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**RESOLUTION NO. 2012-45**

**A RESOLUTION OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, RELATING TO ZONING IN PROGRESS PURSUANT TO SECTION 30-30.10; TO CREATE AN ORDINANCE IMPOSING A MORATORIUM ON THE ISSUANCE OF BUILDING PERMITS BY THE EARLIER OF FOUR MONTHS OR THE FINAL ADOPTION OF THE VILLAGE'S REVISIONS TO THE LAND DEVELOPMENT CODE TO CREATE NEIGHBORHOOD PRESERVATION AND COMPATIBILITY REGULATIONS; THIS ZONING IN PROGRESS RESOLUTION SHALL RESULT IN THE DRAFTING OF A MORATORIUM ORDINANCE IN ORDER TO COMPLETE THE NEW NEIGHBORHOOD PRESERVATION AND COMPATIBILITY REGULATIONS; PROVIDING AN EFFECTIVE DATE. [Council Person Joan Lindsay].**

WHEREAS, the Mayor and Village Council are designated the local planning agency; have previously undertaken the necessary studies; and adopted a Comprehensive Plan to guide and control growth and development in the Village; and,

WHEREAS, in 2009 the Village Council adopted its own land development regulations for the various zoning districts contemplated in the Village's Comprehensive Plan; and,

WHEREAS, a majority of the Village Council, on its own initiative during a Committee of the Whole meeting held on April 16, 2012, indicated a desire to review the Land Development Code to ensure that the guidelines provide development standards for nonresidential development in residential zoning areas to ensure neighborhood preservation and compatibility; and,

WHEREAS, a neighborhood ordinance may be needed to preserve the residential character and quality of life that Village residents expect; and,

WHEREAS, the primary intent of such an ordinance is to provide design guidelines for non-residential development in residential zoning areas in the Village of Palmetto Bay; and,

WHEREAS, the commercial districts, the mixed-use districts (except for the Live Work - Residential Overlay District of Comprehensive Plan), and residential properties of one acre or less shall be exempt from this zoning in progress resolution and proposed moratorium ordinance; and,

WHEREAS, the neighborhood preservation and compatibility regulations should simplify the current process of imposing conditions on these developments, and provide a fair and equitable system for all by defining specific criteria for: setbacks, buffers, construction staging, athletic fields and amenities, landscaping, traffic, parking related conditions, lighting, noise, operations, historic/archaeological, unity of title, enforcement, and structures, amongst other issues; and,

WHEREAS, the Village has several chapters within the Land Development Code that may need to be revised, after study, in order to implement the proposed neighborhood preservation and compatibility regulations; and,

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2 WHEREAS, the Mayor and Village Council desire to preserve the *status quo*, except as  
3 provided below, regarding existing zoning designations of property in the Village during a  
4 moratorium to impose the neighborhood preservation and compatibility regulations; and,  
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6 WHEREAS, the Village Council seeks to implement an ordinance, creating a four (4) month  
7 moratorium within the single family and multifamily residential districts for parcels exceeding one  
8 acre in size, as well as the Live Work Neighborhood, Franjo Triangle Residential Overlay District, in  
9 order to study and complete the proposed revisions to the code and address the issues identified  
10 herein; and,  
11

12 WHEREAS, to preserve the *status quo* it is necessary to establish a moratorium on the  
13 issuance of building permits for developments, and/or certificates of use that are within the Village  
14 Residential Districts, such temporary moratorium to apply to all residential properties within the  
15 Village for a four (4) month period; and,  
16

17 WHEREAS, to fully preserve the *status quo* it is necessary to implement the pending  
18 legislation doctrine set forth in *Smith v. City of Clearwater*, 383 So.2d 681 (Fla. 2<sup>nd</sup> DCA 1980).  
19

20 BE IT RESOLVED BY THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE  
21 OF PALMETTO BAY, FLORIDA, AS FOLLOWS:  
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23 Section 1. Upon the date of approval of this resolution, staff shall comply with 30-  
24 30.10, to create an ordinance for first reading imposing a four (4) month moratorium, and as such,  
25 in the interim, no building permits, certificates of use, development orders, including but not limited  
26 to site plans, shall be submitted or issued for developments in all residential zoning districts within  
27 the Village for applications for development on properties exceeding one acre in size or a grouping  
28 of properties exceeding one acre in size that would be combined for a unified development plan.  
29 This zoning in progress resolution shall remain in effect until the adoption of the Village's  
30 moratorium ordinance, or shall expire within 90 days, which ever comes first.  
31

