

VILLAGE OF PALMETTO BAY
Minutes of the Local Planning Agency Meeting of Thursday, August 20, 2009
Deering Estate Visitor's Center
16701 SW 72 Avenue

1. CALL TO ORDER, ROLL CALL, PLEDGE OF ALLEGIANCE

Mayor Eugene P. Flinn, Jr.
Vice Mayor Brian W. Pariser
Council Member Ed Feller
Council Member Howard Tendrich
Council Member Shelley Stanczyk

Staff present:
Village Manager Ron E. Williams
Village Attorney Eve A. Boutsis
Village Clerk Meighan J. Rader

Mayor Flinn called the meeting to order at 7:15 p.m. Mayor Flinn led the pledge of allegiance.

2. ORDINANCE FOR FIRST READING (CONTINUED FROM MEETING OF AUGUST 10, 2009 - PUBLIC HEARING)

- A. AN ORDINANCE OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, ACTING IN ITS CAPACITY AS THE LOCAL PLANNING AGENCY, RELATING TO SUPPLEMENTING THE PROPOSED JULY 20, 2009 AMENDMENTS TO THE COMPREHENSIVE PLAN TO INCLUDE TWO ADDITIONAL PROPOSED MODIFICATIONS TO THE FUTURE LAND USE MAP (FLUM), TO CHANGE THE ESTATE DENSITY DESIGNATIONS TO LOW DENSITY DESIGNATIONS; PROVIDING FOR TRANSMITTAL OF THE ENTIRE COMPREHENSIVE PLAN AMENDMENT TO THE FLORIDA DEPARTMENT OF COMMUNITY AFFAIRS, TO OTHER UNITS OF LOCAL GOVERNMENT AND TO OTHER REVIEW AGENCIES AS REQUIRED BY LAW; PROVIDING FOR ORDINANCES IN CONFLICT, CODIFICATION, SEVERABILITY AND AN EFFECTIVE DATE.

Vice Mayor Pariser moved this item forward. Seconded by Councilman Tendrich.

Manager Williams asked Planning and Zoning Director Julian Perez and Village Attorney Eve Boutsis to provide the staff report. Manager Williams noted that staff's presentation is the result of significant effort on the part of Village staff and the Village Attorney's office, including interested citizens' input and best practices from other communities.

Director Perez introduced the presentation and provided information concerning the options.

Attorney Boutsis noted that modifications were made to this Ordinance at first reading; however, the remaining area ("the Town of Cutler" – bounded on the east by Old Cutler, west by 72 Avenue, north by 168 Street and south by 164 street) has 32 parcels that should be amended for consistency. She explained the several zoning designations included in the area. She advised that the majority of the lots are less than 15,000 square feet and most are less than 10,000 square feet. She further stated that three lots remain at 7,200 square feet. Attorney Boutsis advised that, in the past, many developed had received variances from Miami-Dade County because the lots were not sufficient to build the homes. She noted that R2 and R1 are inconsistent with Estate Density Residential (EDR) and only 10 of these lots would meet estate density zoning (EU-M.). She provided the Council with options, such as leaving the parcels as EDR, although staff proposes Low Density Residential (LDR).

Mayor Flinn noted that three of the parcels do not meet the criteria for the offered designations with their properties being less than 7,500 square feet.

Attorney Boutsis advised that the Village's zoning needs to be consistent with its Comprehensive Plan. She noted that the Council's direction has been to appropriately zone in order to reduce the requests for variances. She stated that the parcels could be zoned EDR, with each lot being a non-conforming E1C designation. She provided an option to re-zone to E-M, which would allow all lots of 15,000 square feet to maintain their EDR designation; however, 10 of the lots do not meet this size.

Attorney Boutsis explained that the Council could change the future land use to low density residential, zoning parcels as R2 and R1 in order to be conforming. She stated that Council also may wish to exclude certain parcels and make them EM – Estate Density Modified, with the remaining being zoned R1. She also noted that several properties along Old Cutler Road could be excluded and be zoned non-conforming EM. Attorney Boutsis noted that the difficulty with zoning this area as EM is that 28 lots would be non-conforming.

