



To: Honorable Mayor and Village Council

Date: October 28, 2013

From: Eve A. Boutsis, Village Attorney

Re: Pet Shop Regulations
Ordinance for First Reading

AN ORDINANCE OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, AMENDING SECTION 30-50.16(B)(44) OF THE CODE OF ORDINANCES RELATING TO PET STORE USE WITHIN THE B-1 ZONING DISTRICT TO SPECIFICALLY REFERENCE THE PROVISIONS OF 30-60.31; AND CREATING SECTION 30-60.31, ENTITLED "RETAIL SALE OF DOGS AND CATS;" TO PROVIDE CONDITIONS RELATING TO THE SALE OF DOGS AND CATS; PROVIDING FOR VIOLATIONS AND A \$250.00 FINE; PROVIDING FOR CONFLICT; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE. [Sponsored by Vice Mayor John Dubois]

BACKGROUND:

During the October 7, 2013, Council meeting, Vice Mayor John DuBois requested an amendment to the Zoning Code, which seeks to apply operational standards for pet retail oriented facilities that sell or provide adoptive services for dogs and cats. The request was accompanied by a model ordinance previously adopted by the City of Hallandale Beach.

According to the Humane Society of the United States, hundreds of thousands of dogs and cats in the United States have been housed and bred at substandard breeding facilities known as "puppy mills" or "kitten factories," that mass-produce animals for sale to the public, many of which are sold at retail in pet stores. The Humane Society found that these facilities often lack proper animal husbandry practices, with animals born and raised there more likely to have genetic disorders and lacking adequate socialization, are subject to inhumane housing conditions, and are indiscriminately disposed of when they reach the end of their profitable breeding cycle. Although not all dogs and cats sold in retail pet stores are not the products of inhumane breeding conditions and not every commercial breeder selling dogs or cats to pet stores operates "puppy mills" or "kitten factories," the Humane Society believes that puppy mills and kitten factories continue to exist in part because of public demand for the sale of dogs and cats in pet stores. As such, the proposed ordinance is offered to discourage the retail sale of dogs and cats and to encourage the adoption of such pets from animal shelters thereby saving animals' lives and reducing the cost to the public of sheltering animals.

ANALYSIS:

The proposed ordinance was reviewed for consistency with the criteria established in Section 30-30.7(b). The Background section provided above shall be considered supplemental information to this analysis and thusly shall be incorporated into each criterion delineated below. The following is a review of those criteria:

Criteria (1): Whether the proposal is consistent with the comprehensive plan, including the adopted infrastructure minimum levels of service standards and the Village's Concurrency Management Program.

Analysis: The project was reviewed for consistency with the Village's Comprehensive Plan. The Comprehensive Plan does not address the Pet Stores program.

Finding: Consistent.

Criteria (2): Whether the proposal is in conformance with all applicable requirements of Chapter 30.

Analysis: A review of Chapter 30 found no provision in conflict with the proposed ordinance.

Findings: Consistent.

Criteria (3) Whether, and the extent to which, land use and development conditions have changed since the effective date of the existing regulations, and whether the changes support or work against the proposed change in land use policy.

Analysis: See Criteria 2. Through education and a greater awareness, the concerns of the Humane Society of the United States was shared with Village Council prompting a desire to amend the Zoning Code in a manner which supports and promotes responsible pet adoptive services.

Findings: Consistent.

Criteria (4) Whether, and the extent to which, the proposal would result in any incompatible land uses, considering the type and locations of uses involved, the impact on the adjacent or neighboring properties, consistency with existing development, as well as compatibility with existing and proposed land uses.

Analysis: The proposed ordinance permits the continued operational standards of existing pet shop retailers. There are currently 3 retail facilities within the Village. The Village Clerk has confirmed that none of the existing retail facilities currently offer dogs or cats for sale from a "puppy mill" or other type of vendor. The animals sold, or up for adoption are rescues.

Finding: Consistent.

Criteria (5) Whether, and the extent to which, the proposal would result in demands on transportation systems, public facilities and service; would exceed the capacity of the facilities and services, existing or programmed, including: transportation, water and wastewater services, solid waste disposal, drainage, recreation, education, emergency services, and similar necessary facilities and services.

Analysis: Not applicable.

Finding: Consistent.

Criteria (6) Whether, and to the extent to which, the proposal would result in adverse impacts on the natural environment, including consideration of wetland protection, preservation of groundwater aquifer wildlife habitats, and vegetative communities.

Analysis: The proposed ordinance does not impact the above systems.

Finding: Consistent.

Criteria (7) Whether, and to the extent to which, the proposal would adversely affect the property values in the affected area, or adversely affect the general welfare.

Analysis See Criteria (3) above. There does not appear to be any evidence to suggest the proposed ordinance would affect property values of the surrounding area. The ordinance seeks to encourage responsible acquisition of dogs and cats.

Findings: Consistent.

Criteria (8) Whether the proposal would result in an orderly and compatible land use pattern. Any positive and negative effects on land use pattern shall be identified.

Analysis See Criteria (4) above.

Findings: Consistent.

Criteria (9) Whether the proposal would be in conflict with the public interest, and whether it is in harmony with the purpose of Chapter 30.

Analysis: See Criteria (4) above. There is no conflict to the public interest. The request is a policy decision of the Village Council.

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Findings: Consistent.

Criteria (10) Other matters which the local planning agency or Village Council in its legislative discretion may deem appropriate.

Analysis: As per the direction of the Village Council.

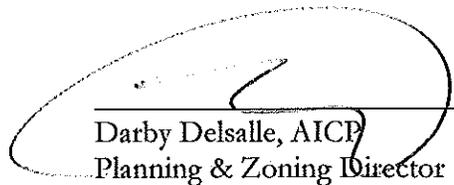
Finding: As determined by the Village Council.

FISCAL/BUDGETARY IMPACT:

None identified at this time.

RECOMMENDATION:

Decision for the Village Council.



Darby Delsalle, AICP
Planning & Zoning Director

ORDINANCE NO. _____

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3 AN ORDINANCE OF THE MAYOR AND VILLAGE COUNCIL OF THE
4 VILLAGE OF PALMETTO BAY, FLORIDA, AMENDING SECTION 30-
5 50.16(B)(44) OF THE CODE OF ORDINANCES RELATING TO PET
6 STORE USE WITHIN THE B-1 ZONING DISTRICT TO SPECIFICALLY
7 REFERENCE THE PROVISIONS OF 30-60.31; AND CREATING
8 SECTION 30-60.31, ENTITLED "RETAIL SALE OF DOGS AND CATS;"
9 TO PROVIDE CONDITIONS RELATING TO THE SALE OF DOGS
10 AND CATS; PROVIDING FOR VIOLATIONS AND A \$250.00 FINE;
11 PROVIDING FOR CONFLICT; PROVIDING FOR INCLUSION IN THE
12 CODE; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN
13 EFFECTIVE DATE.
14

15 WHEREAS, according to the Humane Society of the United States, hundreds of thousands
16 of dogs and cats in the United States have been housed and bred at substandard breeding facilities
17 known as "puppy mills" or "kitten factories," that mass-produce animals for sale to the public, many
18 of which are sold at retail in pet stores; and,
19

20 WHEREAS, because of the lack of proper animal husbandry practices at those facilities,
21 animals born and raised there are more likely to have genetic disorders and lack adequate
22 socialization, while breeding animals utilized there are subject to inhumane housing conditions and
23 are indiscriminately disposed of when they reach the end of their profitable breeding cycle; and,
24

25 WHEREAS, while not all dogs and cats sold in retail pet stores are not the products of
26 inhumane breeding conditions and not every commercial breeder selling dogs or cats to pet stores
27 operates "puppy mills" or "kitten factories," the Village Council believes that puppy mills and kitten
28 factories continue to exist in part because of public demand and the sale of dogs and cats in pet
29 stores; and,
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31 WHEREAS, the Village Council believes that prohibiting the retail sale of dogs and cats in
32 the Village will promote community awareness of animal welfare and, in turn, will foster a more
33 humane environment in the Village; and,
34

35 WHEREAS, the Village Council believes that the prohibition of the retail sale of dogs and
36 cats in pet stores in the Village will also encourage pet consumers to adopt dogs and cats from
37 shelters, thereby saving animals' lives and reducing the cost to the public of sheltering animals; and,
38

39 WHEREAS, Section 30-50.16, delineates the uses authorized as of right within the B-1,
40 Limited Business District, which uses include pet shops; and,
41

42 WHEREAS, Section 30-50.16(b)(44), is proposed for amendment to cross-reference new
43 section 30-60.31, entitled "Retail Sale of Dogs and Cats" and delineates the parameters under which
44 these animals may be sold to the community; providing for definitions; and penalties.
45

1
2 BE IT ENACTED BY THE MAYOR AND VILLAGE COUNCIL OF THE
3 VILLAGE OF PALMETTO BAY, FLORIDA, AS FOLLOWS:
4

5 Section 1, Sections 30-50.16(b)(44) is amended as to the Pet store use listed in the B-1 zoning
6 district; and Division 30-60, relating to "General Regulations" is amended to include Section 30-
7 60.31, entitled "Retail Sale of Dogs and Cost," which provisions are amended to read as follows:

8 * * *

9 Division 30-50 Zoning Districts

10 * * *

11 Section 30-50.16. B-1, Limited Business District.

12
13
14 (a) *Purpose.* The purpose of the B-1, Limited Business District, is to provide for retail and service
15 convenience facilities which satisfy the essential and frequent needs of the adjacent
16 residential neighborhood.

17 (b) *Uses permitted.* No land, body of water or structure shall be used or permitted to be used and
18 no structure shall be hereafter erected, constructed, moved, reconstructed or structurally
19 altered or maintained in any B-1 District, which is designed, arranged or intended to be used
20 or occupied for any purpose, except for one or more of the following uses:

21 (1) Antique shops.

22 * * *

23 (44) Pet stores, shops, pet care centers and dog beauty and pet grooming as per Section
24 30-60.31.

25 * * *

26
27 DIVISION 30-60
28 GENERAL REGULATIONS

29 * * *

30
31
32 Section 30-60.31. Retail Sale of Dogs and Cats.

