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ORDINANCE NO. 2015-17

AN ORDINANCE OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, RELATING TO ZONING; CREATING SECTION 30-30.15 OF THE LAND DEVELOPMENT CODE RELATING TO TRANSFER OF DEVELOPMENT RIGHTS; PROVIDING FOR ORDINANCES IN CONFLICT, CODIFICATION, SEVERABILITY AND AN EFFECTIVE DATE.

WHEREAS, in 2005, the Village of Palmetto Bay Village Council adopted its Comprehensive Plan which provided for among other things, goals, objectives, and policies relating to the preservation of environmentally sensitive lands, increasing available park land, facilitating appropriate redevelopment and revitalization along Franjo Road and South Dixie Highway, and to providing affordable housing;

WHEREAS, one commonly accepted method of achieving those aims is through a program that allows the transfer of development rights away from areas to be protected and/or preserved, to higher intensity zoning districts where development is desired;

WHEREAS, the village desires to encourage development away from its lower intensity zoning districts to its higher intensity districts in order to achieve the stated goals, objectives and policies of the Comprehensive Plan;

WHEREAS, in so doing additional land may become available to provide for parks and conservation;

WHEREAS, the Village Council reviewed the criteria of 30-30.7(b) and find the ordinance in compliance with the applicable standards and the Comprehensive Plan; and

WHEREAS, the Mayor and Village Council now desire create section 30-30.15 establishing a transfer of development rights program.

NOW, THEREFORE, BE IT ENACTED BY THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, AS FOLLOWS:

Section 1. Pursuant to the requirements of 30-30.7(b) of the Village's Code of Ordinances, the following text change is in compliance with the review criteria and the Comprehensive Plan.

Section 2. Section 30-30.15 of the Village's Code of Ordinances entitled "Transfer of Development Rights" shall be created as follows:

1 **DIVISION 30-30. Development Approval Procedures**

2 * * *

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5 **30-30.15 Transfer of Development Rights**

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7 (a) **Intent and purpose.** The intent of this section is to permit and regulate the transfer of
8 development rights (TDR) within the Village in a manner that is consistent with and
9 complimentary to the goals, objectives and policies of the Village's Comprehensive
10 Plan. Transfer of development rights may be used to preserve environmentally sensitive
11 lands, to increase available park land, to achieve a stated goal, objective or policy of the
12 Village's Comprehensive Plan, to facilitate appropriate redevelopment and revitalization, to
13 facilitate economic development, or to provide for affordable housing.

14
15 (b) **General.** Except as provided below in section 30-30.15(c), the provisions provided within
16 section 30-30.15 do not replace and shall not be applied in lieu of the transfer of
17 development rights program that is exclusive to the Downtown Urban Village zoning district
18 as provided within section 30-50.23. Approval of a transfer a development right pursuant to
19 30-30.15 shall permit the transferal of residential units and/or commercial floor area not to
20 exceed 25% of the maximum permitted on the receiving property. Any property owner(s)
21 seeking to apply for a transfer of development right must first submit a written request to
22 the village for a "determination of development right" verifying maximum residential units
23 and/or commercial floor area development potential of the sender site and the receiver site.

24
25 (c) **Eligibility.** All lands within the Village are eligible to be a sender site. Receiver sites shall
26 be limited to those lands zoned VMU, DUV, B-1, and B-2. With respect to any TDR from a
27 Downtown Urban Village (DUV) sender site, the receiver site must also be within the DUV.

28
29 (d) **Specific definitions.** For the purpose of section 30-30.15, the following words and phrases
30 shall have the meanings as defined below:

31
32 **Determination of development right** means an official zoning letter issued by the village
33 which verifies the maximum residential and/or commercial development potential of a
34 particular property. The letter does not guarantee such potential development right can be
35 fully achieved on any given property.

36 **Receiver site** means the designated lot which receives residential units and/or commercial
37 floor area that is transferred from a lot designated as a sender site.

38 **Sender site** means the designated lot that transfers residential units and/or commercial floor
39 area to a lot designated as a receiver site.

40 **Transfer of development rights** means the process by which development rights may be
41 transferred from one lot within the village to another lot within the village.

42
43 (e) **Transfer Process.**

44 (1) **Public hearing required.** All requests for transfer of development rights shall require
45 a public hearing. Those requests which involve the transfer of development rights
46 from one property to another shall require a quasi-judicial public hearing and be

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reviewed in conjunction with a site plan application request pursuant to section 30-30.5.

(2) The owner(s) of the sender and receiver sites are encouraged to meet with village staff prior to submission of an application for transfer. The purpose of the meeting is to discuss the development and/or redevelopment of the sender and receiver sites and to understand any limitations that may be imposed upon the sender and receiver sites.