Director Perez concurred, adding that most lots meet the R1 designation.

Mayor Flinn asked for explanation concerning frontage and setback requirements. Director Perez noted that only 4 parcels meet the frontage requirements currently. He stated that if the lots were zoned EM, the existing structures could not be rebuilt without variance.

Mayor Flinn remarked that the area is an "eclectic" group of homes.

Attorney Boutsis and Director Perez explained that the concern over "splitting lots" was raised by a property owner. They noted that only five lots could qualify and would have to schedule a public hearing through staff in order to receive approval for the split.

Attorney Boutsis noted that with the option explained previously (Option 5), EM zoning could be on either side of the area, R1 in the center, and all lots would conform except for the three lots that were too small. She stated that you are unable to have R1 or R2 designations with an Estate Density Residential zoning.

Attorney Boutsis briefly reviewed the Options for Council.

Vice Mayor Pariser noted that staff is attempting to match the zoning map with what is currently in place; however, he wondered if there is a statutory obligation to do so.

Attorney Boutsis replied that the zoning must be consistent with the Village's comprehensive plan. She stated that while she can not explain how these properties received these eclectic designations from Miami-Dade County; "spot zoning" is prohibited.

Following brief discussion, Councilwoman Stanczyk remarked that "land banking" could also be a concern.

Mayor Flinn opened the public hearing. The following individuals addressed the Council: Jerry Templar, 8120 SW 182 Street; Eric Tullberg, 7884 SW 179 Terrace; Craig Grossenbacher, 7245 SW 167 Street; Bev Gerald, 14271 SW 74 Court; and, Stanley Stanczyk, 8800 SW 181 Terrace. Mayor Flinn closed the public hearing.

Councilman Tendrich opined that a separate historic designation would not be appropriate, as some homes are newly constructed. He suggested making three lots R2, two lots R1 and the remaining EM. Attorney Boutsis noted that LDR could be in the center, EDR on the edges.

Councilwoman Stanczyk asked why the area could not be a mixed district, like Paradise Point.

Attorney Boutsis noted that Paradise Point is primarily a Planned Unit Development (PUD), these homes are not.

Director Perez noted that the historic designation would carry many restrictions and further study would have to be performed prior to taking that step. Attorney Boutsis noted that only one house has a historic element to it.

Councilman Feller suggested that the fourth option seems to prevent "lot splitting".

Attorney Boutsis noted that with the fourth option, EM zoning would be along 72 Avenue, LDR on the west (R1). She noted that under the EDR and EM zoning districts, all lots would be rezoned at 15,000 square feet or more. She continued that if the Village zones all the lots as EM, you make most of them more conforming, but only lots 1, 2, 3, and 4 could build as of right if they were demolished; all others would have to get a variance.

Vice Mayor Pariser stated that most seem to be in favor of the EM designation.

Attorney Boutsis stated that 10 of the 30 lots are 15,000 square feet or more, and 20 would be non-conforming EM zoning.

Councilman Feller remarked that with any of the options, variances are a possibility. He asked which option would provide the least number of non-conforming houses and the most protection against splitting or land banking.

Attorney Boutsis stated that EM on either side, with the middle being R1 is recommended as being closest to what is existing.

Councilman Tendrich moved to accept Option 4 – east properties would be EM, the remaining R1 and R2. The Motion died for lack of second.

Councilman Feller moved to accept Option 5 – EDR on each side, LDR in the center. The Motion died for lack of second.

Following brief discussion, Councilman Tendrich moved to approve the east properties being EDR, three parcels being R2, two being R1, and the remaining parcels at EM. Seconded by Councilman Feller. All voted in favor.

Councilman Tendrich called the question on the amended Ordinance for first reading. All voted in favor - the Motion carried (5-0).