32 Section 2. Emergency repairs, including life safety repairs, shall be entitled to proceed  
33 during the zoning in progress.  
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35 Section 3. The Village Council approves/denies this proposed zoning in progress  
36 resolution. The Village Council has determined that a moratorium pending the preparation of a  
37 detailed and comprehensive analysis of the area in question is reasonably necessary and desirable,  
38 and as such, the Village Council approves this zoning in progress resolution; and order a fixed time,  
39 not to exceed 90 calendar days, within which Village Staff shall report to the Village Council with its  
40 report, a proposed ordinance amending these regulations, and recommendations relating to a  
41 potential moratorium.  
42

43 Section 4. Upon adoption of the zoning in progress resolution, the Village Clerk shall  
44 publish the adopted resolution in a newspaper of general circulation published in the Village, or  
45 Miami-Dade County, Florida within ten days following the date of adoption. The commercial  
46 districts, the mixed use districts (other than the Live Work subdistrict within the Franjo Triangle &

1 US I zoning district) and residentially zoned properties of an acre or less are exempt from the  
2 moratorium procedures.

3  
4 Section 5. During the period of time that the Village is considering a moratorium  
5 ordinance, no permit(s), certificate(s) of use, or development order(s) of any kind shall be issued if  
6 issuance would result in the nonconforming or unlawful use of the subject property should the  
7 moratorium, text amendment, or zoning district change be finally enacted by the Village Council.  
8 The period of time of the moratorium on permits shall begin on the earlier of: (A) Village Council  
9 Adoption of Zoning in Progress Resolution or (B) Notice has been given as required by law of the  
10 initial public hearing before the Village Council on the amendment to these regulations.

11  
12 Section 6. Nothing in this resolution should be construed or applied to abrogate the  
13 vested right of a property owner to develop or utilize his/her property in any other way  
14 commensurate with zoning and other regulations, including any required renewal of permits for  
15 existing legally erected premises.

16  
17 Section 7. Notwithstanding the adoption of this zoning in progress or the upcoming  
18 moratorium ordinance, the building official may authorize the issuance of building permits for  
19 nondeleterious items including, but not limited to: fences, interior repairs or remodeling, general  
20 repairs and similar matters, where he determines that such permit(s) will not affect the outcome of  
21 the planning study; provided, however, that with regard to any particular moratorium, the Village  
22 Council may by ordinance increase or decrease allowable exemptions and may by ordinance provide  
23 either a supplemental or exclusive procedure for acting upon requests for exemptions. Such  
24 procedure may vest jurisdiction and responsibility for acting upon requests for exemptions in the  
25 planning and zoning director, with the input of the Village Manager and Building Official.

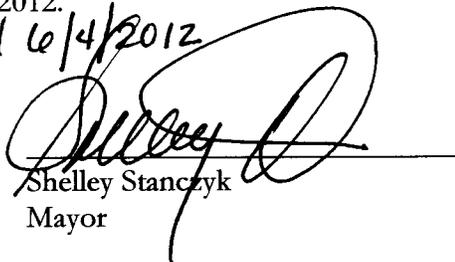
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27 Section 8. This ordinance shall take effect immediately upon enactment.

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29 PASSED AND RESOLVED this 21st day of May, 2012.

30 ↳ executed 6/4/2012

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32  
33 Attest:

34   
35 Meghan Alexander  
36 Village Clerk

37   
38 Shelley Stanczyk  
39 Mayor

40  
41 APPROVED AS TO FORM:

42   
43 Eve A. Boutsis  
44 Village Attorney

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2	FINAL VOTE AT ADOPTION:	
3		
4	Council Member Patrick Fiore	<u>NO</u>
5		
6	Council Member Howard Tendrich	<u>NO</u>
7		
8	Council Member Joan Lindsay	<u>YES</u>
9		
10	Vice-Mayor Brian W. Pariser	<u>YES</u>
11		
12	Mayor Shelley Stanczyk	<u>YES</u>