICT) ON PROPERTY GENERALLY LOCATED AT 8495 S.W. 200 STREET (FOLIO NO. 36-6003-035-0060 & 36-6003-002-0040) AS LEGALLY DESCRIBED IN EXHIBIT "A", CONSISTING OF APPROXIMATELY +/- .82 NET ACRES; AND PROVIDING FOR AN EFFECTIVE DATE.



DEPARTMENT OF COMMUNITY DEVELOPMENT  
PLANNING AND ZONING

**APPLICATION FOR ZONING CHANGE**

**PAID**  
JAN 10 2018  
BY: *Opadion*  
CRH 1122  
CR 1121

LIST ALL FOLIO #S: 36-6003-035-0060 & 36-6003-002-0040

DATE RECEIVED: \_\_\_\_\_

PROPOSED PROJECT NAME: Cutler Gate

- 1. NAME OF APPLICANT** (Provide complete name of applicant, exactly as recorded on deed, if applicable. If applicant is a lessee, an executed 'Owner's Sworn-to-Consent' and copy of a valid lease for 1 year or more is required. If the applicant is a corporation, trust, partnership, or like entity, a 'Disclosure of Interest' is required).

Cougar Holdings, LLC

**2. APPLICANT'S MAILING ADDRESS, TELEPHONE NUMBER:**

Mailing Address: 305 Alcazar Avenue, Suite #3

City: Coral Gables State: FL Zip: 33134 Phone#: 305-447-1776

**3. OWNER'S NAME, MAILING ADDRESS, TELEPHONE NUMBER:**

Owner's Name (Provide name of ALL owners): Same

Mailing Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_ Phone#: \_\_\_\_\_

**4. CONTACT PERSON'S INFORMATION:**

Name: Jorge L. Navarro, Esq. Company: Greenberg Traurig

Mailing Address: 333 Southeast 2 Avenue, #4100

City: Miami State: FL Zip: 33131

Phone# 305-579-0821 Fax# 305-961-5310 E-mail: navarrojo@gtlaw.com





### 5. LEGAL DESCRIPTION OF ALL PROPERTY COVERED BY THE APPLICATION

(Provide complete legal description, i.e., lot, block, subdivision name, plat book & page number, or metes and bounds. Include section, township, and range. If the application contains multiple rezoning requests, then a legal description for each sub-area must be provided. Attach separate sheets, as needed).

Lot 6 Block 1, Cutler Breeze, P.B. 163-93

Lot 19 Block 3, Silver Pines, P.B. 25-45

### 6. ADDRESS OR LOCATION OF PROPERTY (For location, use description such as NE corner of, etc).

8495 Southwest 200 Street

### 7. SIZE OF PROPERTY (in acres): 0.90 (divide total sq. ft. by 43,560 to obtain acreage)

### 8. DATE PROPERTY ☒ acquired ☐ leased: \_\_\_\_\_

### 9. LEASE TERM: \_\_\_\_\_ Years (Month & year)

### 10. IF CONTIGUOUS PROPERTY IS OWNED BY THE SUBJECT PROPERTY OWNER(S), provide Complete legal description of said contiguous property.

N/A



11. Is there an option to purchase ☐ or lease ☐ the subject property or property contiguous thereto? ☐ no ☐ yes (if yes, identify potential purchaser or lessee and complete 'Disclosure of Interest' form)

12. PRESENT ZONING AND FLU CLASSIFICATION: SR (Single Family)

13. PROPOSED USE OF PROPERTY (describe nature of the request in space provided)

Rezoning of property to NC-1. See Letter of Intent

14. Has a public hearing been held on this property within the last year & a half?

☒ No ☐ yes.