3. ORDINANCES FOR THIRD READING (PUBLIC HEARING)

- A. AN ORDINANCE RELATING TO CHAPTER 30 CREATING DIVISION 50 ENTITLED "ZONING DISTRICTS" OF THE VILLAGE'S LAND DEVELOPMENT CODE; REZONING THE DESIGNATED AREAS TO THE DELINEATED ZONING DISTRICTS UNDER THE FOLLOWING CATEGORIES: RESIDENTIAL SINGLE-FAMILY, ESTATE, AND TWO-FAMILY DISTRICTS; MULTI-FAMILY DISTRICTS; HOTEL DISTRICTS; BUSINESS DISTRICTS; AND OFFICE DISTRICTS; INCORPORATING THE VMU AND FT&I DISTRICTS INTO 30-50; PROVIDING FOR DEFINITIONS, USES, CHANGES IN USE, GENERAL BUILDING REQUIREMENTS (DENSITY, HEIGHT, PARKING), AND PROCEDURES FOR ADMINISTRATIVE SITE PLAN REVIEW.

Councilman Tendrich moved the item forward. Seconded by Councilman Feller

Attorney Boutsis provided staff report. She noted that the zoning districts are provided, uses not being utilized are removed, and definitions are included. She stated that Council will need to make a decision concerning shed dimensions. She advised that with regard to Bungalow Villas, some suggested setback of 20' and some want 25'. She noted that staff will not be modifying gross versus net for calculations, as the ramifications for modification are not certain. She noted that staff included the 5% modification, as directed.

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Councilman Feller asked staff to delineate the amendments from second to third reading. Attorney Boutsis provided the amendments.

Following brief discussion, Mayor Flinn opened the public hearing. The following individuals addressed the Council: Eric Tullberg, 7884 SW 179 Terrace.

Attorney Boutsis remarked that the concern regarding effecting an easement is a requirement of Miami-Dade County.

The public hearing continued, with the following individuals coming forward: Jerry Templer, 8120 SW 182 Street; and, Steve Kreisher, 18201 SW 98 Avenue. Mayor Flinn closed the public hearing.

Mayor Flinn asked how easements are recorded. Attorney Boutsis stated that the property's survey will show the easement.

Following discussion concerning easements, Council concurred to strike that language from the Ordinance.

Councilwoman Stanczyk moved to set bungalow villas setbacks to 25'. Councilman Feller seconded. All voted in favor (5-0).

Councilman Feller moved to accept the amendments to Section 30-50.1 (e), (f), (g), (i) and (j), removing (h). Seconded by Councilwoman Stanczyk. All voted in favor.

Councilman Tendrich moved to accept Pages 111 through 117. Seconded by Councilwoman Stanczyk. All voted in favor.

Councilman Feller moved to remove the dimensional regulation (maximum floor areas) in Districts R2 and RTH. Seconded by Councilman Tendrich. All voted in favor.

Councilman Feller moved to revise the R2 District side setback from 20 to 15 feet. Seconded by Councilman Tendrich. All voted in favor.

Councilwoman Stanczyk moved to amend the ordinance to allow for 200 square foot sheds, 9 feet tall. The Motion failed for lack of second.

Councilman Feller moved to approve the Ordinance as amended. Seconded by Councilman Tendrich. The Motion carried (4-1, Councilwoman Stanczyk opposed.) Councilwoman Stanczyk stated that she had another item for consideration. Councilman Feller moved to reconsider the Ordinance. Seconded by Councilman Tendrich. Councilwoman Stanczyk motion to direct staff to create an Ordinance of prohibitive uses within the Village and include categories for specific items, such as a parking garage. Councilman Tendrich seconded. All voted in favor.

Councilman Feller moved to call the question on the Ordinance, as amended. All voted in favor (5-0.)