33
34 (a) As of December 2, 2013, pet stores, shops or care centers shall be precluded from
35 displaying, selling, trading, delivering, bartering, leasing, renting, auctioning, give away,
36 transferring, offer for sale or transfer, or otherwise dispose of dogs or cats in the Village of
37 Palmetto Bay, except as provided below:

38
39 (1) A person or pet store that sells, delivers, offers for sale, trades, barters, leases, rents,
40 auctions, gives away, or otherwise transfers or disposes of dogs and/or cats that were
41 bred and reared on property owned by and zoned for the person or pet store.

42 (2) An animal shelter.

43 (3) An animal rescue organization.

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Section 4. If any section, clause, sentence, or phrase of this ordinance is for any reason held invalid or unconstitutional by a court of competent jurisdiction, the holding shall not affect the validity of the remaining portions of this ordinance.

Section 5. This ordinance shall take effect immediately upon enactment.

First Reading: _____

Second Reading: _____

PASSED AND ENACTED this _____ day of December, 2013.

Attest: _____
Meighan Alexander
Village Clerk

Shelley Stanczyk
Mayor

APPROVED AS TO FORM:

Eve A. Boutsis
Village Attorney

FINAL VOTE AT ADOPTION:

Council Member Patrick Fiore _____
Council Member Tim Schaffer _____
Council Member Joan Lindsay _____
Vice-Mayor John DuBois _____
Mayor Shelley Stanczyk _____



To: Honorable Mayor and Village Council

Date: October 28, 2013

From: Eve A. Boutsis, Village Attorney

Re: BMW Park 1st Reading

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 A SMALL SCALE AMENDMENT OF THE FUTURE LAND USE MAP CONSISTENT WITH 163.3161, 163.3184 AND 163.3187, FLORIDA STATUTES; CHANGING 3.0973 ACRES (+/-) OF THE TOTAL 9.4678 ACREAGE FROM LOW DENSITY RESIDENTIAL TO PARKS AND RECREATION FOR A PORTION OF THE PROPERTY LOCATED AT 9271 SW 164 STREET BEARING FOLIO 33-5028-002-0070 AND A PORTION OF THE ADJACENT PROPERTY BEARING FOLIO 33-5028-002-0080, PALMETTO BAY, FLORIDA; PROVIDING FOR ORDINANCES IN CONFLICT, CODIFICATION, SEVERABILITY AND AN EFFECTIVE DATE.

A. BACKGROUND

As part of the master zoning application VPB-13-001, South Motors Company of Dade Co., (South Motors) proposes to transfer title, or alternatively, place a covenant, easement or leasehold that would run with the land providing for a public park use, as to that portion of the property identified in the plans as 3.0973± acres. The project is located at 16215 South Dixie Highway, and 9271 SW 164 Street, bearing Folio 33-5028-002-0070 together with the adjacent property bearing Folio 33-5028-002-0080. The South Motors master zoning application includes a modification of the existing site plan, a Future Land Use Map (FLUM) amendment, and a rezoning of the two eastern parcels of the property. The two parcels total 9.4678 acres. The rezoning from R-1, Single Family District to B-2, Business District, comprises of 6.3705 acres of which 1.9344 acres is subject to the FLUM amendment from Low Residential Density to Business Office. The remaining 3.0973± acres is the subject of this request.

The intent of offering a park facility is to buffer the proposed commercial structures from the adjacent residential uses to the east and south. Should the Council accept the land through one of the prescribed instruments, the Village would be required to amend the FLUM to reflect the Park and Recreation land use designation. Staff further suggests the property be rezoned to I, Interim District, to remove the existing residential zoning district thus eliminating the previously approved site plan element which provided for a residential

cluster development, and to covenant the land for park use as the property will not be used for a residential zoning purpose. The requests for the FLUM amendment and rezoning are predicated upon the transfer of title, or the recording of a perpetual easement or long-term leasehold that would run with the land authorizing the Village to use the 3.0973± acres as a park accessible to the public. South Motors' donation of the 3.0973± acres is contingent upon approval of their request for a modified site plan, FLUM amendment, and rezoning, together with the modification or release of the existing recorded Declaration of Restrictions, dated May 28, 1980, and associated resolutions and plans. As noted in South Motors' application, South Motors, as per the requirements of its recorded covenant, obtained the required number of signatures authorizing its request for rezoning. The Village is seeking this rezoning to ensure compliance with the Comprehensive Plan and to ensure that the land will be used, in perpetuity, for a park.

As an ordinance involving a rezoning under 10 acres only requires a public hearing during second reading, staff scheduled the public hearing as to the modification of the related covenants and restrictions for that second reading, public hearing date.

B GENERAL INFORMATION

REQUESTS:

1. A **Future Land Use Map change** (Small Scale Amendment) from Low Density Residential to Parks and Recreation (Pursuant to Section 30-30.8 – Amendment to the Comprehensive Plan).
2. A **Rezoning** from R-1 Single-Family Residential District to I, Interim District (Pursuant to Section 30-30.7 – Amendment to the official zoning map).

Area subject to FLUM Amendment and Rezoning:

A portion of Tract 7 and 8, EAST HILL, according to the plat thereof, as recorded in Plat Book 46, Page 43, of the public records of Miami-Dade County, Florida; more fully described as follows:

Commencing at the Northwest corner of said Tract 7; thence South 00°05'42" East, on the West line of said Tract 7, a distance of 413.79 feet to the Point of Beginning; thence continuing South 00°05'42" East, on the said West line of said Tract 7, a distance of 52.80 feet to the Southwest corner of said Tract 7 and a point on a curve; thence Easterly on the South line of said Tracts 7 and 8 and also on the North right-of-way line of S.W. 164th Street and on said curve to the left, whose radius point bears North 51°49'30", with a radius of 475.00 feet, a central angle of 51°07'36", and arc distance of 423.86 feet; thence South 89°11'33" East, on the South line of said Tract 8 and on said North right-of-way line, a distance of 307.43 feet to the Southeast corner of said Tract 8; thence North 00°10'11" West, on the East line of said Tract 8, a distance of 229.36 feet; thence North 89°14'49" West, on a line 229.33 feet North of and parallel with the South line of said Tract 8 and Westerly extension thereof, a distance of 673.58 feet to the Point of Beginning.

Said lands situate, lying and being in Miami-Dade County, Florida, and containing 134,918 square feet or 3.0973 acres, more or less.

OVERALL LOT SIZE: 13.2347 net acres
AMENDMENT SIZE: 134,918 square feet or 3.0973 acres, more or less.
REZONING: 134,918 square feet or 3.0973 acres, more or less.
FOLIO NUMBERS: 33-5028-002-0070 & 33-5028-002-0080

C. ZONING HEARING HISTORY:

The prior zoning property for the remainder of the property has been consolidated. The full history can be found in the South Motors FLUM, rezoning, site plan modification, and covenant release application hearing file.

On February 4, 1982, the Dade County Board of County Commissioners pursuant to Resolution No. Z-38-82 heard South Realty Associates' renewed application on the same item as heard in 1980, as there had been an error in the legal description from the original hearing item. Due to the foregoing, the County Commission affirmed the basic intent of the original Resolution Z-198-80, and specifically ruled:

- (1) To allow the rezoning to RU-1, Single-Family Residential, from EU-M, Estate Modified Residential, (the property that is the subject of this pending application);
- (2) To allow the rezoning to BU-3, Liberal Business District from AU, Agricultural, (16165 South Dixie Highway), subject to conditions.
- (3) To allow a special exception on a portion of the property that is the subject of this pending application, with conditions to allow a cluster development with 5.6 units, per net acre.
- (4) To deny the rezoning to BU-3, Liberal Business District, from RU-1, Single-Family Residential.
- (5) To grant the use variance for a portion of the RU-1 property (part of the property that is the subject of this pending application) for outdoor car storage.
- (6) The Applicant in 1980 proffered and recorded a covenant, which was accepted by the Commission, which provided that the RU-1 cluster plan could not be modified, and the property could not be rezoned without the approval of the defined community, as provided under the covenant. Additionally, approval no. (5) would preclude structures that would permit automobile repairs, painting, cleaning body and top work. This additional covenant term is the other major provision contained in the Declaration of Restriction, recorded at Official Record Book 10973, at Pages 1003 through 1009.

On or about May 28, 1980, the Covenant, Declaration of Restrictions, was recorded at Official Record Book 10973 at Pages 1003 through 1009. It provided, amongst other things,

that the RU-1 cluster zoning on the south portion of the entire application (property that is the subject of this memorandum). If a new zoning or rezoning, or use variance is requested, the Applicant is required to obtain a release or revision of the covenant relating to the RU-1 zoning by the Board of County Commissioners, at a public hearing, after obtaining the following:

- (a) consent of all fee holders of the following immediately adjacent properties: 9200, 9220, 9240, 9260 and 9280 SW 164th Street; and,
- (b) consent of fee holders of 75% of the separate properties located within the adjoining area bounded by SW 164th Street and SW 94th Avenue.

In 2010, the Village created its Land Development Code and Comprehensive Zoning Map, and re-designated the subject property as R-1. (Documentation not provided in this back-up as it is voluminous and is existing Code).

Once the Village incorporated all covenants on a property are to be applied by the Village. Any release of a covenant, would be released according to the Village's Code of Ordinances, Section 30-30.9, which requires a quasi-judicial zoning hearing. South Motors, has requested to rezone 6.3705+/- acres of its property in order to expand the car dealership use. Before obtaining the rezoning, it is required they first seek the release of that portion of an existing covenant, recorded at Official Record Book 10973, at pages 1003-1009. The same applies to the park rezoning. South Motors has obtained the required signatures as delineated in the recorded covenant and may proceed with the rezoning request. The acquired signatures equally apply to the proposed park rezoning. Ultimately, prior to second reading of the park rezoning ordinance, the Village will need to hear and rule upon releasing South Motor's existing covenant. The hearing as to the release of the covenant, to allow the rezoning to proceed, will be held during second reading of the ordinance on rezoning the property to B-2, Business District.