If yes, provide applicant's name, and date, purpose and results of hearing, and resolution number:

15. Is this hearing a result of a violation notice?

☒ No ☐ yes. If yes, give name to whom the Violation notice was served and describe the violation:

16. Does property owner own contiguous property to the subject property? If so, give complete legal description of entire contiguous property:

N/A

17. Is there any existing use on the property? ☒ No ☐ yes. If yes, what use and when established?

Use: \_\_\_\_\_ Year: \_\_\_\_\_



**18. Submitted Materials Required:**  
**Please check all that Apply:**

- ☐ Letter of intent
- ☐ Justifications for change
- ☐ Statement of hardship
- ☐ Poof of ownership or letter from owner
- ☐ Power of attorney
- ☐ Contract to purchase (If applicable)
- ☐ Current survey (2 original sealed and signed and 10 reduced 11x17 copies)
- ☐ Complete set of plans 24'x36", scale 1'=50' (2 original sealed and signed and 10 reduced 11x17 copies)
- ☐ Colored rendering of all 4 sides of each proposed building (If applicable)
- ☐ 20% Property owner signatures (If required)
- ☐ Mailing Labels (set amount depends on number of hearings) and map (If required)
- ☐ Required Fee(s)
- ☐ Plans must be approved by Miami-Dade County Fire and Rescue Department with an original stamp and signature from the Fire Dept.
- ☐ Necessary documentation from DERM and WASD



APPLICANT'S AFFIDAVIT

The Undersigned, first being duly sworn depose that all answers to the questions in this application, and all supplementary documents made a part of the application are honest and true to the best of (my)(our) knowledge and belief. (I)(We) understand this application must be complete and accurate before the application can be submitted and the hearing advertised.

OWNER OR TENANT AFFIDAVIT

(I)(WE), \_\_\_\_\_, being first duly sworn, depose and say that (I am)(We are) the ☒ owner ☐ tenant of the property described and which is the subject matter of the proposed hearing.

\_\_\_\_\_  
Signature  
Sworn to and subscribed to before me  
This \_\_\_\_\_ day of \_\_\_\_\_

\_\_\_\_\_  
Signature  
Notary Public: \_\_\_\_\_  
Commission Expires: \_\_\_\_\_

CORPORATION AFFIDAVIT

(I)(WE), Luis Machado as Managing Member of Cougar Holdings, LLC, being first duly sworn, depose and say that (I am)(We are) the ☐ President ☐ Vice-President ☐ Secretary ☐ Asst. Secretary of the aforesaid corporation, and as such, have been authorized by the corporation to file this application for public hearing; and that said corporation is the ☐ owner ☐ tenant of the property described herein and which is the subject matter of the proposed hearing.

Attest: \_\_\_\_\_

(Corp. Seal)  
Sworn to and subscribed to before me  
This 11 day of October 2017

\_\_\_\_\_  
Authorized Signature  
\_\_\_\_\_  
Office Held  
Notary Public: Jurarda Gonzalez Benitez  
Commission Expires: \_\_\_\_\_  
My Comm. Expires May 9, 2019  
Bonded through National Notary Assn.



**PARTNERSHIP AFFIDAVIT**

(I)(WE), \_\_\_\_\_, being first duly sworn, depose and say that  
(I am )(We are) partners of the hereinafter named partnership, and as such, have been authorized to file this application for a public hearing; and that said partnership is the ☐ owner ☐ tenant of the property described herein which is the subject matter of the proposed hearing.

By \_\_\_\_\_ %  
By \_\_\_\_\_ %

\_\_\_\_\_  
(Name of Partnership)  
By \_\_\_\_\_  
By \_\_\_\_\_

Sworn to and subscribed to before me  
This \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_

Notary Public: \_\_\_\_\_  
Commission Expires: \_\_\_\_\_

\*\*\*\*\*

**ATTORNEY AFFIDAVIT**

I, JORIEL NAVARRO, being first duly sworn, depose and say that I am a State of Florida Attorney at Law, and I am the Attorney for the Owner of the property described and which is the subject matter of the proposed hearing.

