

RESOLUTION NO. 17-1457

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 (TOWN) LAND DEVELOPMENT CODE (LDC); PERTAINING TO A VARIANCE FROM SECTION 13-1801(f)(7) OF THE TOWN'S LDC, REDUCING THE REQUIRED AMOUNT OF PARKING SPACES FROM 109 TO 97; PURSUANT TO 13-303 OF THE TOWN'S LDC, TO ESTABLISH AN ASSISTED LIVING FACILITY (ALF) AND SKILLED NURSING FACILITY (SNF), AND PURSUANT TO SECTION 13-304(h) OF THE TOWN'S LDC FOR A SITE PLAN APPROVAL, ALL OF WHICH ARE PROVIDED AT EXHIBIT "A", SITE PLAN; FOR THE PROPERTY LOCATED ON THE WEST SIDE OF COMMERCE WAY AND N.W. 146TH STREET, AS MORE PARTICULARLY DESCRIBED AT EXHIBIT "B", BEARING FOLIO NOS. 32-2022-008-0013, 32-2022-001-0220, AND 32-2022-001-0230; PROVIDING FOR INCORPORATION OF RECITALS; PROVIDING FINDINGS; PROVIDING FOR VIOLATION OF CONDITIONS, PROVIDING FOR APPEAL; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, pursuant to Sections 13-305(f)(1), 13-303, and 13-304 of the Town of Miami Lakes ("Town") Land Development Code ("LDC"), The Graham Companies ("TGC") and Miami Jewish Health Systems (MJH) (TGC and MJH collectively as the "Applicant") applied to the Town for approval of a Variance, Conditional Use and Site Plan, for a development entitled "Village at the Lakes," consisting of 42 pages, as prepared by C.C. Hodgson Architectural Group, Schwebke-Shiskin & Associates, and Architectural Alliance; signed and sealed on 5/18/2017, dated stamped received 5/24/2017, being attached hereto as Exhibit "A"; for property located on the West of side Commerce Way and NW 146th Street, bearing Miami-Dade Tax Folio Nos. 32-2022-008-0013, 32-2022-001-0220, and 32-2022-001-0230, as more particularly described on the survey at Exhibit "B" ("Property"), and containing approximately 4.16 +/- acres of land; and

WHEREAS, the TGC has proffered a Declaration of Restrictions as part of the application request, that among other items, has provided a Letter of Mutual Understanding regarding coordination for use of on-site amenities for senior recreational programing, both of

which are incorporated into Staff's analysis and recommendation; 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 notice was duly advertised in the newspaper; for a quasi-judicial public hearing on the Variance Requests, Conditional Use, 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 submitted site plan, variance, and conditional use, conditionally meet the criteria of the LDC for approval; and

WHEREAS, the Town Council now desires to conditionally approve the Applicant's Variance, Conditional Use, 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 Town's LDC, that the variance request to reduce the required amount of parking, subject to the conditions in Section 3 below, meets the following criteria:

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.

In consideration of all the submitted evidenced, both verbal and written, as provided at the June 6, 2017 quasi-judicial hearing, the Town Council finds, in accordance with Section 13-303, that the application, subject to the conditions in Section 5 below, meets the criteria for a conditional use approval which are as follows:

1. Land Use Compatibility; and
2. Sufficient Site Size, Site Specifications, and Infrastructure to Accommodate the Proposed Use; and
3. Compliance with the Comprehensive Plan and Land Development Code; and
4. Proper Use of Techniques; and
5. Hazardous Waste;

In consideration of all the submitted evidenced, both verbal and written, as provided at the June 6, 2017 quasi-judicial hearing, the Town Council finds, in accordance with Section 13-304(h), that the a pplication, subject to the conditions in Section 4 below, 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.

Section 3. Approval of Variance. Pursuant to Section 13-305(f)(1) of the Towns LDC, the proposed Variance associated with plans entitled "Village at the Lakes," consisting of 42 pages, as prepared by C.C. Hodgson Architectural Group, Schwebke-Shiskin & Associates, and Architectural Alliance; signed and sealed on 5/18/2017, dated stamped received 5/24/2017, being attached hereto as Exhibit "A"; for property located on the west of side Commerce Way

and NW 146th Street, bearing Miami-Dade Tax Folio Nos. 32-2022-008-0013, 32-2022-001-0220, and 32-2022-001-0230, as more particularly described on the survey at Exhibit "B" ("Property"), and containing approximately 4.16 +/- acres of land, is hereby conditionally approved provided all parking operations shall be contained on site and be conducted in a manner that is safe and orderly. Repeat violations or any ongoing uncorrected violation, as provided at Section 8-4 of the Town's LDC, of these conditions herein, shall require remedy else the variance and site plan approval associated with this request may be voided..

Section 4. Approval of Conditional Use. Pursuant to Section 13-303 of the Town's LDC, the conditional use request for the plan entitled "Village at the Lakes," consisting of 42 pages, as prepared by C.C. Hodgson Architectural Group, Schwebke-Shiskin & Associates, and Architectural Alliance; signed and sealed on 5/18/2017, dated stamped received 5/24/2017, being attached hereto as Exhibit "A"; for property located on the west of side Commerce Way and NW 146th Street, bearing Miami-Dade Tax Folio Nos. 32-2022-008-0013, 32-2022-001-0220, and 32-2022-001-0230, as more particularly described on the survey at Exhibit "B" ("Property"), and containing approximately 4.16 +/- acres of land, is hereby conditionally approved as follows:

1. That the following Zoning Hearing companion items be approved:
 - a. FLUM amendment of the property associated with the companion application for a 220-Unit Senior Living Community from Industrial Office to Medium-High Residential; and
 - b. Rezoning of the property associated with the companion application for a 220-Unit Senior Living Community, from IU-C, Industrial Office - Conditional; and
 - c. Plat for entire 19.5 acre site; and
 - d. The companion application for a 220-unit Senior Living Community site plan.
2. Issuance of permits for the 220-unit Senior Housing Village adult community and the Miami Jewish Health Systems facility within two (2) years of this approval. Completion of construction of both projects to final certificate of occupancy within five (5) years of this approval. One (1) extension may be granted administratively for a period not to exceed 180 days. All other extensions may be granted by the Town Council upon showing of good cause, at an advertised quasi-judicial public hearing.
3. All permits be issued for the projects described in Condition 1 prior to the expiration of any existing vested transportation concurrency rights. Should existing transportation concurrency vesting expire, any permitting for this property shall be subject to mobility fees.