D. NEIGHBORHOOD CHARACTERISTICS:

ZONING

LAND USE DESIGNATION

Subject Property:

R-1; Single Family Residential

Low Density Residential

Surrounding Properties:

NORTH:

R-1

Business and Office

(Pending B-2; Business District)

EAST:

R-1; Single Family Residential District

Low Density Residential (2.5-6 D.U.'s)

SOUTH:

E-M; Estate Modified – Single Family R-1; Single Family Residential District (2.5 to 6 D.U.'s) AG; Agricultural/Residential	Low Density Residential (2.5 to 6 D.U.'s)
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WEST:
B--2; Business District Business and Office

D.U. = Dwelling Units

E. REZONING/FLUM AMENDMENTS – PROCEDURALLY

The Village's companion FLUM amendment and rezoning requests to South Motor's master zoning application, is a small-scale (less than 10 acres) amendment to the FLUM, to change approximately 3.0973± acres to the Parks and Recreation designation. Without the Future Land Use Map modification, the 3.0973± acres could not be used for park, as doing so would be inconsistent with the Future Land Use Map designations and intensities of use.

Consistent with the Village's Code requirements and State law, a public hearing must be held on the Comprehensive Plan amendment to the FLUM. The state, for a small-scale amendment, only requires one public hearing on the ordinance, which public hearing would occur at second reading. As the Village is to enact an Ordinance to allow for the FLUM modification to the 3.0973± acres, the Council will hold two readings on the ordinance, with the public hearing held during second reading. At that time the Council will hold with the public hearing to release the Declaration of Restriction and its associated resolutions and plans. There shall also be a hearing of the Council acting as the Land Planning Agency. After the necessary public hearings, the Village Council shall take action to deny or approve the application, or approve it with modifications or conditions for purposes of transmittal to the Florida Department of Community Affairs [now known as the Department of Economic Opportunity (DEO)] pursuant to the requirements of Section 163.3161, Florida Statutes. If denied, the Village may resubmit the application as provided under Section 30-30.2, of the Village's Code. If approved for purposes of transmittal, the Village shall thereafter provide the necessary administrative support for the DEO's review process required under Section 163.3161, et seq., Florida Statutes, and the Village's ordinance would go into effect.

Pursuant to Village Charter, Section 10.2.2, four affirmative votes are required to rezone any lands that have an initial Land Use designation of Residential. As such, the rezoning request must receive a minimum of four affirmative votes. The land use change would ensure that the land would always be utilized as park land and would provide assurances to the community of the Village's intent as to this land. In order to proceed with the modification of the Future Land Use Map, the Applicant must comply with the Village's procedures for authorizing the changes. The following section provides a review of the request pursuant to the Village's Land Development Code and applicable elements of the Village's Comprehensive Plan.

The proposed amendment to the FLUM would be contingent upon approval of the underlying zoning application requests, as the 3.0973± acres is currently owned by the Applicant, and is being dedicated for a park purpose, only if the applications proceed and are approved in substantial form.

F. GENERAL DISCUSSION OF FLUM AND ZONING

Future Land Use Map (FLUM). The current designation of the two parcels subject to the FLUM amendment is Low Density Residential (LDR). The LDR designation permits residential densities to range from a minimum of 2.5 to a maximum of 6.0 dwelling units per gross acre. This density category is generally characterized by detached single-family homes. It can also include large fee-simple town homes with extensive surrounding open space or a mixture of both housing types, provided that the maximum gross density is not exceeded.

The adopted 2009 Village of Palmetto Bay Comprehensive Plan, Future Land Use Element (FLUE), as amended, identifies Parks and Recreation (PR) as a category that accommodates a full range park/recreational activities in a manner compatible with the surrounding area. The maximum intensity of ancillary structures and building within PR shall not exceed a floor to area ratio (FAR) of 0.2.

Zoning Designation. The existing zoning of the undeveloped land that is the subject of this application is R-1, Single-Family Residential District, which principally permits single-family homes and associated accessory structures. The district also permits certain places of congregation as further regulated by Section 30-110 of the Land Development Code. The proposed zoning district, I, Interim District, permits the consideration of a “trending” of the development pattern. The ultimate trend for this property will be park use.

G. ANALYSIS

This analysis is provided in three parts. The first subsection completes a review of the relevant Comprehensive Plan's Goals, Policies, and Objectives. The second subsection reviews the FLUM amendment request, and third subsection reviews the rezoning request. The analysis portion of both the FLUM and rezoning requests incorporate all portions of Subsection I below. Further, the Background Section of this report is hereby incorporated into all parts of the analysis and is incorporated herein by reference.

All "Findings" in each of the analysis subsections delineated below for the FLUM amendment and the rezoning request, shall include the following specific conditions: that the South Motors master application be approved in substantial form, as failure to approve the master application would result in South Motors' withdrawal of the offer of donating 3.0973± acres of park land to the Village. Also, the 3.0973± acres would be tied to a recorded document running with the land, in a form approved by the Village Attorney, ensuring the perpetual park use.

SUBSECTION I – COMPREHENSIVE PLAN

The application was reviewed for consistency with the Villages Comprehensive Land Use Plan and corresponding Goals, Objectives and Policies thereof. The following is an analysis of that review.

Future Land Use Element

Goal 1: To guide the Village of Palmetto Bay from birth to early maturity as an outstanding and truly livable community in southeast Florida by building on, and improving, the existing land use blueprint through visionary planning and place-making, cost efficient provision of high quality facilities and services, quality neighborhood protection, and enhancement of its unique and beautiful coastal environmental resources.

Analysis: South Motors' master application (VPB-13-001) plan provides a 3.0973± acre park buffer to the single-family residential properties just south of the project site. The park plan reflects landscape treatments for the enhancement of the neighborhood. The proposed park functions as a buffer, contributes to the Village's LOS park requirement, and removes the potential a future residential cluster development on the 3.0973± portion of the site as approved per Resolution No. Z-38-82.

Finding: Conditionally consistent provided South Motors provides a covenant, easement or leasehold document running with the land relating to the park use of the 3.0937± acres in a form to be approved by the Village Attorney.

Parks Element

Policy 7.1.2: Through the maintenance and expansion of existing park facilities and the acquisition and/or development of new parks and open space, achieve a Level of Service (LOS) Standard of 5.2 acres of developed park area per 1,000 residents by 2009, and an LOS of 5.0 acres by 2025.

Analysis: Based on the current Village population (approximately 24,100) and inventory of existing Village parks (85 acres), current LOS equals approximately 3.41 per 1,000 residents. The South Motors proposes, via covenant to the Village, to convert the south three acres of the property to park land to serve as a transition area to the adjacent single-family residential to the south. This addition will result in an increase LOS of .13 for a total LOS of 3.54 per 1,000 residents.

Finding: Conditionally consistent provided South Motors provides a covenant, easement or leasehold document running with the land relating to the park use of the 3.0973± acres in a form to be approved by the Village Attorney.

SUBSECTION II – FUTURE LAND USE AMENDMENT

The following is a review of the request pursuant to the Village's variance criteria found at Section 30-30.8(b) of the Land Development Code. The Background Section and the Analysis Section, at Subsection I of this report is hereby incorporated by reference into this analysis.

Criteria (1) Whether the proposal is internally consistent with the Comprehensive Plan, including the adopted infrastructure minimum levels of service standards and the concurrency management program.

Analysis: Please see Subsection I of this Analysis. If the 3.0973± acres is to be transferred to the Village for park purposes, the Village would be moving forward with complying with Policy 7.1.2 of the Comprehensive Plan.

Finding: Conditionally consistent as per the findings of Subsection I of this Analysis.

Criteria (2) Whether, and the extent to which, land use and development conditions have changed since the effective date of the existing Comprehensive Plan, and whether the changes support or work against the proposed amendment.

Analysis: The History Section is hereby incorporated as back-up to this analysis herein by reference. As presented in the History Section of this report, a number of events have occurred regarding conditions that affect the existing and future development of the site starting with Resolution No. Z-38-82 and the associated Declaration of Restrictions, which granted an "unusual use" variance to a portion of the property and required a written consent from surrounding residents prior to seeking a rezoning or another unusual use request.

South Motors' master zoning application was permitted to proceed because they were successful in securing the requisite number of signatures from the surrounding community allowing them to request a rezoning, and therefore, to also seek the site plan modification. Their site plan modification is not precluded by the Declaration of Restrictive Covenants, except to the extent that the covenant required a cluster home development on that portion of land, and required the community "sign-off" to request the rezoning. It is where the cluster development was to be located that South Motors' is offering to the Village for use as a park. Addition of the park land would provide a buffer to the adjacent residential uses.

Finding: Consistent.

Criteria (3) Whether, and the extent to which, the proposal would result in any incompatible land uses, considering the type and location of uses involved, the impact on adjacent or neighboring properties, consistency with existing development, as well as compatibility with existing and proposed neighboring property land use.

Analysis: Goal 1 for Subsection I, above, is incorporated into this analysis herein by reference. The area subject to the FLUM amendment is proposed to convert the south 3.0973± acres of residentially designated land as a park to be dedicated to Village via a covenant, leasehold or easement. The park buffer would result in a buffer of over 200 feet (north to south). The park would not only provide screening of the proposed commercial use but may also increase property values of the single-family homes adjacent to the use.

Finding: Consistent.

Criteria (4) Whether, and the extent to which, the proposal would adversely affect the property values in the affected area, or adversely affect the general welfare.

Analysis: Please see Criteria 2 and 3. Development of a park would buffer the residential community and increase property values.

Finding: Consistent.

Criteria (5) Whether the proposal would result in an orderly and compatible land use pattern. Any positive and negative effects on such pattern shall be identified.

Analysis: The south 3.0973± acres of residentially designated land of South Motors' proposed project is to be dedicated as a park to the Village via a covenant, or other legal instrument. The park would serve as a buffer and covers a distance of over 200 feet (north to south). The park would not only provide screening of the commercial use but may also increase property values of the single-family homes adjacent to the use.

Finding: Consistent

Criteria (6) Whether the proposal would be in conflict with the public interest, and whether it is in harmony with the purpose and interest of the Comprehensive Plan.

Analysis: The History Section, Subsection I, and Criteria 1, 3, 4, and 5 are incorporated herein by reference.

Finding: Consistent.

Criteria (7) Whether the proposed amendment meets the requirements of Section 163.3161, Florida Statutes, entitled "The Local Government Comprehensive Planning and Land Development Regulation Act."