\_\_\_\_\_  
Signature  
\_\_\_\_\_  
Notary Public: \_\_\_\_\_  
Commission Expires: \_\_\_\_\_

Sworn to and subscribed to before me  
This 9th day of January 2018





### **RESPONSIBILITIES OF THE APPLICANT**

#### **I AM AWARE THAT:**

1. The Department Environmental Resources Management (DERM), and other agencies review and critique zoning applications which may affect the scheduling and outcome of applications. These reviews may require additional public hearings before DERM's Environmental Quality Control Board (EQCB), or other boards, and /or the proffering of agreements to be recorded. I am also aware that I must comply promptly with any DERM conditions and advise this office in writing if my application will be withdrawn.
2. Filing fees may not be the total cost of a hearing. Some requests require notices to be mailed to property owners up to a mile from the subject property. In addition to mailing costs, fees related to application changes, plan revisions, deferrals, re-advertising, etc., may be incurred. Application withdrawn within 30 days of the filing are eligible for a refund of 25% of the hearing fee but after that time hearings withdrawn or returned will be ineligible for a refund. I understand that fees must be paid promptly.
3. The South Florida Building Code requirements may affect my ability to obtain a building permit even if my zoning application is approved; and that a building permit will probably be required. I am responsible for obtaining permits and inspections for all structures and additions proposed, or built without permits. And that a Certificate of Use and Occupancy must be obtained for the use of the property after it has been approved at Zoning Hearing, and that failure to obtain the required permits and/or Certificates of Completion or of Use and Occupancy will result in enforcement action against any occupant and owner. Submittal of the Zoning Hearing application may not forestall enforcement action against the property.
4. The 3<sup>rd</sup> District Court of Appeal has ruled that zoning applications inconsistent with the Comprehensive Development Master Plan (CDMP) cannot be approved by a zoning board based upon considerations of fundamental fairness. Therefore, I acknowledge that if the hearing request is inconsistent with the CDMP and I decide to go forward then my hearing request can only be denied or deferred, but not approved.
5. In Miami-Dade County v. Omnipoint Holdings, Inc. Case No. 3d01-2347 (Fla. 3<sup>rd</sup> DCA 2002), the 3<sup>rd</sup> District Court of Appeal has held invalid the standards for non-use variances, special exceptions, unusual uses, new uses requiring a public hearing and modification of covenants. This is not a final decision and the County Attorney's Department professional staff to develop new standards that will address the Court's concerns. While the new standards are being developed, applicants are advised that any non-use variance, special exception, unusual use, new use requiring a public hearing or request for modification of covenants granted under the existing standards are subject to being reversed in the courts. An applicant wishing to avoid the substantial legal risks associated with going forward under the existing standard may seek a deferral until the new standards are developed.
6. Any covenant to be proffered must be submitted to the Town of Cutler Bay Legal Counsel, on Town form, at least 1 month prior to the hearing date. The covenant will be



reviewed and the applicant will be notified if changes or corrections are necessary. Once the covenant is acceptable, the applicant is responsible to submit the executed covenant with a current 'Opinion of Title' within 1 week of the hearing. And that Legal Counsel must carry a cover letter indicating subject matter, application number and hearing date.

7. The Town of Cutler Bay Department of Public Works reviews and critiques Zoning applications and may require conditions for approval.
8. Each party will be limited to a presentation of 20 minutes. This time limitation may be extended by the Chair of the meeting.
9. **THE APPLICANT IS RESPONSIBLE FOR TRACKING THE STATUS OF THE APPLICATION AND ALL HEARINGS THAT MAY BE ASSOCIATED WITH THIS APPLICATION.**

COUGAR HOLDINGS, LLC, a Florida limited liability company

(Applicant's Signature)

Sworn to and subscribed before me this 11 day of October, 2017.

Affiant is (personally known to me) or has produced \_\_\_\_\_ as identification.