4. The underlying property owners, the Graham's as proffered in their Letter of Intent associated the companion application for a 220-unit Senior Living Community, shall donate 1.3 acres of land, to include the completion of an approximate 6,000 square foot building with completed exterior finishes, prior to the issuance of any certificate of occupancy issued to the property described at exhibit "C" of the Resolution.
5. Any change from the basic ALF licensed as requested by the Applicant in the Letter of Intent, to include but not be limited to number of beds, or any expansion or request for additional licensure to include but not limited to "Extended Congregate Care" (FS section 429.02(11) or to "Limited Mental Health License" (FS section 429.075), as so regulated by the State of Florida, shall require reconsideration before the Town Council as a new Conditional Use application.
6. As provided in the Applicant's Letter of Interest attached to their application, they proffer and shall donate 1.3 acres of land, to include the completion of an approximate 6,000 square foot building with completed exterior finishes, in fulfillment of the 'small park' concurrency requirement, prior to the issuance of any certificate of occupancy issued to the property described at exhibit "C" of the Resolution.
7. As provided in the Applicant's Letter of Mutual Understanding dated May 22nd, 2017, that the Town and the Applicant work together in coordination of use of the available amenities available at the development.
8. The Applicant shall pay to the Town a 'large park' concurrency impact fee, to be calculated at the time of permitting, pursuant to Chapter 33H of the Miami-Dade County Code of ordinances, or donate a minimum of 0.325 acres of land to contribute to a large park, with said impact fee/donation to be tendered prior to the issuance of any building permit issued to the property described at Exhibit "B" of the Resolution.
9. Notwithstanding Condition 2 above, the ordinance shall not become effective upon the effective date of the companion FLUM amendment.
10. All parking operations shall be contained on site and be conducted in a manner that is safe and orderly. Repeat violations or any ongoing uncorrected violation, as provided at Section 8-4 of the Town's LDC, of these conditions herein, shall require remedy else the variance and site plan approval associated with this request may be voided.
11. Staffing shifts shall be timed to not coincide with peak traffic demand for adjacent roads, with beginning and end times at 7:00 am, 3:00 pm and 11:00 pm.
12. The facility shall be operated in substantial compliance with the Applicant's Operation Plan as attached as an addendum to their Letter of Intent, particularly as it pertains to transportation of patients and residents.
13. 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. 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.
14. Compliance with all other applicable laws not specifically identified herein.
15. All fees associated with this request that are owed to the Town shall be paid in full.

Section 5. Approval of Site Plan. Pursuant to Section 13-304(h), of the Town's LDC,

the Site Plan entitled “Village at the Lakes,” consisting of 42 pages, as prepared by C.C. Hodgson Architectural Group, Schwebke-Shiskin & Associates, and Architectural Alliance; signed and sealed on 5/18/2017, dated stamped received 5/24/2017, being attached hereto as Exhibit "A"; for property located on the west of side Commerce Way and NW 146th Street, bearing Miami-Dade Tax Folio Nos. 32-2022-008-0013, 32-2022-001-0220, and 32-2022-001-0230, as more particularly described on the survey at Exhibit "B" (“Property”), and containing approximately 4.16 +/- acres of land, is hereby conditionally approved as provided as Section 4 above.

Section 6. 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 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 upon the effective date of the companion FLUM amendment.

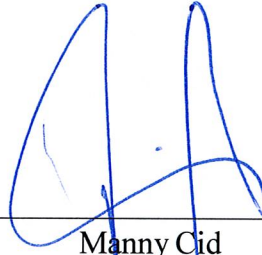
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PASSED AND ADOPTED this 6th day of June, 2017.

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

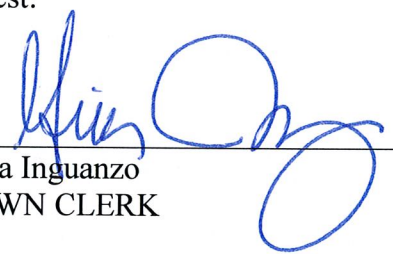
FINAL VOTE AT ADOPTION

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




Manny Cid
MAYOR

Attest:



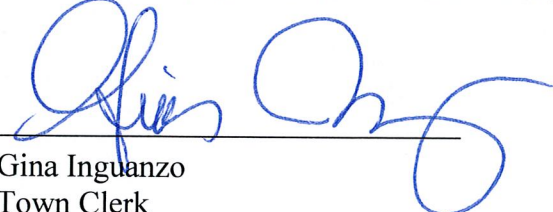
Gina Inguanzo
TOWN CLERK

Approved as to Form and Legal Sufficiency:



Raul Gastesi
TOWN ATTORNEY

This Resolution was filed in the Office of the Town Clerk on this 9th day of June, 2017.



Gina Inguanzo
Town Clerk

EXHIBIT A

SITE PLAN

EXHIBIT B

SURVEY

EXHIBIT C
PARK PROPERTY