Analysis: Recent changes to Florida land use laws leveraged greater authority in the review and processing of small-scale land use amendments (those less than 10 acres). Submission, review and proposed implementation of the application is consistent with those provisions. The proposed small-scale amendment to amend the 3.0973± acre area from Low Density Residential to Parks and Recreation meets the requirements of Section 163.3161, Florida Statutes, as amended.

Finding: Consistent.

Criteria (8) Other matters which the Local Planning Agency [here the Village Council], in its legislative discretion, may deem appropriate.

Finding: Decision for the Village Council.

SUBSECTION III – REZONING

The following is a review of the request pursuant to the Village's rezoning criteria found at Section 30-30.7(b), of the Land Development Code. The Background Section and the Analysis Subsection I and II of this report is hereby incorporated by reference into this analysis.

Criteria (1) Whether the proposal is consistent with the Comprehensive Plan, including the adopted infrastructure minimum levels of service standards and the Village's concurrency management program.

Analysis: Please see Subsection I and Subsection II, Criteria 1, of this Analysis.

Finding: Consistent.

Criteria (2) Whether the proposal is in conformance with all applicable requirements of Chapter 30.

Analysis: Please see Subsection II, Criteria 2, and provided a covenant or other legal instrument runs with land tying the property to the park use for the south 3.0973± acres.

Finding: Consistent.

Criteria (3) Whether, and the extent to which, land use and development conditions have changed since the effective date of the existing regulations, and whether the changes support or work against the proposed change in land use policy.

Analysis: Please see Subsection II, Criteria 2.

Finding: Consistent.

Criteria (4) Whether, and the extent to which, the proposal would result in any incompatible land uses, considering the type and location of uses involved, the impact on adjacent or neighboring properties, consistency with existing development, as well as compatibility with existing and proposed land uses.

Analysis: Please see Subsection II, Criteria 5.

Findings: Consistent.

Criteria (5) Whether, and the extent to which, the proposal would result in demands on transportation systems, public facilities and services; would exceed the capacity of the facilities and services, existing or programmed, including: transportation, water and wastewater services, solid waste disposal, drainage, recreation, education, emergency services, and similar necessary facilities and services.

Analysis: Please see Subsection I and Subsection II, Criteria 1 of this Analysis and provided a covenant or other legal instrument runs with land tying the property to the park use for the south 3.0973± acres.

Finding: Consistent.

Criteria (6) Whether, and to the extent to which, the proposal would result in adverse impacts on the natural environment, including consideration of wetland protection, preservation of groundwater aquifer, wildlife habitats, and vegetative communities.

Analysis: The south 3.0973± acres of residentially designated land of South Motors' proposed project is to be dedicated as a park to the Village via a covenant, or other legal instrument. The park would serve as a buffer and covers a distance of over 200 feet (north to south).

Finding: Consistent.

Criteria (7) Whether, and the extent to which, the proposal would adversely affect the property values in the affected area, or adversely affect the general welfare.

Analysis: Please see Subsection II, Criteria 4.

Finding: Consistent.

Criteria (8) Whether the proposal would result in an orderly and compatible land use pattern. Any positive and negative effects on land use pattern shall be identified.

Analysis: Please see Subsection II, Criteria 5.

Finding: Consistent.

Criteria (9) Whether the proposal would be in conflict with the public interest, and whether it is in harmony with the purpose and intent of Chapter 30.

Analysis: Please see Subsection II, Criteria 2. The proposed park will buffer the adjacent residential areas from South Motor's proposed development plan.

Finding: Consistent.

Criteria (10) Other matters which the Local Planning Agency or the Village Council in its legislative discretion may deem appropriate.

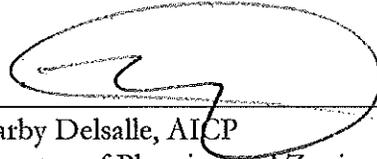
Finding: Decision for the Village Council.

H. RECOMMENDATION

The FLUM amendment and rezoning are consistent, with the Zoning, Land Development Regulations and Comprehensive Plan provided the following conditions are met:

1. Prior to second reading of the rezoning, the Village Council authorizes the release of the exiting Declaration of Restrictive Covenants, dated May 28, 1980, and recorded at Official Record Book 10973 at Pages 1003 through 1009.
2. Approve, in substantial form, the master plan application of South Motors for the FLUM amendment to BO; the rezoning to B-2; and the site plan modification under VPB-13-001. Failure to approve the master zoning application requests, would result in South Motors withdrawing its offer of providing the Village with 3.0973± acres of land for park purposes.

3. Covenant, easement or leasehold type document running with the land relating to the park use of the 3.0973± acres in a form to be approved by the Village Attorney.
4. Prior to second reading of the rezoning the FLUM amendment must be approved.

A handwritten signature in black ink, consisting of a large, stylized 'D' followed by a wavy line, is written over a horizontal line.

Darby Delsalle, AICP
Director of Planning and Zoning

ORDINANCE NO. _____

1
2
3 AN ORDINANCE OF THE MAYOR AND VILLAGE COUNCIL OF THE
4 VILLAGE OF PALMETTO BAY, FLORIDA, ACTING IN ITS CAPACITY
5 AS THE LOCAL PLANNING AGENCY AND AS THE VILLAGE
6 COUNCIL, RELATING TO A SMALL SCALE AMENDMENT OF THE
7 FUTURE LAND USE MAP CONSISTENT WITH 163.3161, 163.3184 AND
8 163.3187, FLORIDA STATUTES; CHANGING 3.0973 ACRES (+/-) OF
9 THE TOTAL 9.4678 ACREAGE FROM LOW DENSITY RESIDENTIAL
10 TO PARKS AND RECREATION FOR A PORTION OF THE PROPERTY
11 LOCATED AT 9271 SW 164 STREET BEARING FOLIO 33-5028-002-0070
12 AND A PORTION OF THE ADJACENT PROPERTY BEARING FOLIO
13 33-5028-002-0080, PALMETTO BAY, FLORIDA; PROVIDING FOR
14 ORDINANCES IN CONFLICT, CODIFICATION, SEVERABILITY AND
15 AN EFFECTIVE DATE.

16
17 WHEREAS, the Village Council has been designated as the Local Planning Agency for the
18 Village pursuant to Section 163.3174, Florida Statutes; and,
19

20 WHEREAS, the Comprehensive Plan for the Village of Palmetto Bay was adopted on
21 August 1st, 2005, and amended in December 2009 to ensure that the development patterns for
22 future land uses within the Village match the community vision and quality-of-life expectations of its
23 residents; and,
24

25 WHEREAS, the Comprehensive Plan, together with the implementing tools, ensures that
26 the development patterns for future land uses within the Village match the community vision and
27 quality-of-life expectations of its residents; and,
28

29 WHEREAS, the specific authority and requirements for municipalities to do
30 Comprehensive Planning in Florida emanates from Chapter 163, Florida Statutes, and,
31

32 WHEREAS, as the Comprehensive Plan, and amendments thereto are adopted via
33 Ordinance; and,
34

35 WHEREAS, the property owner, South Motors Company of Dade County, Inc., located at
36 16215 South Dixie Highway, and 9271 SW 164 Street, bearing Folio 33-5028-002-0070 together with
37 adjacent property bearing Folio 33-5028-002-0080, is seeking a modification of its site plan which
38 includes a land use map amendment of a portion of its property (1.9344± acres out of a total of
39 9.4678± acres) from Low Density Residential to Business Office; and,
40

41 WHEREAS, as part of that application, South Motors proposes to provide a park to the
42 public, and submits together with its site plan modification application either a covenant, leasehold
43 or easement for said land for possession and operation by the Village; and,
44

1 **WHEREAS**, should the Village accept the park area, the Village desires to designate the
2 area as Parks and Recreation under the Village's Future Land Use Map and modify the land use to
3 reflect Park and Recreation; and,
4

5 **WHEREAS**, establishment of the park use shall serve as a buffer to the South Motor
6 Company of Dade County's, proposed site plan to the adjacent residential areas to the east and
7 south; and,
8

9 **WHEREAS**, the Village has copyrighted the term "The Village of Parks" representing the
10 Village's support for parks and recreation; and,
11

12 **WHEREAS**, the Village, at its Recreation and Open Space Element, at Goal 7 is to provide
13 a system of parks that meets or exceed the needs of Village residents, businesses and visitors; and,
14

15 **WHEREAS**, Policy 7.1.2 requires the village to expand existing park facilities and to acquire
16 or develop new parks and open space to achieve a Level Of Service Standard of 5.2 acres of
17 developed park area per 1,000 residents; and a Level of Service of 5.0 acres by 2025; and,
18

19 **WHEREAS**, the Village currently provides 3.41 acres of park land per 1,000 residents (85±
20 acres), and the addition of 3.0973 acres will contribute to another .13 acres per 1,000 residents
21 resulting in a total LOS of 3.54; and,
22

23 **WHEREAS**, by designating the proposed park area to be donated by South Motors
24 Company of Dade County, Inc., as Parks and Recreation, the Village will move closer towards
25 accomplishing policy 7.1.2 of the Comprehensive Plan; and,
26

27 **WHEREAS**, Policy 7.4.1 indicates that development of acquired park land shall be done in
28 a way to be cost efficient; fulfill spatial and functional needs of the Village; enhance the Village's
29 appearance; and establish visible Village focal points which reinforce a sense of community; and,
30

31 **WHEREAS**, the adoption of an ordinance requires two readings, a public hearing as the
32 Land Planning Agency, and a public hearing for second reading of the ordinance.
33

34 **WHEREAS**, a small scale amendment to the Comprehensive Plan for the Village of
35 Palmetto Bay has been prepared to be fully consistent with Chapter 163, Florida Statutes; and,
36

37 **WHEREAS**, the Village Council acting in its capacity as the Local Planning Agency has
38 acted in accordance with state law, and in specific compliance with Section 163.3174, Florida
39 Statutes and has reviewed and recommends approval of its small scale amendment to its
40 Comprehensive Plan; and,
41

42 **WHEREAS**, the Village desires to amend its FLUM to provide the Parks and Recreation
43 Designation for the 3.0973± acres located within a portion of the property located at 9271 SW 164
44 street bearing folio 33-5028-002-0070 and a portion of the adjacent property bearing folio 33-5028-
45 002-0080; and,