[Signature]  
(Notary Public)

My Commission Expires:





### DISCLOSURE OF INTEREST

If the property, which is the subject of the Application, is owned or leased by a **CORPORATION**, list the Principal Stockholders and the percentage of stock owned by each. NOTE: Where the Principal Officers or Stockholders consist of another Corporation(s), Trustee(s), Partnership(s) or other similar entities, further disclosure shall be required which discloses the identity of the individual(s) (natural persons) having the ultimate ownership interest in the aforementioned entity.

Cougar Holdings, LLC.

Corporation Name

Name, Address and Office

Percentage of stock

Lule Machado 305 Alcazar Ave Suite 3 C. Gables, FL 33134

50%

Gesmac Developers Inc 305 Alcazar Ave Suite 3 C. Gables, FL 33134

50%

If the property, which is the subject of the Application, is owned or leased by a **TRUSTEE**, list the Principal Stockholders and the percentage of stock owned by each. NOTE: Where the Principal Officers or Stockholders consist of another Corporation(s), Trustee(s), Partnership(s) or other similar entities, further disclosure shall be required which discloses the identity of the individual(s) (natural persons) having the ultimate ownership interest in the aforementioned entity.

Trust Name

Name, Address and Office

Percentage of stock

If the property, which is the subject of the Application, is owned or leased by a **PARTNERSHIP or LIMITED PARTNERSHIP**, list the Principal Stockholders and the percentage of stock owned by each. NOTE: Where the Principal Officers or Stockholders consist of another Corporation(s), Trustee(s), Partnership(s) or other similar entities, further disclosure shall be required which discloses the identity of the individual(s) (natural persons) having the ultimate ownership interest in the aforementioned entity.

Partnership or Limited Partnership Name

Name, Address and Office

Percentage of stock



### COST RECOVERY AFFIDAVIT

I hereby acknowledge and consent to the payment of all applicable fees involved as part of my application process. These fees include but are not limited to: application fees, postage, advertising, and attorney fees **regardless of the outcome of the public hearing.**

Please type or print the following:

Date: \_\_\_\_\_ Public Hearing No. \_\_\_\_\_

Full Name:

Mr. Mrs. Ms. Luis Machado, Managing Member, Cougar Holdings, LLC.

Current Address: 305 Alcazar Avenue, Suite 3 City: Coral Gables

State: Florida Zip: 33134 Telephone Number ( 305 ) 447-1776

Date of Birth: 2-11-1964

Signature \_\_\_\_\_

SWORN AND SUBSCRIBED BEFORE ME THIS 11 DAY OF October 2017

[Signature]  
Notary Public, State of Florida at Large

My Commission expires \_\_\_\_\_



Pursuant to Ordinance No. 2000-09-33-Cost Recovery

Jorge L. Navarro, Esq.  
Tel (305) 579-0821  
[navarrojo@gtlaw.com](mailto:navarrojo@gtlaw.com)

May 8, 2018

**VIA HAND DELIVERY**

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

**RE: Cutler Gate / Letter of Intent for Rezoning to NC-1 / Property located at 8495 SW 200 Street, in the Town of Cutler Bay, Florida (Folio No. 36-6003-035-0060)**

Dear Ms. Lyon:

On behalf of Cougar Holdings, LLC (the “**Applicant**”), please accept this as our letter of intent in connection with our rezoning application for the above referenced property (the “**Property**”). In compliance with Section 3-38 of the Town of Cutler Bay’s Land Development Regulations, the Applicant is seeking to rezone the Property from SR (Single-Family Residential) to NC-1 (Neighborhood Center 1) (the “**Proposed Rezoning**”).

**PROPERTY INFORMATION**

The Property is generally located at the intersection of Old Cutler Road and SW 200th Street and is comprised of approximately 1.35 gross acres (.82 net acres) of vacant, unimproved land. The Property fronts directly onto Old Cutler Road and is bounded by SW 200th Street to the South, SW 85th Avenue to the West and single family residences to the North. The location of the Property is generally reflected below.



