

RESOLUTION NO. 17-_____

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF MIAMI LAKES, FLORIDA, PURSUANT TO SUBSECTION 13-305(f)(1) OF THE TOWN OF MIAMI LAKES LAND DEVELOPMENT CODE; PERTAINING TO VARIANCE FROM SECTION 13-565(h) REDUCING THE REQUIRED AMOUNT OF OPEN SPACE, AND VARIANCES FROM SECTION 13-565(c) REDUCING REQUIRED SETBACKS AND BUILDING SPACING; PERTAINING TO A REQUEST IN ACCORDANCE WITH SECTION 13-304(h) OF THE TOWN OF MIAMI LAKES LAND DEVELOPMENT CODE FOR SITE PLAN APPROVAL; ALL BEING SUBMITTED FOR THE PROPERTY LOCATED AT 15800 NW 77TH COURT, AS PROVIDED AT EXHIBIT "A", MIAMI LAKES, FLORIDA, FOLIO NO. 32-2015-044-0010, AS DESCRIBED AT EXHIBIT "B"; PROVIDING FOR INCORPORATION OF RECITALS; PROVIDING FINDINGS; PROVIDING FOR APPEAL; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, pursuant to Subsection 13-304 of the Town of Miami Lakes ("Town") Land Development Code ("LDC"), Recondite, LLC (the "Applicant") applied to the Town for approval of a Site Plan, entitled Lucida Palmetto & 77th, dated stamped received May 12, 2017, consisting of 23 sheets, as prepared by LLR Architects, Inc. a copy of the Site Plan (the "Site Plan") being attached hereto as Exhibit "A", for property located at 15800 SW 77th Court, bearing Miami-Dade Tax Folio No. 32-2015-044-0010 and legally described on the survey as provided in Exhibit "B" ("Property"), and containing approximately 2.578 acres of land; and

WHEREAS, pursuant to Section 13-305(f)(1) of the Town' LDC, the Applicant is requesting relief from Section, 13-565(h) to reduce the required amount of open space from thirty percent (30%) to twenty-two percent (22%), and relief from Section 13-595-(c), requesting to reduce the required front yard setback from twenty-five (25) to ten (10) feet, the required rear yard setback from twenty (20) feet to five (5) feet, the required side yard setback from twenty-five (25) feet to seven (7) feet, and the spacing between buildings from the required twenty (20) feet to fourteen (14) feet, (15) feet, and (18) feet respectively as

further depicted on the plans attached to this Resolution; and

WHEREAS, the plan submitted by the Applicant is considered materially different than the prior plan that was denied with prejudice on January 17, 2017, as this application, among other elements, reflects an entirely different layout with lower rise buildings (three (3) stories versus six (6)) and fewer units (108 versus 120), and does not provide understory parking; and

WHEREAS, in consideration of the material differences between this request and the prior request, this application is eligible for consideration by the Town Council of the Town of Miami Lakes at this time; and

WHEREAS, in accordance with Section 13-309 of the Town LDC, proper notice was mailed to the appropriate property owners of record, notice was posted at the property, and the duly advertised in the newspaper; for a quasi-judicial public hearing on the Variance Requests and Site Plan as noticed for Tuesday, June 6, 2017, at 6:30 P.M. at Town Hall, 6601 Main Street, Miami Lakes, Florida; and all interested parties had the opportunity to address their comments to the Town Council; and

WHEREAS, on June 6, 2017, at the properly noticed quasi-judicial hearing held by the Town Council of the Town of Miami Lakes, after hearing testimony from staff, the applicant, the public, and other testimony, both verbal, and written, as incorporated herein by reference, the Town Council determined that the requested variances meet the criteria set forth by section 13-305(f)(1), and determined the submitted site plan meets the criteria of section 13-304(h) for approval; and

WHEREAS, the Town Council now desires to approve the Applicant's Variances request and Site Plan requests.

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF MIAMI LAKES, FLORIDA, AS FOLLOWS:

Section 1. Recitals. The foregoing recitals are true and correct and are incorporated

herein by this reference.

