

VILLAGE OF EL PORTAL, FLORIDA

RESOLUTION NO. 2020-09

A RESOLUTION OF THE MAYOR AND VILLAGE COUNCIL OF EL PORTAL, FLORIDA AUTHORIZING THE APPROVAL OF THE VARIANCE FOR THE DISTANCE BETWEEN VEHICULAR ENTRANCES TO BE LESS THAN SIXTY FEET AT THE MULTI FAMILY HOUSING DEVELOPMENT LOCATED AT 471 NE 83RD STREET IN ZONE 5, URBAN CENTER ZONE, IN THE VILLAGE OF EL PORTAL KNOWN AS THE “THE KAVISTA” ON APPLICATION BY BH 495 NE 83RD STREET, LLC; PROVIDING FOR INCORPORATION OF RECITALS; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, an application for Special Exception for multifamily housing known as “The Kavista” has been submitted by BH 495 NE 83rd Street, LLC (“Applicant”); and

WHEREAS, the proposed residential project is located in Transect Zone 5 – Urban Center Zone of the Village of El Portal; and

WHEREAS, the Village of El Portal Code of Ordinances requires that buildings within Zone 5 provide facades with frequent openings along the first level and that pedestrian entrances occur at maximum spacing of seventy-five (75) feet and vehicular entrances occur at a minimum spacing of sixty (60) feet; and

WHEREAS, the Applicant requests a variance of the required spacing between vehicular entrances to be less than sixty (60) feet;

WHEREAS, on March 10, 2020, the Planning and Zoning Committee conducted a public hearing to consider the application and input from interested parties; and

WHEREAS, the Planning and Zoning consultants provided a report and presentation related the variance and outlined considerations associated with the property; and

WHEREAS, the Planning and Zoning consultants recommended approval of the variance based on findings and the request being consistent with zoning requirements; and

WHEREAS, the Planning and Zoning Committee considered the recommendation of the Planning and Zoning consultants and upon conclusion of the Public Hearing voted to recommend the approval of the variance to the Mayor and Village Council; and

WHEREAS, on April 28, 2020, a second public hearing was virtually held before the Mayor and Village Council to consider the application and interested parties were allowed to comment; and

WHEREAS, the Mayor and Village Council of the Village of El Portal desires to approve the requested Variance to permit the vehicular entrance to be less than sixty (60) feet.

NOW THEREFORE, BE IT DULY RESOLVED BY THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF EL PORTAL, FLORIDA THAT:

Section 1. The recitals to the preamble herein are incorporated by reference.

Section 2. Grant.

Variance approval for the distance between vehicular entrances to be less than sixty (60) feet at the multi-family housing development located at 471 NE 83rd Street in Zone 5, Urban Center Zone, in the Village of El Portal known as "The Kavista" on application by BH 495 NE 83rd Street, LLC

is **HEREBY GRANTED** SUBJECT TO THE FOLLOWING CONDITIONS:

1. Unless otherwise provided, all of the below conditions shall be completed/complied with prior to the issuance of the building permit.
2. The conditions of approval for this variance approval, are binding on the Applicant, the property owners, operators, and all successors in interest and assigns.
3. Application/supporting documentation. Construction of the proposed project shall be in conformance with the representations and exhibits as prepared and provided to the Village as part of the Applicant's Application submittal package, as amended.
4. All representations proffered by the Applicant's representatives as a part of the review of the application at public hearings.
5. No later than 90 days following the final Mayor and Village Council approval, the Applicant shall enter into an agreement with the Village to defend, indemnify and hold harmless (using legal counsel acceptable to the Village) the Village, its agents, servants and employees, from and against any loss, cost, expense, claim, demand or cause of action of whatever kind or nature arising out of or related to any act or omission related to the variances and for which the Village, its agents, servants, or employees, are alleged to be liable or charged with such expense. The Applicant shall pay all costs and expenses related to any legal defense required by the Village pursuant to the foregoing.

Section 3. Findings of Fact.

The requested variance is due to a hardship not created by the Applicant and cannot be eliminated and, without the requested variance. A non-use variance allowing for the distance between vehicular entrances to be less than sixty feet is not contrary to the public interest or contrary to the requirements of this Code. The Applicant has demonstrated that the non-use variance maintains the basic intent and purpose of the zoning, does not impact the general welfare of the public, and maintains the appearance of the community and surrounding land.

Appropriate conditions and safeguards, in conformity with the Code, have been prescribed as a condition of the granting of the variance, and violation of such conditions shall be deemed a violation of this code. The existing uses on the property are not nonconforming uses of the adjacent lands, structures, or buildings.

Section 4. **Appeal.**

The Applicant or any aggrieved property owner may appeal the decision of the Village Council by filing a Writ of Certiorari to the Circuit Court of Miami-Dade County, Florida, in accordance with the Florida Rules of Appellate Procedure.

Section 5. **Effective Date.**

This resolution shall take effect immediately upon adoption.

PASSED AND ADOPTED by the Mayor and Village Council of the Village of El Portal Florida, this 28 day of April, 2020.

Claudia V. Cubillos, Mayor

ATTEST: Yenise Jacobi
Yenise Jacobi, Village Clerk

Approved as to form and legal sufficiency:
Interim Village Attorney

By: _____
Norman C. Powell, Esq.

Vote: mot. urbom 2nd: roman

Councilperson Pirela:	<input checked="" type="checkbox"/> (Yes)	<input type="checkbox"/> (No)
Councilperson Urbom:	<input checked="" type="checkbox"/> (Yes)	<input type="checkbox"/> (No)
Councilperson Roman:	<input checked="" type="checkbox"/> (Yes)	<input type="checkbox"/> (No)
Vice Mayor Nickerson.:	<input checked="" type="checkbox"/> (Yes)	<input type="checkbox"/> (No)
Mayor Cubillos:	<input checked="" type="checkbox"/> (Yes)	<input type="checkbox"/> (No)



I, Yenise Jacobi, Village Clerk of the Village of El Portal, Miami-Dade County, Florida, do hereby certify that this is a true and correct copy of Resolution No.: 2020-__ adopted on April __, 2020, as shown in the Official Records of the Village of El Portal, Miami-Dade County, Florida. Given under my hand and seal, this ____ day of April, 2020.

Yenise Jacobi
Yenise Jacobi
Village Clerk