Cutler Gate Project  
Rezoning Letter of Intent  
May 8, 2018

## ANALYSIS

The Applicant seeks to rezone the Property to proceed with the redevelopment of a mixed-use project consisting of ground level commercial uses with upper level residences (the “**Project**”) in accordance with the NC-1 district regulations. As outlined below the Proposed Rezoning complies with the applicable criteria for approval provided in Section 3-38 of the Town’s Land Development Regulations, is compatible with the area, and is consistent with the future development trend contemplated along the Old Cutler Road corridor.

**1. *The Proposed Rezoning will further the goals, objectives, and policies of the Town’s Growth Management Plan.***

The Applicant has concurrently filed an application for an amendment to the Town’s Future Land Use Map Growth Management Plan to re-designating the Property from “Low Density” to “Mixed Use”. The Proposed Rezoning to NC-1 is consistent with the proposed redesignation of the Property to “Mixed Use” on the Town’s Future Land Use Map. Additionally, the approval of the Proposed Rezoning would promote the implementation of the goals, objectives and policies outlined in the Town’s Growth Management Plan as well as advance the Town’s vision for high quality, well-designed mixed use development along the Old Cutler Road corridor. A list of the goals, objectives and policies of the Town’s Future Land Use Growth Management Plan that will be furthered by the Proposed Rezoning is attached as **Exhibit “A”**.

**2. *The proposed rezone is compatible with the surrounding area’s zoning designation and existing uses.***

**a. *Compatible with Town’s vision for Old Cutler Road***

According to Section 3-58 of the Town’s Land Development Regulations, the general intent of the NC-1 zoning district is to promote a pedestrian friendly environment by encouraging a variety of uses including pedestrian scaled shops, small workplaces, and residential buildings central to a neighborhood. The Property is ideally situated for mixed use development due to its primary frontage along Old Cutler Road and its proximity to other residential and mixed-use zoned properties. The Project’s proposed ground floor commercial uses, pedestrian oriented sidewalks and outdoor plazas will complement the residential component of the Project and serve the surrounding residential neighborhood. The ground floor commercial uses will also activate the Old Cutler Road corridor fronting the Property by creating a more pedestrian friendly environment and encouraging walkability. Lastly, the development of a mixed-use project at the Property furthers the City’s vision for the continued revitalization of Old Cutler Road and is compatible with the concentration of NC-1 zoned properties along the Old Cutler Road corridor.

Cutler Gate Project  
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May 8, 2018

**b. Compatible with Surrounding Uses**

The Proposed Rezoning is consistent with the NC-1 zoning designation directly to the South of the Property and compatible with the existing uses and future development trend envisioned for Old Cutler Road. Specifically, the Proposed Rezoning of the Property ensures compatibility with the residential uses to the North and West of the Property as the mixed-use Project will serve as an appropriate transition and naturally buffer the abutting single family residential uses from the noise and traffic along Old Cutler Road. Accordingly, the Project will further enhance the residential character of the area as well as provide neighborhood friendly commercial uses intended to service the needs of the nearby residents and local community.

**c. Compatible with Surrounding Development Standards**

The Proposed Rezoning will result in a building height that is equivalent to that currently permitted for the single family residential uses surrounding the Property. Specifically, the NC-1 zoning designation permits a maximum height of 35 feet which is consistent and compatible with the maximum height permitted on the abutting SR zoned properties. Accordingly, the Proposed Rezoning would not adversely impact the single-family residences abutting the Property as the maximum height allowance would remain the same.

The Proposed Rezoning will also further enhance the setbacks and buffering from the abutting single family residences and activate the frontage along Old Cutler Road with commercial uses, widened sidewalks and outdoor plazas. Specifically, as discussed further below, the Project will provide a 15-foot building setback and landscape buffer along the Northern boundary of the Property, where only 5 feet is required under the existing SR zoning designation.<sup>1</sup> The increased setbacks and landscaped buffer area ensures that the Proposed Rezoning does not adversely impact the abutting SR zoned properties but rather complements the residential character of the neighborhood with an appropriate buffer to ensure compatibility with the surrounding residences and uses.