1
2 **WHEREAS**, after receiving extensive input and participation by the public, the Village
3 Council shall transmit the proposed new Comprehensive Plan to the Florida Department of
4 Economic Opportunity and to all other agencies, as required under law, for their review pursuant to
5 Section 163.3184, Florida Statutes; and,
6

7 **WHEREAS**, the Florida Department of Economic Opportunity (DEO) shall review the
8 proposed Comprehensive Plan and return its Objections, Recommendations and Comments (ORC)
9 Report to the Village; and,
10

11 **WHEREAS**, the Village Council conducted a duly noticed public hearing on the
12 Comprehensive Plan as required under law and upon receipt of approval by the DEO, shall within
13 30 days thereafter make the designation law.
14

15 **WHEREAS**, the proposed FLUM amendment shall be included in the "2013-2025 Future
16 Land Use Map"; and,
17

18 **WHEREAS**, the Village Council shall consider the ORC and make certain changes to the
19 proposed amendment to the Comprehensive Plan, which changes shall be incorporated in the
20 Comprehensive Plan of the Village of Palmetto Bay, as applicable, which may require a subsequent
21 hearing.
22

23 **NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND VILLAGE**
24 **COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, ACTING IN ITS**
25 **CAPACITY AS THE LOCAL PLANNING AGENCY OF THE VILLAGE OF**
26 **PALMETTO BAY, FLORIDA, AS FOLLOWS:**
27

28 **Section 1.** **Recitals.** The above referenced whereas clauses are true and correct and are
29 incorporated into this ordinance by reference. The amended Future Land Use Map is incorporated
30 by reference and attached hereto as Exhibit 1, and shall be included in the "2013-2025 Future Land
31 Use Map."
32

33 **Section 2.** **Compliance with Criteria.** In evaluating an application for a FLUM
34 amendment, from Low Residential to Parks and Recreation for the 3.0973± acres out of a total of
35 9.4678± acres for a portion of the location known as 9271 SW 164 Street, bearing folio 33-5028-
36 002-0070 together with a portion of the adjacent property bearing folio 33-5028-002-0080, the
37 Palmetto Bay Village Council is to apply the standard under 30-30.8(b), of the Village's Code.
38 Applicant has met the criteria of 30-30.8(b). The map amendment is attached and incorporated by
39 reference herein as Exhibit 1.
40

41 **Section 3.** **Legal Description.** The property that is the subject of the rezoning bears the
42 following legal description:
43

1 A portion of Tract 7 and 8, EAST HILL, according to the plat thereof, as recorded in Plat
2 Book 46, Page 43, of the public records of Miami-Dade County, Florida; more fully
3 described as follows:
4

5 Commencing at the Northwest corner of said Tract 7; thence South 00°05'42" East, on the
6 West line of said Tract 7, a distance of 413.79 feet to the Point of Beginning; thence
7 continuing South 00°05'42" East, on the said West line of said Tract 7, a distance of 52.80
8 feet to the Southwest corner of said Tract 7 and a point on a curve; thence Easterly on the
9 South line of said Tracts 7 and 8 and also on the North right-of-way line of S.W. 164th
10 Street and on said curve to the left, whose radius point bears North 51°49'30", with a radius
11 of 475.00 feet, a central angle of 51°07'36", and arc distance of 423.86 feet; thence South
12 89°11'33" East, on the South line of said Tract 8 and on said North right-of-way line, a
13 distance of 307.43 feet to the Southeast corner of said Tract 8; thence North 00°10'11"
14 West, on the East line of said Tract 8, a distance of 229.36 feet; thence North 89°14'49"
15 West, on a line 229.33 feet North of and parallel with the South line of said Tract 8 and
16 Westerly extension thereof, a distance of 673.58 feet to the Point of Beginning.
17

18 Said lands situate, lying and being in Miami-Dade County, Florida, and containing 134,918
19 square feet or 3.0973 acres, more or less.
20

21 **Section 4. Covenant, Leasehold or Easement.** The South Motors Company of Dade
22 County, Inc., shall be required to transfer title, place a covenant, easement or leasehold document
23 running with the land relating to the park use of the 3.0973± acres of the above reference folio
24 numbers. Failure to obtain the title, covenant, easement, or leasehold as part of the FLUM and
25 rezoning application shall result in withdrawal of this proposed Parks and Recreation designation.
26

27 **Section 5. Transmittal.** The Village Council, acting in its capacity as the local planning
28 agency, approves the above amendment, as further modified herein, to the Comprehensive Plan,
29 which amendment is attached to this ordinance. The Village Council, acting in its capacity as the
30 local planning agency, further recommends to the Village Council that it authorize the Village Clerk
31 to transmit the attached amendments to the Comprehensive Plan to the State of Florida Department
32 of Economic Opportunity (DEO)] and all other governmental bodies, agencies, or private
33 individuals as required by State law.
34

35 **Section 6. Severability.** The provisions of this ordinance are declared to be severable,
36 and if any section, sentence, clause or phrase of this ordinance shall for any reason be held to be
37 invalid or unconstitutional, such decision shall not affect the validity of the remaining sections,
38 sentences, clauses, and phrases of this ordinance but they shall remain in effect, it being the
39 legislative intent that this ordinance shall stand notwithstanding the invalidity of any part.
40

41 **Section 7. Conflicts.** All ordinances or parts of ordinances in conflict with the
42 provisions of this ordinance are repealed.
43

44 **Section 8. Effective date.** This ordinance shall take effect the later of compliance with
45 the above referenced conditions or within 30 days of approval of the proposed Comprehensive Plan

1 Amendment, associated with the application, by the Florida Department of Economic Opportunity
2 as required under Section 163.3184, Florida Statutes, which amendment would modify the FLUM
3 from Low Density Residential to Business Office.
4
5

6 **PASSED and ENACTED** this ____ day of _____, 2013.

7
8 First Reading: _____

9
10 Second Reading: _____

11
12
13
14 Attest: _____
15 Meighan Alexander Shelley Stanczyk
16 Village Clerk Mayor
17

18 APPROVED AS TO FORM:
19
20

21 _____
22 Eve A. Boutsis
23 Village Attorney
24

25
26 FINAL VOTE AT ADOPTION:
27

28 Council Member Patrick Fiore _____

29
30 Council Member Tim Schaffer _____

31
32 Council Member Joan Lindsay _____

33
34 Vice-Mayor John DuBois _____

35
36 Mayor Shelley Stanczyk _____
37
38
39
40

TOPOGRAPHIC SURVEY

PORTION OF TRACT 3, 7, & 8, AND ALL OF TRACTS 4 & 5, EAST HILL, PLAT BOOK 46, PAGE 43, D.C.R. LOTS 1 & 2, PERRINE EAST, PLAT BOOK 73, PAGE 31, D.C.R.

LEGAL DESCRIPTION (SERVICE CENTER PARCEL):

A portion of Tract 3 and EAST HILL, according to the plat thereof, as recorded in Plat Book 46, Page 43, of the public records of Miami-Dade County, Florida, more fully described as follows:

Beginning at the Northwest corner of said Tract 3, thence South 88°58'26" East, on the North line of said Tract 3, a distance of 413.79 feet to the Point of Beginning, thence continuing South 00°58'42" East on the said West line of said Tract 3, a distance of 32.80 feet to the Southwest corner of said Tract 3 and to a point on a curve, thence East on the South line of said Tract 3, a distance of 110.75 feet, an arc distance of 423.86 feet, thence South 87°13'31" East, on the South line of said Tract 3, a distance of 307.43 feet to the Southeast corner of said Tract 3, thence North 00°10'11" West, on the East line of said Tract 3, a distance of 223.33 feet, thence North 87°14'19" West, on a line 223.33 feet North of and parallel with the South line of said Tract 3, a distance of 673.58 feet to the Point of Beginning.

Said lands situate, lying and being in Miami-Dade County, Florida, and containing 121,233 square feet or 4.4360± acres more or less.

LEGAL DESCRIPTION (PARK PARCEL):

A portion of Tract 7 and EAST HILL, according to the plat thereof, as recorded in Plat Book 46, Page 43, of the public records of Miami-Dade County, Florida, more fully described as follows:

Commencing at the Northwest corner of said Tract 7, thence South 02°10'10" East, on the West line of said Tract 7, a distance of 413.79 feet to the Point of Beginning, thence continuing South 00°58'42" East on the said West line of said Tract 7, a distance of 32.80 feet to the Southwest corner of said Tract 7 and to a point on a curve, thence East on the South line of said Tract 7, a distance of 110.75 feet, an arc distance of 423.86 feet, thence South 87°13'31" East, on the South line of said Tract 7, a distance of 307.43 feet to the Southeast corner of said Tract 7, thence North 00°10'11" West, on the East line of said Tract 7, a distance of 223.33 feet, thence North 87°14'19" West, on a line 223.33 feet North of and parallel with the South line of said Tract 7, a distance of 673.58 feet to the Point of Beginning.

Said lands situate, lying and being in Miami-Dade County, Florida, and containing 134,918 square feet or 3.0973± acres more or less.

Legal Description

That portion of Tract 3, lying South and West of THE TREASURY SUBDIVISION NO. 5023, according to the plat thereof, as recorded in Plat Book 95, Page 25, of the public records of Miami-Dade County, Florida and LESS that portion of Tract 3, along North of North line of Lot 1, PERRINE EAST, according to the plat thereof, as recorded in Plat Book 73, Page 31, of the public records of Dade County, Florida, AND all of Tracts 4, 7 and 8, EAST HILL, according to the plat thereof, as recorded in Plat Book 46, Page 43, of the public records of Miami-Dade County, Florida.

TOGETHER WITH: Lot 2, PERRINE EAST, according to the plat thereof, as recorded in Plat Book 73, Page 31, of the public records of Miami-Dade County, Florida.

All of above lands situate, lying and being in Miami-Dade County, Florida, and containing 576,505 square feet or 13.2347± acres, more or less.