Section 2. Findings. In consideration of all the submitted evidenced, both verbal and written, as provided at the June 6, 2017 hearing, the Town Council finds, in accordance with Section 13-305(f)(1) of the Towns LDC, that the following variance requests:

1. Section 13-565(h) reducing the required amount of open space from 30% (35,459.3 square feet) to 21.77% (24,442 square feet).
2. Section 13-565(c) reducing the required setbacks as follows:
 - a. Front setback from twenty-five (25) feet to ten (10) feet;
 - b. Rear setback from twenty (20) feet to five (5) feet;
 - c. Side setbacks from twenty-five (25) feet to seven (7) feet; and
 - d. Between building setbacks from twenty (20) feet to fourteen (14) feet, to fifteen (15) feet, eighteen (18) feet, and eighteen (18) feet as further depicted on the site plan;

are in conditional compliance with the following criteria:

(1) *Practical difficulty.* The application may be considered under the requirements of practical difficulty as set forth herein. Any approval or approval with modifications and/or conditions, of a variance based on practical difficulty shall require a majority vote of the members of the Town Council or designated Town board present at the meeting. In order to authorize any variance application from the requirements of this chapter on the basis of practical difficulty, the Town Council or designated Town board shall balance the rights of property owners in the Town as a whole against the need of the individual property owner to deviate from the requirements of this chapter based on an evaluation of the factors below. All of the factors should be considered and given their due weight; however, no single factor is dispositive:

- a. Whether the Town has received written support of the specifically identified variance requests from adjoining property owners;
- b. Whether approval of the variance would be compatible with development patterns in the Town;
- c. Whether the essential character of the neighborhood would be preserved;
- d. Whether the variance can be approved without causing substantial detriment to adjoining properties;
- e. Whether the variance would do substantial justice to the property owner as well as to other property owners justifying a relaxation of this chapter to provide substantial relief;
- f. Whether the plight of the applicant is due to unique circumstances of the property and/or applicant which would render conformity with the strict requirements of this chapter unnecessarily burdensome; and
- g. Whether the special conditions and circumstances which exist are the result of actions beyond the control of the applicant;

and,

in consideration of all the submitted evidenced, both verbal and written, as provided at the June 6, 2017 hearing, the Town Council finds, in accordance with and in accordance with Section 13-308(h), that the Application conditionally meets the criteria for Site Plan Approval which are as follows:

- (1) In what respects the plan is or is not consistent with the Comprehensive Plan, the purpose and intent of the zoning district in which it is located and any design or planning studies adopted by the Town Council that include recommendations applicable to the design of the site under review.
- (2) In what respects the plan is or is not in conformance with all applicable regulations of the zoning district in which it is located.
- (3) In what respects the plan is or is not in conformance with the Town requirements including the design and construction of streets, utility facilities and other essential services.
- (4) In what respects the plan is or is not consistent with good design standards in respect to all external relationships including but not limited to:
 - a. Relationship to adjoining properties, including the arrangement of buildings and landscape to produce spatial relationships that are compatible with, and complementary to, the development and zoning in adjoining areas.
 - b. Internal and external circulation, including vehicular, bicycle and pedestrian. Circulation systems shall serve the needs of the development and be compatible with, and functionally integrate with, circulation systems outside the development. Vehicular traffic from non-residential development shall be routed so as to minimize impact on residential development. Disposition of open space, use of screening or buffering where appropriate to provide a logical transition to existing, permitted or planned uses on adjoining properties.
 - d. Landscaping that enhances architectural features, strengthens vista and important axes, provides shade, blocks noise generated by major roadways and intense-use areas and, to the maximum extent practicable, preserves existing trees on-site.
 - e. Appropriate scale of proposed structures to be compatible with and complementary to existing, permitted or planned uses on adjoining properties and in the immediate area.
 - f. All outdoor lighting, signs or permanent outdoor advertising or identification features shall be designed as an integral part of and be harmonious with building design and the surrounding landscape.

- g. Service areas which may be provided shall be screened and so located as not to be visible from the public right-of-way and other properties.
 - h. Design of the site shall ensure adequate access for emergency vehicles and personnel.
 - 1. Design of the site shall utilize strategies to provide for the conservation of energy and natural resources, including water.
- (5) In what respects the plan is or is not in conformance with the Town Policy in respect to sufficiency of ownership, guarantee for completion of all required improvements and the guarantee for continued maintenance.
- (6) Should a court of competent jurisdiction enter a final non-appealable order determining that the applicable deed restrictions relevant to the applicant's property do not allow the project as proposed, the applicant shall apply for revised town approvals as applicable in order to build.