(3) The owner(s) of the sender and receiver sites shall submit an application for the request of the transfer of the development right(s) on a form provided by the Village, and provide such information requested by the Village to approve the transfer. At a minimum, the information shall include the following:

- a. A survey of the sender and receiver sites;
- b. Proof of ownership of the receiver site and the sender site;
- c. A "determination of development right" letter issued by the village for both the sender site and the receiver site;
- d. For a request which transfers development rights from one property to another, a complete site plan application of the receiver site must be submitted and reviewed pursuant to section 30-30.5.

(4) *Deed of Transfer:* Upon approval by the Council, the sender site and the receiver site shall record within 30 days a copy of the approving resolution in the chain of title in the public record of Miami-Dade County, and provide a copy thereof to the Village.

(f) **Review Criteria.** In order to authorize any transfer of development rights as provided in Section 30-30.15, the Village Council must determine whether the following criteria have been met:

- 1. That the property(s) subject to the transfer of development right is eligible pursuant to section 30-30.15(c).
- 2. That the transfer of development right is consistent with the goals, objectives and policies of the Village's Comprehensive Plan.
- 3. That the transfer of development rights preserves environmentally sensitive lands, increases available park land, facilitates appropriate redevelopment and revitalization, facilitates economic development, or results in providing for affordable housing.
- 4. That for transfers of development rights from one property to another property, the request is incorporated into and accompanied by an approved site plan pursuant to 30-30.5 or as otherwise approved by the Village Council.
- 5. That for transfers of development rights from one property to another property, the number of residential units, commercial lot coverage and/or commercial floor area does not exceed 25% of the maximum permitted at the receiving site.
- 6. That there are no active code violations on the sender or receiver site.

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2 (g.) All bonds, assessments, back village taxes, fees and liens (other than mortgages) affecting the
3 parcels shall be paid in full prior to consideration by the Council.
4

5 (h.) For TDR's that grant an increase of less than 10%, no additional floor shall be granted. For
6 TDR's that grant an increase over 10%, only one additional floor shall be permitted. For
7 TDR's that grant an increase over 20%, only two additional floors shall be permitted.
8

9 (i.) **Public notice.** Public notice in the form of mailers and posting shall be provided fourteen
10 (14) days in advance of a hearing that considers a receiving property's request for a TDR.
11 Procedures for posting and mailing notices shall be as provided for at Section 30-30.11.
12

13 (j.) Transfer of development rights shall not have an expiration date.
14

15 **Section 3. Conflicting Provisions.** The provisions of the Code of Ordinances of the
16 Village of Palmetto Bay, Florida and all ordinances or parts of ordinances in conflict with the
17 provisions of this ordinance are hereby repealed.
18

19 **Section 4. Severability.** The provisions of this Ordinance are declared to be severable,
20 and if any sentence, section, clause or phrase of this Ordinance shall, for any reason, be held to be
21 invalid or unconstitutional, such decision shall not affect the validity of the remaining sentences,
22 sections, clauses or phrases of the Ordinance, but they shall remain in effect it being the legislative
23 intent that this Ordinance shall stand notwithstanding the invalidity of any part.
24

25 **Section 5. Codification.** It is the intention of the Village Council and it is hereby
26 ordained the provisions of this Ordinance shall become and be made part of the Code of
27 Ordinances of the Village of Palmetto Bay, Florida, that sections of this Ordinance may be
28 renumbered or re-lettered to accomplish such intentions, and that the word "Ordinance" shall be
29 changed to "Section" or other appropriate word.
30

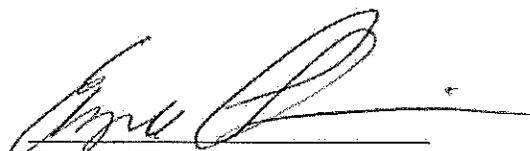
31 **Section 6. Effective Date.** This ordinance shall take effect immediately upon
32 enactment.
33

34 **PASSED and ENACTED** this 7th day of December, 2015.
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36 First Reading: November 2, 2015
37 Second Reading: December 7, 2015
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41 Attest:


42 Meighan Alexander
43 Village Clerk
44


Eugene Flinn
Mayor

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2 APPROVED AS TO FORM AND LEGAL SUFFICIENCY FOR THE
3 USE AND RELIANCE OF THE VILLAGE OF PALMETTO BAY ONLY:

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6 Dexter W. Lehtinen
7 Village Attorney

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11 FINAL VOTE AT ADOPTION:

- | | | |
|----|------------------------------------|------------|
| 12 | Council Member Katryn Cunningham | <u>YES</u> |
| 13 | Council Member Tim Schaffer | <u>YES</u> |
| 14 | Council Member Larissa Siegel Lara | <u>YES</u> |
| 15 | Vice-Mayor John DuBois | <u>YES</u> |
| 16 | Mayor Eugene Flinn | <u>YES</u> |