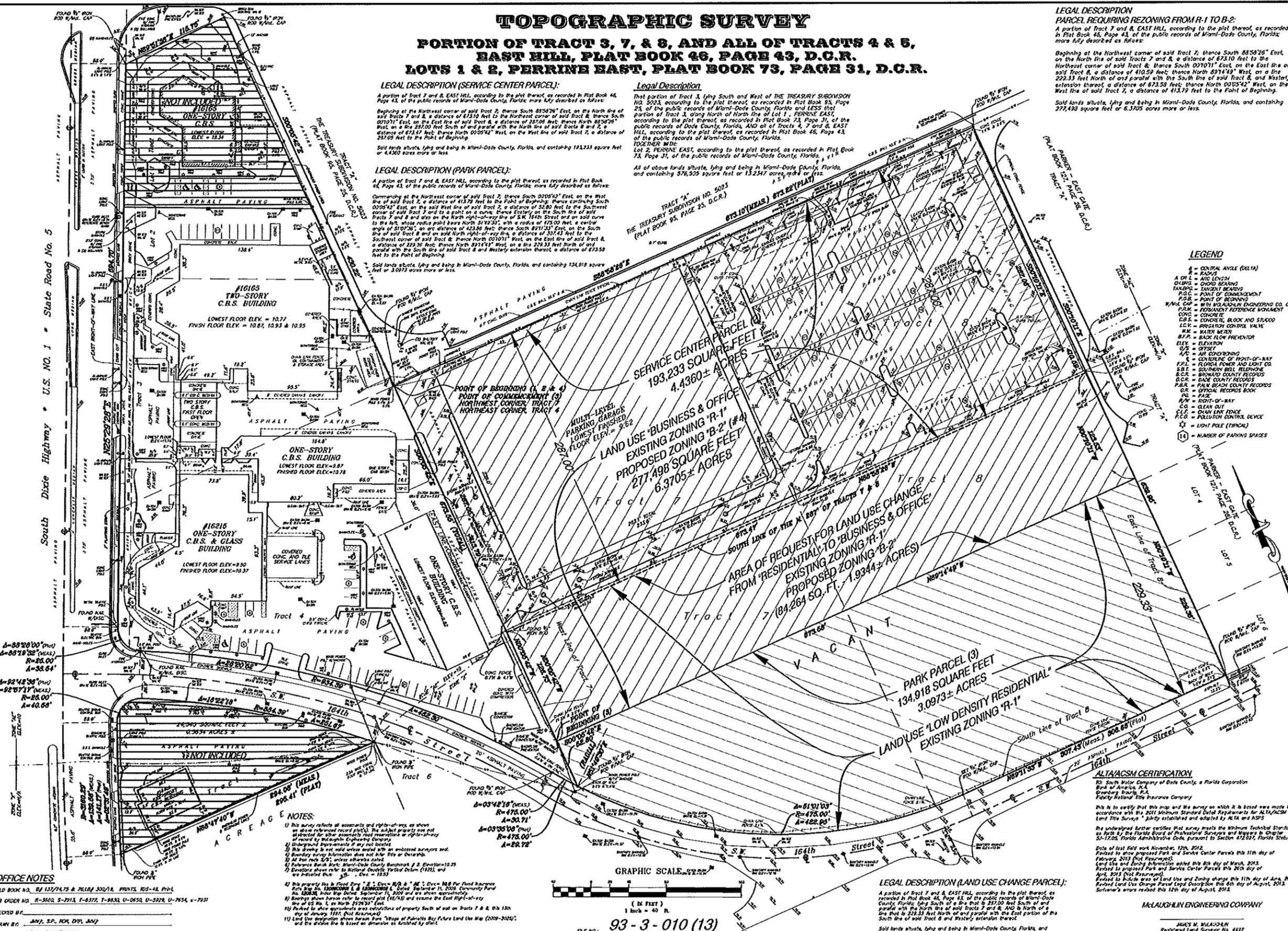
LEGAL DESCRIPTION

PARCEL REQUIRING REZONING FROM R-1 TO B-2:

A portion of Tract 7 and 8, EAST HILL, according to the plat thereof, as recorded in Plat Book 46, Page 43, of the public records of Miami-Dade County, Florida, more fully described as follows:

Beginning at the Northwest corner of said Tract 7, thence South 88°58'26" East, on the North line of said Tract 7, a distance of 673.10 feet to the Northeast corner of said Tract 7, thence South 00°10'11" West, on the East line of said Tract 7, a distance of 410.59 feet, thence North 87°14'19" West, on a line 223.33 feet North of and parallel with the South line of said Tract 7, a distance of 673.58 feet, thence North 00°5'42" West, on the West line of said Tract 7, a distance of 413.79 feet to the Point of Beginning.

Said lands situate, lying and being in Miami-Dade County, Florida, and containing 277,498 square feet or 6.3705± acres more or less.



LEGEND

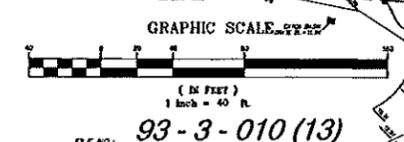
- ∠ = CENTRAL ANGLE (DEG)
- R = RADIUS
- A OR L = ARC LENGTH
- CHB = CHORD BEARING
- TANB = TANGENT BEARING
- P.O.C. = POINT OF COMMENCEMENT
- P.O.B. = POINT OF BEGINNING
- CONC. = CONCRETE
- C.B. & S. = CONCRETE BLOCK AND STUCCO
- I.C.V. = IRRIGATION CONTROL VALVE
- W.M. = WATER METER
- B.F.P. = BACK FLOW PREVENTER
- ELEV. = ELEVATION
- OFF. = OFFSET
- A/C = AIR CONDITIONING
- C.L. = CENTERLINE OF FRONT-OF-WAY
- F.P. & L. = FLOOR POWER AND LIGHT
- S.B. = SOUTHERN BELL TELEPHONE
- B.C.R. = BROWARD COUNTY RECORDS
- D.C.R. = DADE COUNTY RECORDS
- P.B.C.R. = PALM BEACH COUNTY RECORDS
- P. = PAGE
- R.O.W. = RIGHT-OF-WAY
- C.O. = CLEAN OUT
- C.L.F. = CHAIN LINE FENCE
- P.C.D. = POLLUTION CONTROL DEVICE
- ∠ = LIGHT POLE (TYPICAL)
- ⊠ = NUMBER OF PARKING SPACES

OFFICE NOTES

FIELD BOOK NO. BJ 13774.75 & 76184 302/18. PRINTS 105-48 PH-1
 JOB ORDER NO. R-3652, S-7914, F-6372, T-8832, U-0632, V-5924, W-7934, X-7931
 CHECKED BY: J.M.P., S.P., R.M. (D.S.), J.M.P.
 DRAWN BY: J.M.P., S.P., R.M. (D.S.), J.M.P.
 © (LAW) 2013 (10/13)

NOTES

- 1) This survey reflects all easements and rights-of-way as shown on above referenced record plat(s). The subject property was not intended for other easements that restrictions or rights-of-way of record by McLaughlin Engineering Company.
- 2) Underground improvements if any not shown.
- 3) This drawing is not to be used with an embossed surveyor seal.
- 4) Boundary survey information does not show title or ownership.
- 5) All lot areas 5,001 square feet and above.
- 6) Reference to the National Oceanic and Atmospheric Administration (NOAA) datum is indicated throughout.
- 7) This property lies in Flood Zone "X" - Zone XA & "AE" - Zone AE1 & AE2. Flood Insurance Rate Map No. 1300000001E & 1300000001E, Dade County, Florida, effective September 11, 2008. Community Flood Risk Reduction Order, September 11, 2008 and are shown accordingly.
- 8) Boundaries shown herein refer to record plat (68/43) and assume the East Right-of-Way line of US Hwy. 1, on North 25°20'37" East.
- 9) Refer to other appropriate area calculations of property South of and on Tracts 7 & 8, this 13th day of January 1993. (Not Resurveyed)
- 10) Land Use description shown herein from "Vintage of Palmetto Bay Future Land Use (2009-2020)", and the section is based on dimension as indicated by text.



LEGAL DESCRIPTION (LAND USE CHANGE PARCEL):

A portion of Tract 7 and 8, EAST HILL, according to the plat thereof, as recorded in Plat Book 46, Page 43, of the public records of Miami-Dade County, Florida, lying South of a line that is 237.00 feet South of and parallel with the North line of said Tract 7 and 8, AND to North of a line that is 223.33 feet North of and parallel with the East portion of the South line of said Tract 8 and Westery extension thereof.

ALTA/ACSM CERTIFICATION

McLaughlin Engineering Company of Dade County, a Florida Corporation
 Bank of America, N.A.
 Creditors Trust, F.A.
 Fidelity National Title Insurance Company
 This is to certify that this map and the survey on which it is based were made in accordance with the 2011 Minimum Standard Detail Requirements for ALTA/ACSM Land Title Surveys, jointly established and adopted by ALTA and ACSP.
 The undersigned further certifies that survey meets the Minimum Technical Standards as set forth by the Florida Board of Professional Surveyors and Engineers in Chapter 33-17.05, Florida Administrative Code, pursuant to Section 472.007, Florida Statutes.
 Date of last field work November, 12th, 2012.
 Referenced to above proposed Park and Service Center Parcels this 11th day of February, 2013 (Not Resurveyed).
 Land Use and Zoning information added this 20th day of March, 2013.
 Referenced to proposed Park and Service Center Parcels this 20th day of April, 2013 (Not Resurveyed).
 Referenced to boundary area of Land Use and Zoning change this 11th day of June, 2013.
 Referenced to the Change Parcel Legal Description Plat 68/43 day of August, 2012.
 Surveyor's errors revised this 12th day of August, 2013.