Section 3. Approval of Variances. Pursuant to Section 13-305(f)(1) of the Towns LDC, the proposed Variances associate with plans entitled Lucida Palmetto & 77th, dated stamped received May 12, 2017, consisting of 23 sheets, as prepared by LLR Architects, Inc. a copy of the Site Plan (the "Site Plan") being attached hereto as Exhibit "A", is hereby Approved with the following condition:

- 1. Grade A#1 planting materials shall be proposed through-out.
- 2. Air conditioner units shall either be located on roof tops or be cluster at the ground level to keep the setback areas clear of mechanical equipment to the greatest extent possible

Section 4. Approval of Site Plan. Pursuant to Section 13-304(h), the proposed Site Plan entitled Lucida Palmetto & 77th, dated stamped received May 12, 2017, consisting of 23 sheets, as prepared by LLR Architects, Inc. a copy of the Site Plan (the "Site Plan") being attached hereto as Exhibit "A", is hereby Approved with the following conditions:

- 1. Prior to the issuance of a building permit authorizing any construction, all required impact fees must be paid in full.
- 2. Developer will construct or make payment for construction their portion of the greenway along NW 77th Court that fronts their property.
- 3. Prior to the issuance of a building permit authorizing any construction, the Applicant shall incorporate into their plans, pedestrian and bicycle improvements on the Right of Way consistent with the Town of Miami Lakes Greenway Plan, in a manner to be approved by Staff.

4. Payment of the required Large Park impact fee pursuant to Chapter 33H of Miami-Dade County's Code of Ordinances or a donation of 0.741 acres.
5. The Applicant shall obtain a Certificate of Use (CU), upon compliance with all the terms and conditions of this approval, the same subject to cancellation by the Town upon violation of any of the conditions. Business tax receipt shall be obtained if applicable.
6. The Applicant shall obtain all required building permits, within five (5) year of the date of this approval. If all required building permits are not obtained or an extension granted not within the prescribed time limit, this approval shall become null and void.
7. Issuance of a Certificate of Occupancy of the development shall not occur sooner than January 1, 2020.
8. A construction staging plan shall be submitted at time of permitting to Town's Building Department for its review. No building permit shall be issued until the construction staging plan is deemed acceptable by the Town's Building Official. The plan shall provide for the construction of perimeter fencing in advance of the issuance of any other permits associated with the site. Those structures adjacent to the school property along the north and west property lines shall be constructed first as part of the phasing plan. The plan shall at a minimum address staging of equipment, deliveries, site access, temporary construction trailers, mitigation of dust, phasing of development, and any other requirement deemed appropriate by the Building Official to mitigate any unintended impacts to adjacent properties that may be caused by the associated construction activity.
9. Compliance with all other applicable laws not specifically identified herein.
10. All cost recovery fees associated with this request that are owed to the Town be paid in full prior to issuance of development order.

Section 5. Violation of Conditions. Failure to adhere to the terms and conditions of this Resolution shall be considered a violation of the Town LDC and persons found violating the conditions shall be subject to the penalties prescribed by the Town LDC, including but not limited to, the revocation of any of the approval(s) granted in this Resolution. The Applicant understands and acknowledges that it must comply with all other applicable requirements of the Town LDC before it may commence operation, and that the foregoing approval in this Resolution may be revoked by the Town at any time upon a determination that the Applicant is in non-compliance with the Town LDC.

Section 6. Appeal. In accordance with Section 13-310 of the Town LDC, the Applicant, or any affected party may seek review of development orders of the Town Council by the filing of an appeal or writ of certiorari in the appropriate court as prescribed in the

Florida Rules of Appellate Procedure.

Section 7. Final Order.

This is a Final Order.

Section 8. Effective Date. This Resolution shall become effective immediately upon adoption hereof.

PASSED AND ADOPTED this ____ day of June, 2017.

The foregoing resolution was offered by Councilmember _____ who moved its adoption. The motion was seconded by _____ and upon being put to a vote, the vote was as follows:

FINAL VOTE AT ADOPTION

Mayor Manny Cid	_____
Vice Mayor Tony Lama	_____
Councilmember Luis Collazo	_____
Councilmember Tim Daubert	_____
Councilmember Ceasar Mestre	_____
Councilmember Frank Mingo	_____
Councilmember Nelson Rodriguez	_____

Manny Cid
MAYOR

Attest:

Approved as to Form and Legal Sufficiency

Gina Inguanzo
TOWN CLERK

Raul Gastesi
TOWN ATTORNEY

This Resolution was filed in the Office of the Village Clerk on this ____ day of _____, 2017.

Gina Inguanzo
Town Clerk

EXHIBIT A

SITE PLAN

EXHIBIT B

SURVEY