- B. AN ORDINANCE OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, ACTING IN ITS CAPACITY AS THE LOCAL PLANNING AGENCY, AND AS THE VILLAGE COUNCIL RELATING TO THE VILLAGE'S CODE OF ORDINANCES, CHAPTER 30 ENTITLED "ZONING" CREATING DIVISION 10, ENTITLED "PURPOSE AND APPLICABILITY"; WHICH DIVISION SHALL BE PART OF THE VILLAGE'S LAND DEVELOPMENT CODE; CREATING AND ADOPTING THE VILLAGE'S ZONING MAP FOR ALL PROPERTIES WITHIN THE VILLAGE FROM SW 136TH STREET TO THE NORTH, SW 184TH STREET TO THE SOUTH, US 1 TO THE WEST, AND BISCAYNE BAY TO THE EAST; PROVIDING FOR ADOPTION OF ALL RESIDENTIAL, SINGLE AND MULTIFAMILY ZONING DISTRICTS, HOTEL/MOTEL, AND BUSINESS DISTRICTS; INCORPORATING BY REFERENCE THE VMU AND FT&I ZONING DISTRICTS; PROVIDING FOR ORDINANCES IN CONFLICT; CODIFICATION; SEVERABILITY; AND AN EFFECTIVE DATE.

Councilman Feller moved this item forward. Seconded by Councilman Tendrich.

Attorney Boutsis noted that this proposed Ordinance is intended for adoption of the Zoning Map. She noted that the map would be revised, consistent with the modification map to "the Town of Cutler" earlier in the meeting.

Mayor Flinn opened the public hearing. Eric Tullberg, 7884 SW 179 Terrace, addressed the Council.

Councilman Tendrich moved to include the modification to the zoning map to zone EM on the west side of SW 72 Avenue and the existing to remain R2 and R1, with the remaining designated area to be EM. Seconded by Vice Mayor Pariser. Attorney Boutsis noted the common addresses for the areas, as follows: 7275 SW 166 St. – R2, 7281 SW 166 St – R2, 16575 Old Cutler Road – R2; 7270 SW 166 St – R1, 7260 SW 166 St – R1. All voted in favor of the motion (5-0).

Mayor Flinn called the question on the amended Ordinance. All voted in favor. The Ordinance was adopted (5-0).

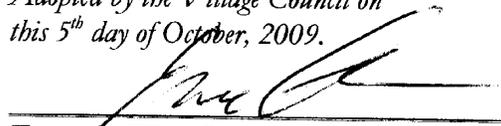
4. NEXT MEETING AND ADJOURNMENT

The Meeting was officially adjourned at 9:30 pm.

Prepared and submitted by:


Meghan J. Rader, CMC
Village Clerk

*Adopted by the Village Council on
this 5th day of October, 2009.*



Eugene P. Flinn, Jr., Mayor

PURSUANT TO FLORIDA STATUTES 286.0105, IF A PERSON DECIDES TO APPEAL ANY DECISION MADE BY THIS COUNCIL WITH RESPECT TO ANY MATTER CONSIDERED AT ITS MEETING OR HEARING, HE OR SHE WILL NEED A RECORD OF THE PROCEEDINGS, AND THAT FOR SUCH PURPOSE, THE AFFECTED PERSON MAY NEED TO ENSURE THAT A VERBATIM RECORD OF THE PROCEEDING IS MADE, WHICH RECORD INCLUDES THE TESTIMONY AND EVIDENCE UPON WHICH THE APPEAL IS TO BE BASED. THIS NOTICE DOES NOT CONSTITUTE CONSENT BY THE VILLAGE FOR THE INTRODUCTION OR ADMISSION OF OTHERWISE INADMISSIBLE OR IRRELEVANT EVIDENCE, NOR DOES IT AUTHORIZE CHALLENGES OR APPEALS NOT OTHERWISE ALLOWED BY LAW. WHILE THE FLORIDA STATUTES DO NOT REQUIRE TAPE RECORDINGS, TO THE EXTENT THAT TAPE RECORDINGS ARE MADE, THE TAPES MAY BE REQUESTED FROM THE VILLAGE CLERK FOR REVIEW AND/OR COPYING. THE VILLAGE OF PALMETTO BAY CAN NOT GUARANTEE QUALITY OF ANY RECORDING.