McLAUGHLIN ENGINEERING COMPANY

JAMES M. McLAUGHLIN
 Registered Land Surveyor No. 4497
 State of Florida

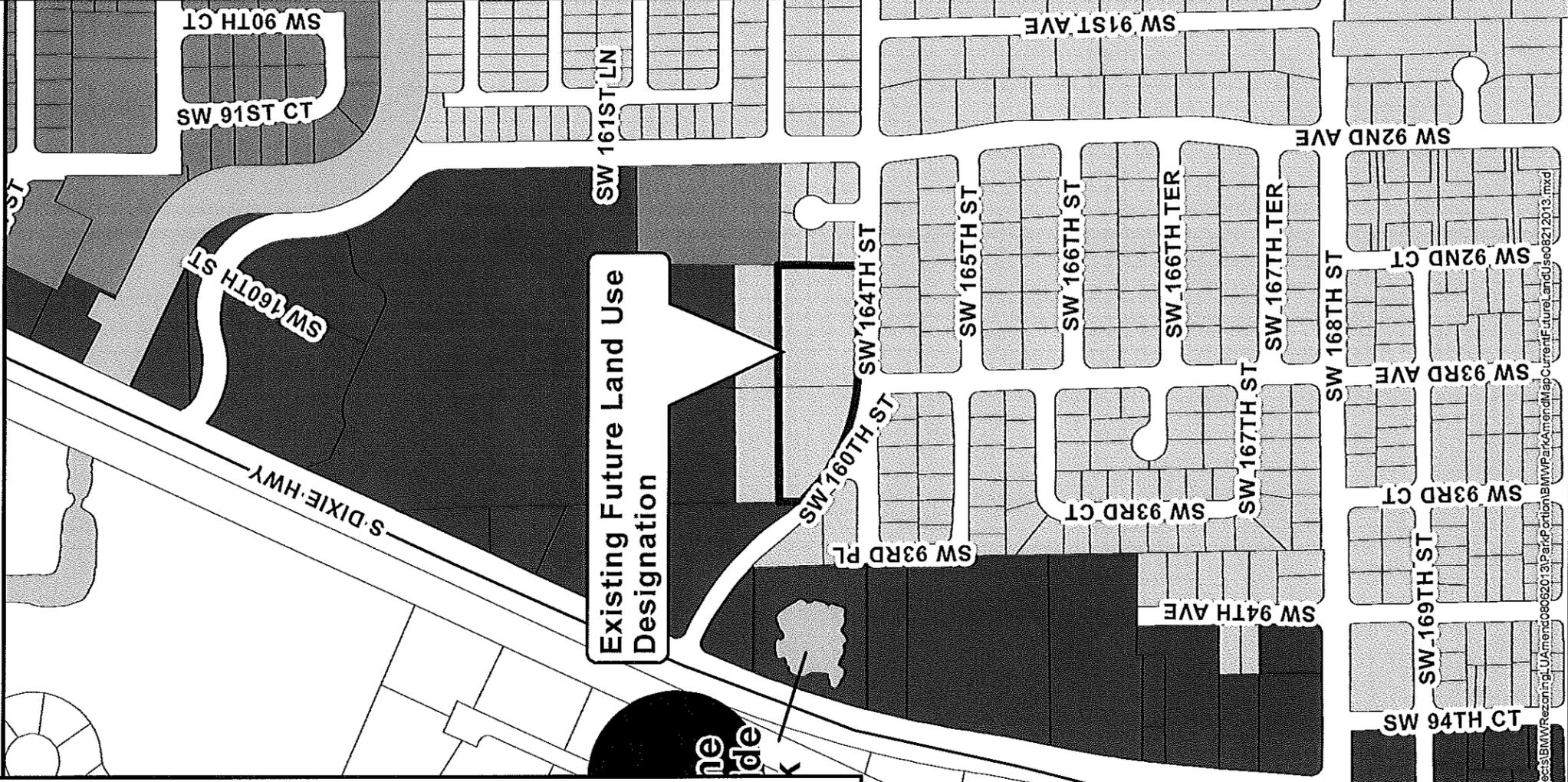
Existing Future Land Use Designation for South Portion of BMW



Created: 10/23/2013



-  Business and Office
-  Environmental Protection
-  Environmentally Protected Parks
-  Estate Density Residential
Less Than 2.5 D.U. per Gross Acre
-  Institutional and Public Facility
-  Low Density Residential
2.5 to 6 D.U. per Gross Acre
-  Low-Medium Density Residential
5 to 13 D.U. per Gross Acre
-  Medium Density Residential
14 to 23 D.U. per Gross Acre
-  Medium-High Density Residential and Hotel
24 to 40 D.U. per Gross Acre; 70 Hotel Units
-  Mixed-Use Corridor
-  Neighborhood Mixed-Use
-  Office and Residential
-  Parks and Recreation
-  Village Mixed-Use
-  Water
-  Franjo Triangle Residential Overlay District
-  Rapid Transit Station
-  Community Urban Center



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To: Honorable Mayor and Village Council

Date: October 28, 2013

From: Eve A. Boutsis, Village Attorney

Re: BMW Park 1st Reading

AN ORDINANCE OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, RELATING TO ZONING; AMENDING THE OFFICIAL ZONING MAP TO REFLECT A DISTRICT BOUNDARY ZONE; CHANGING 3.0973 ACRES (+/-) OF THE TOTAL 9.4678 ACREAGE, FROM R-1 SINGLE FAMILY DISTRICT TO INTERIM ZONING DISTRICT; FOR A PORTION OF THE PROPERTY LOCATED AT 9271 SW 164 STREET BEARING FOLIO 33-5028-002-0070 AND A PORTION OF THE ADJACENT PROPERTY BEARING FOLIO 33-5028-002-0080, IN PALMETTO BAY, FLORIDA; PROVIDING FOR ORDINANCES IN CONFLICT, CODIFICATION, SEVERABILITY, AND AN EFFECTIVE DATE. [4/5 Vote].

A. BACKGROUND

As part of the master zoning application VPB-13-001, South Motors Company of Dade Co., (South Motors) proposes to transfer title, or alternatively, place a covenant, easement or leasehold that would run with the land providing for a public park use, as to that portion of the property identified in the plans as 3.0973± acres. The project is located at 16215 South Dixie Highway, and 9271 SW 164 Street, bearing Folio 33-5028-002-0070 together with the adjacent property bearing Folio 33-5028-002-0080. The South Motors master zoning application includes a modification of the existing site plan, a Future Land Use Map (FLUM) amendment, and a rezoning of the two eastern parcels of the property. The two parcels total 9.4678 acres. The rezoning from R-1, Single Family District to B-2, Business District, comprises of 6.3705 acres of which 1.9344 acres is subject to the FLUM amendment from Low Residential Density to Business Office. The remaining 3.0973± acres is the subject of this request.

The intent of offering a park facility is to buffer the proposed commercial structures from the adjacent residential uses to the east and south. Should the Council accept the land through one of the prescribed instruments, the Village would be required to amend the FLUM to reflect the Park and Recreation land use designation. Staff further suggests the property be rezoned to I, Interim District, to remove the existing residential zoning district thus eliminating the previously approved site plan element which provided for a residential cluster development, and to covenant the land for park use as the property will not be used for a residential zoning purpose. The requests for the FLUM amendment and rezoning are

predicated upon the transfer of title, or the recording of a perpetual easement or long-term leasehold that would run with the land authorizing the Village to use the 3.0973± acres as a park accessible to the public. South Motors' donation of the 3.0973± acres is contingent upon approval of their request for a modified site plan, FLUM amendment, and rezoning, together with the modification or release of the existing recorded Declaration of Restrictions, dated May 28, 1980, and associated resolutions and plans. As noted in South Motors' application, South Motors, as per the requirements of its recorded covenant, obtained the required number of signatures authorizing its request for rezoning. The Village is seeking this rezoning to ensure compliance with the Comprehensive Plan and to ensure that the land will be used, in perpetuity, for a park.

As an ordinance involving a rezoning under 10 acres only requires a public hearing during second reading, staff scheduled the public hearing as to the modification of the related covenants and restrictions for that second reading, public hearing date.

B GENERAL INFORMATION

REQUESTS:

1. **A Future Land Use Map change** (Small Scale Amendment) from Low Density Residential to Parks and Recreation (Pursuant to Section 30-30.8 – Amendment to the Comprehensive Plan).
2. **A Rezoning** from R-1 Single-Family Residential District to I, Interim District (Pursuant to Section 30-30.7 – Amendment to the official zoning map).

Area subject to FLUM Amendment and Rezoning:

A portion of Tract 7 and 8, EAST HILL, according to the plat thereof, as recorded in Plat Book 46, Page 43, of the public records of Miami-Dade County, Florida; more fully described as follows:

Commencing at the Northwest corner of said Tract 7; thence South 00°05'42" East, on the West line of said Tract 7, a distance of 413.79 feet to the Point of Beginning; thence continuing South 00°05'42" East, on the said West line of said Tract 7, a distance of 52.80 feet to the Southwest corner of said Tract 7 and a point on a curve; thence Easterly on the South line of said Tracts 7 and 8 and also on the North right-of-way line of S.W. 164th Street and on said curve to the left, whose radius point bears North 51°49'30", with a radius of 475.00 feet, a central angle of 51°07'36", and arc distance of 423.86 feet; thence South 89°11'33" East, on the South line of said Tract 8 and on said North right-of-way line, a distance of 307.43 feet to the Southeast corner of said Tract 8; thence North 00°10'11" West, on the East line of said Tract 8, a distance of 229.36 feet; thence North 89°14'49" West, on a line 229.33 feet North of and parallel with the South line of said Tract 8 and Westerly extension thereof, a distance of 673.58 feet to the Point of Beginning.

Said lands situate, lying and being in Miami-Dade County, Florida, and containing 134,918 square feet or 3.0973 acres, more or less.

OVERALL LOT SIZE: 13.2347 net acres
AMENDMENT SIZE: 134,918 square feet or 3.0973 acres, more or less.
REZONING: 134,918 square feet or 3.0973 acres, more or less.
FOLIO NUMBERS: 33-5028-002-0070 & 33-5028-002-0080

C. ZONING HEARING HISTORY:

The prior zoning property for the remainder of the property has been consolidated. The full history can be found in the South Motors FLUM, rezoning, site plan modification, and covenant release application hearing file.

On February 4, 1982, the Dade County Board of County Commissioners pursuant to **Resolution No. Z-38-82** heard South Realty Associates' renewed application on the same item as heard in 1980, as there had been an error in the legal description from the original hearing item. Due to the foregoing, the County Commission affirmed the basic intent of the original **Resolution Z-198-80**, and specifically ruled:

- (1) To allow the rezoning to RU-1, Single-Family Residential, from EU-M, Estate Modified Residential, (the property that is the subject of this pending application);
- (2) To allow the rezoning to BU-3, Liberal Business District from AU, Agricultural, (16165 South Dixie Highway), subject to conditions.
- (3) To allow a special exception on a portion of the property that is the subject of this pending application, with conditions to allow a cluster development with 5.6 units, per net acre.
- (4) To deny the rezoning to BU-3, Liberal Business District, from RU-1, Single-Family Residential.
- (5) To grant the use variance for a portion of the RU-1 property (part of the property that is the subject of this pending application) for outdoor car storage.
- (6) The Applicant in 1980 proffered and recorded a covenant, which was accepted by the Commission, which provided that the RU-1 cluster plan could not be modified, and the property could not be rezoned without the approval of the defined community, as provided under the covenant. Additionally, approval no. (5) would preclude structures that would permit automobile repairs, painting, cleaning body and top work. This additional covenant term is the other major provision contained in the Declaration of Restriction, recorded at Official Record Book 10973, at Pages 1003 through 1009.

