

**VILLAGE OF EL PORTAL, FLORIDA**

**RESOLUTION NO. 2020-12**

**A RESOLUTION OF THE MAYOR AND VILLAGE COUNCIL OF EL PORTAL, FLORIDA GRANTING A SPECIAL EXCEPTION FOR A RECREATIONAL FACILITY LOCATED AT 533 NE 83<sup>RD</sup> STREET AND 561 N.E. 83<sup>RD</sup> STREET IN ZONE 5, URBAN CENTER ZONE, IN THE VILLAGE OF EL PORTAL KNOWN AS THE “SKATE PARK” ON APPLICATION BY THE DECK MIAMI, LLC: PROVIDING FOR FINDINGS, PROVIDING FOR CONDITIONS; PROVIDING FOR APPEAL; PROVIDING FOR VIOLATION OF CONDITIONS; PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, an application for Special Exception for a recreational facility known as “Skate Park” has been submitted by The Deck Miami, LLC (“Applicant”) pursuant of Section 17.59 of the Village of El Portal Code of Ordinances; and

**WHEREAS**, the proposed recreational facility is located in Transect Zone 5 – Urban Center Zone of the Village of El Portal; and

**WHEREAS**, the application proposes a development of a recreational establishment comprising of construction and operation of a skate park and pump track for skateboard and bicycle related activities and to hold family-friendly events; and

**WHEREAS**, in accordance with Chapter 24, Appendix B, Article VI, Figure 3: Zone 5 Standards-Urban Center, 1-Permitted Building Function, \*2 of the El Portal Code of Ordinances, in order to achieve the proposed development, the application requests a special exception; and,

**WHEREAS**, in accordance with Section 17-64 of the Village Code, the Village Council noticed a public hearing for March 10, 2020 at 6:30 P.M. at Village Hall, 500 N.E. 87<sup>th</sup> Street, El Portal, Florida 33138 and a virtual public hearing at April 28, 2020 at 7:00 P.M. and all interested parties have had the opportunity to address their comments to the Village Council; and

**WHEREAS**, in accordance with Section 17-64 of the Village Code, the Planning and Zoning Committee held a public hearing on March 10, 2020 at 6:30 P.M. at Village Hall, 500 N.E. 87<sup>th</sup> Street, El Portal, Florida 33138, which conducted a public hearing and recommended approval of the application to the Village Council; and

**WHEREAS**, the Village Council has considered the application, the requirements of Section 17-59 Requirements and Procedures for Site Plan and Special Exceptions of the Village of El Portal Code of Ordinances, the recommendation of the Planning and Zoning, comments from consultants, and public comments; and

**WHEREAS**, the Village Council finds that the proposed project has met the standards and conditions set forth in Section 17-59 Requirements and Procedures for Site Plan and Special Exceptions of the Village of El Portal Code of Ordinances; and

**WHEREAS**, the Village Council has considered the possible impact the proposed project may have on the community.

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

**Section 1. Recitals.**

The foregoing “WHEREAS” clauses are ratified and confirmed as being true and correct and are made a specific part of this Resolution.

**Section 2. Finding.**

In accordance with Section 17-59 of the Village Code, the Village Council finds that the proposed development of a recreational establishment comprising of construction and operation of a skate park and pump track for skateboard and bicycle related activities and to hold family-friendly events:

- A. prevents adverse visual impacts and the impact of intensity of the proposed use of adjacent lands; and
- B. provides sufficient setbacks, open space, and landscaping in order to protect and enhance the appearance and character of the neighborhood; and
- C. can be accommodated by the existing community roads, services, and utilities, or the necessary additions are provided by the Applicant; and.
- D. provides sufficient parking and loading facilities so that it will not be necessary to use the streets in the vicinity for this purpose.

**Section 3. Grant.**

The Mayor and Village Council hereby grants Special Exception for a recreational facility to The Deck Miami, LLC, lessor of the properties located at 533 NE 83<sup>rd</sup> Street, El Portal, Florida 33138 and 561 NE 83<sup>rd</sup> Street, El Portal, Florida 33138.

**Section 4. Conditions.**

The Special Exception is granted with the condition that the following items are met prior to issuance of a Building Permit:

- A. payment of the Village's costs in the amount of \$\_\_\_\_\_; and
- B. building permits and related approvals must be obtained from the Building Official prior to commencement of construction; and
- C. grant of this special exception does not in any way create a right on the part of the Applicant to obtain a permit from a state or federal agency and does not create liability on the part of the Village for approval if the applicant fails to obtain requisite approvals or fulfill the obligations imposed by a state or federal agency or undertakes actions that result in a violation of federal or state law; and
- D. all applicable state and federal permits must be obtained before commencement of construction; and
- E. this Resolution shall be recorded with the County Recorder's Office, Miami-Dade County Clerk of the Court.

**Section 5. 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 6. Violation of Conditions.**

Failure to adhere to the terms and conditions contained in this Resolution in Section 4, if any, shall be considered a violation of this Resolution and persons found violating the conditions shall be subject to the penalties prescribed by the Village Code, 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 Village Code before it may commence construction or operation, and that the foregoing approval in this Resolution may be revoked by the Village at any time upon a determination that the Applicant is in non-compliance with the Village Code.

**Section 7. 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, Village Clerk

Approved as to form and legal sufficiency:  
Interim Village Attorney

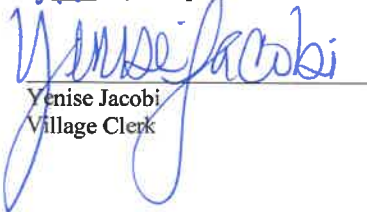
By:   
\_\_\_\_\_  
Norman C. Powell, Esq.

Vote: motion: urbom 2nd: Pirela

Councilperson Pirela:  (Yes)  (No)  
Councilperson Urbom:  (Yes)  (No)  
Councilperson Roman:  (Yes)  (No)  
Vice Mayor Nickerson:  (Yes)  (No)  
Mayor Cubillos:  (Yes)  (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.: 2020-12 adopted on April 28 2020, as shown in the Official Records of the Village of El Portal, Miami-Dade County, Florida. Given under my hand and seal, this 28 day of April, 2020.

  
\_\_\_\_\_  
Yenise Jacobi  
Village Clerk