**3. *The subject property is physically suitable for the uses permitted in the proposed district.***

As discussed above, the Property is comprised of approximately 1.35 gross acres (.82 net acres) of vacant land. The Property is also uniquely situated in that it has frontages along three (3) roadways including the Old Cutler Road corridor, which is a major thoroughfare within the Town. Due to its extensive lot area and multiple frontages, the Property is physically suitable for the development of commercial and residential uses and the vertical integration of such uses due to its location along Old Cutler Road. Specifically, the Property can accommodate the necessary access and off-street parking required to

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<sup>1</sup> Pursuant to Section 3-55(3) of the Town's Land Development Regulations, the SR District (Single-Family Residential) requires a 5-foot interior side setback and a 15-foot rear setback, with a 5-foot setback permitted for accessory structures.

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support such uses within the existing lot area in accordance with the Town's Land Development Regulations. Additionally, the Property is ideally located for the development of a transitional mixed-use project with increased density to ensure the successful integration of ground floor commercial uses with vertical residential units and outdoor plaza space.

The Project will also be designed in conformance with the development standards set forth in Section 3-58 of the Town's Land Development Regulations for NC-1 properties. In accordance with Section 3-102 of the Land Development Regulations, the Property can accommodate a 15-foot landscape buffer to serve as a natural transition and buffer from the less intense residential uses to the North and West. Specifically, the landscape buffer will create a visual screen that will further reduce any visual impact from the Project to the single-family residences abutting the Property.

### **CONCLUSION**

Based on the foregoing, the Proposed Rezoning complies with the applicable criteria for approval in Section 3-38 of the Town's Land Development Regulations, is compatible with the abutting uses in the area, and is consistent with the future development trend contemplated along the Old Cutler Road corridor. The Proposed Rezoning will enhance the quality of mixed use development along Old Cutler Road by permitting the redevelopment of the Property into a pedestrian friendly mixed-use project with outdoor plaza space, upper level residences and ground floor commercial uses intended to serve the residents of the local community. Accordingly, we respectfully request your favorable consideration of the Proposed Rezoning.

We look forward to working with you on this Project. As always, should you have any questions, please do not hesitate to contact me at 305-579-0821.

Sincerely,

GREENBERG TRAURIG



Jorge L. Navarro

Cutler Gate Project  
Rezoning Letter of Intent  
May 8, 2018

### EXHIBIT "A"

- *Objective FLU-3:* The areas designated "Mixed Use" on the Future Land Use Map shall be developed or redeveloped through the Land Development Regulations as design unified horizontal and vertical mixed use areas in accordance with adopted plans and studies that reflect the community's vision.
- *Policy FLU-3G:* The Town shall implement unified high quality, well-designed horizontal and vertical mixed use development on the Old Cutler Road corridor.
- *Policy FLU-3A:* Areas designated mixed use shall contain commercial, office, residential, community, institutional and recreation and open space uses integrated vertically or horizontally, in accordance with Policy FLU-1C.
- *Policy FLU-3C:* The area located along the Old Cutler Road corridor and designated "Mixed Use" on the Future Land Use Map shall be redeveloped as a place where living, working, shopping, and civic activities can take place within a town center type environment.
- *Policy FLU-3D:* New development and redevelopment along Old Cutler Road shall consist of a variety of buildings and uses that will encourage pedestrian activity with wide sidewalks, balconies, outdoor cafes, squares, and plazas.
- *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-13C:* The Town shall support the location of employment centers, offices, and retail uses proximate to residential areas through the implementation of the Town Center, Mixed-Use land use districts, in accordance with this Plan.
- *Policy FLU-4A:* The Town shall implement strategies to provide appropriate transitions between its residential districts and the higher intensity Mixed Use, Town Center, and Institutional districts through its Land Development Regulations and other appropriate mechanisms.
- *Policy HI-1D:* The Town's residential zoning districts shall allow a variety of housing types in residential districts in order to meet the housing needs of current and projected residents.