

RESOLUTION NO. 17-1447

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF MIAMI LAKES, FLORIDA, APPROVING A REQUEST IN ACCORDANCE WITH SUBSECTION 13-308(f)(3) OF THE TOWN OF MIAMI LAKES LAND DEVELOPMENT CODE FOR A FINAL PLAT ENTITLED "LOCHNESS GARDENS"; APPROVING A REQUEST IN ACCORDANCE WITH SECTION 13-304 OF THE TOWN OF MIAMI LAKES LAND DEVELOPMENT CODE FOR SITE PLAN APPROVAL SUBMITTED FOR PROPERTY LOCATED AT 7242 LOCH NESS DRIVE, MIAMI LAKES, FLORIDA, FOLIO NUMBER 32-2014-010-1470; PROVIDING FOR INCORPORATION OF RECITALS; PROVIDING FINDINGS; PROVIDING FOR APPEAL; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, pursuant to Section 13-308(f) and Section 13-304 of the Town of Miami Lakes' (the "Town") Land Development Code (the "LDC"), Comar Ventures Corporation (the "Applicant") applied to the Town for approval of a final plat, a copy of the Plat being attached hereto as Exhibit "A" and incorporated herein by reference (the "Final Plat"), for property located at 7242 Loch Ness Drive, Miami Lakes, Florida 33014, Miami-Dade Tax Folio No. 32-2014-010-1470 ("Property"), legally described as, Tract A, Miami Lakes Loch Ness Section, Plat Book 93, Page 45, and containing approximately 1.7 acres of land; and

WHEREAS, Section 13-308(f)(3) of the Town LDC sets forth the authority of the Town Council to consider and act upon an application for a final plat and Section 13-304 (h) sets forth the authority to approve site plans; and

WHEREAS, on November 3, 2015, the Town Council adopted Resolution 15-1338 approving the preliminary plat and included a condition that prior to approval of the final plat the property owner submit, and have approved by the Town Council after a public hearing, a site plan application, and

WHEREAS, on September 6, 2016, at a 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 submitted plat did not meet the criteria set forth by section 13-308(f)(3), and determined the submitted site plan did not meet the criteria of section 13-304(h) for approval, and therefore denied both the Final Plat and the Site Plan requests; and

WHEREAS, Comar Ventures has agreed to amend the Site Plan request, and consistent with the amended Site Plan provide the Town with a Unity of Title; 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 on the property as required, and the hearing was duly advertised in the newspaper; for a public hearing on the Final Plat and amended Site Plan as noticed for Tuesday, May 2nd, 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, the Town Council considered the written recommendations of staff and back-up materials, any other reviewing agencies, and presentations by the public, and finds the proposed Final Plat meets the criteria set forth at Section 13-308(f)(3), and Site Plan meets the criteria of set forth in Section 13-304(h) of the LDC; and

WHEREAS, the Town Council now desires to approve the Applicant's Final Plat and Site Plan as provided for in the settlement agreement.

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 prior testimony and evidence submitted both at the November 3, 2015 and September 6, 2016 hearings, and the testimony and evidence given this 2nd day of May, 2017, and in accordance with Section 13-308(f)(3), the Town Council finds the Application conditionally meets the criteria as provided for at Section 3; and

In consideration of all the prior testimony and evidence submitted both at the November 3, 2015 and September 6, 2016 hearings, and the testimony and evidence given this 2nd day of May, 2017 the testimony and evidence given this 2nd day of May, 2017, and in accordance with Section 13-308(h), the Town Council finds that the Application conditionally meets the criteria as provided for at Section 4, 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.

- c. 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 Final Plat. Pursuant to Section 13-308, the proposed Final Plat entitled "LOCHNESS GARDENS," as prepared by Manuel G. Vera & Associates, Inc, consisting of two (2) pages and stamped dated received July 15, 2016, as attached hereto as Exhibit "A", is hereby Approved with the following condition:

- 1. The Applicant shall comply, prior recordation of Final Plat approval, with all platting requirements of the Town LDC and Chapter 28 of the Miami-Dade County Code.
- 2. Upon recordation of the final plat, the Applicant shall provide the Town with one signed and sealed original and one digital copy.

Section 4. Approval of Site Plan. Pursuant to Section 13-304(h), the proposed Site Plan entitled "LOCHNESS GARDENS," as prepared by Carlos Marti, consisting of 15

pages, dated stamped received April 7, 2017, as attached hereto as Exhibit "B", is hereby Approved with the following conditions:

1. The Applicant, through a unity of title, shall combine lots 3 and 4 of the Loch Ness Gardens plat. The unity of title shall be reviewed and approved as to form by the Town Attorney. The unity of title shall be filed in the public records of Miami-Dade County only after the non-appealable approval of both the Plat and Site Plan within 30 days of the later of the non-appealable plat approval or the non-appealable site plan approval. The unity of title may only be dissolved by resolution of the Town Council.

2. Only four (4) single-family houses are approved as follows: one house on lot one, one house on lot two, one house on lot five, and one house on the combined lots three and four.

3. None of the four houses shall face Loch Ness Drive.

4. None of the four houses will be more than one story in height.

5. The Town staff shall make any administrative adjustments to the plat and/or site plan of any non-Town-required approvals that are acceptable to the Town Manager and Applicant.

6. Prior to the issuance of a certificate of completeness/occupancy of the house on lot 5, (1) a retaining wall at least three 3 feet in height above grade, or as determined upon building permit review, or (2) contouring and a berm as appropriate, shall be constructed along the rear property line where adjacent to the neighboring property to ensure proper retention of the storm water on the subject site.

7. Prior to the issuance of the first building permit in the subdivision, the property owner shall pay the Six Thousand Five Hundred Seventy Eight Dollars (\$6,578) Mobility Fee due according to Article X, Division 2 of the Town LDC.

8. A building permit shall be approved within two (2) years of the date of issuance of a final development order. A single, twelve (12) month extension may be granted

administratively upon a showing of good cause. If a building permit is not obtained, or an extension granted within the prescribed time limit, this approval shall become null and void.

9. 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 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. Authorization. Subject to review by the Town Attorney, the Town Manager, the Town Clerk and the Town Surveyor are authorized to sign the face of the Final Plat and to execute any other required documents necessary for approval of the Final Plat consistent with and to implement the intent of the Town Council.

Section 7. 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 8. Final Order.

This is a Final Order.

Section 9. Effective Date. This Resolution shall become effective immediately upon adoption hereof.

PASSED AND ADOPTED this 2nd day of May, 2017.

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

FINAL VOTE AT ADOPTION

Mayor Manny Cid	<u>Y</u>
Vice Mayor Tony Lama	<u>Y</u>
Councilmember Luis Collazo	<u>Y</u>
Councilmember Tim Daubert	<u>Y</u>
Councilmember Ceasar Mestre	<u>Y</u>
Councilmember Frank Mingo	<u>Y</u>
Councilmember Nelson Rodriguez	<u>Y</u>



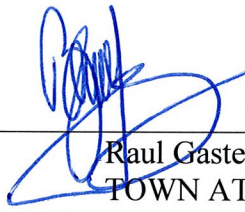
Manny Cid
MAYOR

Attest:



Gina Inguanzo
TOWN CLERK

Approved as to Form and Legal Sufficiency



Raul Gastesi
TOWN ATTORNEY

This Resolution was filed in the Office of the Town Clerk on this 12th day of May, 2017.

EXHIBIT A
PLAT
LOCHNESS GARDENS

EXHIBIT B

SITE PLAN