On or about May 28, 1980, the Covenant, Declaration of Restrictions, was recorded at Official Record Book 10973 at Pages 1003 through 1009. It provided, amongst other things, that the RU-1 cluster zoning on the south portion of the entire application (property that is

the subject of this memorandum). If a new zoning or rezoning, or use variance is requested, the Applicant is required to obtain a release or revision of the covenant relating to the RU-1 zoning by the Board of County Commissioners, at a public hearing, after obtaining the following:

- (a) consent of all fee holders of the following immediately adjacent properties: 9200, 9220, 9240, 9260 and 9280 SW 164th Street; and,
- (b) consent of fee holders of 75% of the separate properties located within the adjoining area bounded by SW 164th Street and SW 94th Avenue.

In 2010, the Village created its Land Development Code and Comprehensive Zoning Map, and re-designated the subject property as R-1. (Documentation not provided in this back-up as it is voluminous and is existing Code).

Once the Village incorporated all covenants on a property are to be applied by the Village. Any release of a covenant, would be released according to the Village's Code of Ordinances, Section 30-30.9, which requires a quasi-judicial zoning hearing. South Motors, has requested to rezone 6.3705+/- acres of its property in order to expand the car dealership use. Before obtaining the rezoning, it is required they first seek the release of that portion of an existing covenant, recorded at Official Record Book 10973, at pages 1003-1009. The same applies to the park rezoning. South Motors has obtained the required signatures as delineated in the recorded covenant and may proceed with the rezoning request. The acquired signatures equally apply to the proposed park rezoning. Ultimately, prior to second reading of the park rezoning ordinance, the Village will need to hear and rule upon releasing South Motor's existing covenant. The hearing as to the release of the covenant, to allow the rezoning to proceed, will be held during second reading of the ordinance on rezoning the property to B-2, Business District.

D. NEIGHBORHOOD CHARACTERISTICS:

ZONING

LAND USE DESIGNATION

Subject Property:

R-1; Single Family Residential

Low Density Residential

Surrounding Properties:

NORTH:

R-1

Business and Office

(Pending B-2; Business District)

EAST:

R-1; Single Family Residential District

Low Density Residential (2.5-6 D.U.'s)

SOUTH:

E-M; Estate Modified – Single Family

Low Density Residential

R-1; Single Family Residential District (2.5 to 6 D.U.'s)
(2.5 to 6 D.U.'s)
AG; Agricultural/Residential

WEST:
B--2; Business District Business and Office

D.U. = Dwelling Units

E. REZONING/FLUM AMENDMENTS – PROCEDURALLY

The Village's companion FLUM amendment and rezoning requests to South Motor's master zoning application, is a small-scale (less than 10 acres) amendment to the FLUM, to change approximately 3.0973± acres to the Parks and Recreation designation. Without the Future Land Use Map modification, the 3.0973± acres could not be used for park, as doing so would be inconsistent with the Future Land Use Map designations and intensities of use.

Consistent with the Village's Code requirements and State law, a public hearing must be held on the Comprehensive Plan amendment to the FLUM. The state, for a small-scale amendment, only requires one public hearing on the ordinance, which public hearing would occur at second reading. As the Village is to enact an Ordinance to allow for the FLUM modification to the 3.0973± acres, the Council will hold two readings on the ordinance, with the public hearing held during second reading. At that time the Council will hold with the public hearing to release the Declaration of Restriction and its associated resolutions and plans. There shall also be a hearing of the Council acting as the Land Planning Agency. After the necessary public hearings, the Village Council shall take action to deny or approve the application, or approve it with modifications or conditions for purposes of transmittal to the Florida Department of Community Affairs [now known as the Department of Economic Opportunity (DEO)] pursuant to the requirements of Section 163.3161, Florida Statutes. If denied, the Village may resubmit the application as provided under Section 30-30.2, of the Village's Code. If approved for purposes of transmittal, the Village shall thereafter provide the necessary administrative support for the DEO's review process required under Section 163.3161, et seq., Florida Statutes, and the Village's ordinance would go into effect.

Pursuant to Village Charter, Section 10.2.2, four affirmative votes are required to rezone any lands that have an initial Land Use designation of Residential. As such, the rezoning request must receive a minimum of four affirmative votes. The land use change would ensure that the land would always be utilized as park land and would provide assurances to the community of the Village's intent as to this land. In order to proceed with the modification of the Future Land Use Map, the Applicant must comply with the Village's procedures for authorizing the changes. The following section provides a review of the request pursuant to the Village's Land Development Code and applicable elements of the Village's Comprehensive Plan.

The proposed amendment to the FLUM would be contingent upon approval of the underlying zoning application requests, as the 3.0973± acres is currently owned by the

Applicant, and is being dedicated for a park purpose, only if the applications proceed and are approved in substantial form.

F. GENERAL DISCUSSION OF FLUM AND ZONING

Future Land Use Map (FLUM). The current designation of the two parcels subject to the FLUM amendment is Low Density Residential (LDR). The LDR designation permits residential densities to range from a minimum of 2.5 to a maximum of 6.0 dwelling units per gross acre. This density category is generally characterized by detached single-family homes. It can also include large fee-simple town homes with extensive surrounding open space or a mixture of both housing types, provided that the maximum gross density is not exceeded.

The adopted 2009 Village of Palmetto Bay Comprehensive Plan, Future Land Use Element (FLUE), as amended, identifies Parks and Recreation (PR) as a category that accommodates a full range park/recreational activities in a manner compatible with the surrounding area. The maximum intensity of ancillary structures and building within PR shall not exceed a floor to area ratio (FAR) of 0.2.

Zoning Designation. The existing zoning of the undeveloped land that is the subject of this application is R-1, Single-Family Residential District, which principally permits single-family homes and associated accessory structures. The district also permits certain places of congregation as further regulated by Section 30-110 of the Land Development Code. The proposed zoning district, I, Interim District, permits the consideration of a "trending" of the development pattern. The ultimate trend for this property will be park use.

G. ANALYSIS

This analysis is provided in three parts. The first subsection completes a review of the relevant Comprehensive Plan's Goals, Policies, and Objectives. The second subsection reviews the FLUM amendment request, and third subsection reviews the rezoning request. The analysis portion of both the FLUM and rezoning requests incorporate all portions of Subsection I below. Further, the Background Section of this report is hereby incorporated into all parts of the analysis and is incorporated herein by reference.

All "Findings" in each of the analysis subsections delineated below for the FLUM amendment and the rezoning request, shall include the following specific conditions: that the South Motors master application be approved in substantial form, as failure to approve the master application would result in South Motors' withdrawal of the offer of donating 3.0973± acres of park land to the Village. Also, the 3.0973± acres would be tied to a recorded document running with the land, in a form approved by the Village Attorney, ensuring the perpetual park use.

SUBSECTION I – COMPREHENSIVE PLAN

The application was reviewed for consistency with the Villages Comprehensive Land Use Plan and corresponding Goals, Objectives and Policies thereof. The following is an analysis of that review.

Future Land Use Element

Goal 1: To guide the Village of Palmetto Bay from birth to early maturity as an outstanding and truly livable community in southeast Florida by building on, and improving, the existing land use blueprint through visionary planning and place-making, cost efficient provision of high quality facilities and services, quality neighborhood protection, and enhancement of its unique and beautiful coastal environmental resources.

Analysis: South Motors' master application (VPB-13-001) plan provides a 3.0973± acre park buffer to the single-family residential properties just south of the project site. The park plan reflects landscape treatments for the enhancement of the neighborhood. The proposed park functions as a buffer, contributes to the Village's LOS park requirement, and removes the potential a future residential cluster development on the 3.0973± portion of the site as approved per Resolution No. Z-38-82.

Finding: Conditionally consistent provided South Motors provides a covenant, easement or leasehold document running with the land relating to the park use of the 3.0937± acres in a form to be approved by the Village Attorney.

Parks Element

Policy 7.1.2: Through the maintenance and expansion of existing park facilities and the acquisition and/or development of new parks and open space, achieve a Level of Service (LOS) Standard of 5.2 acres of developed park area per 1,000 residents by 2009, and an LOS of 5.0 acres by 2025.

Analysis: Based on the current Village population (approximately 24,100) and inventory of existing Village parks (85 acres), current LOS equals approximately 3.41 per 1,000 residents. The South Motors proposes, via covenant to the Village, to convert the south three acres of the property to park land to serve as a transition area to the adjacent single-family residential to the south. This addition will result in an increase LOS of .13 for a total LOS of 3.54 per 1,000 residents.

Finding: Conditionally consistent provided South Motors provides a covenant, easement or leasehold document running with the land relating to the park use of the 3.0973± acres in a form to be approved by the Village Attorney.

SUBSECTION II – FUTURE LAND USE AMENDMENT

The following is a review of the request pursuant to the Village's variance criteria found at Section 30-30.8(b) of the Land Development Code. The Background Section and the Analysis Section, at Subsection I of this report is hereby incorporated by reference into this analysis.

Criteria (1) Whether the proposal is internally consistent with the Comprehensive Plan, including the adopted infrastructure minimum levels of service standards and the concurrency management program.

Analysis: Please see Subsection I of this Analysis. If the 3.0973± acres is to be transferred to the Village for park purposes, the Village would be moving forward with complying with Policy 7.1.2 of the Comprehensive Plan.

Finding: Conditionally consistent as per the findings of Subsection I of this Analysis.

Criteria (2) Whether, and the extent to which, land use and development conditions have changed since the effective date of the existing Comprehensive Plan, and whether the changes support or work against the proposed amendment.

Analysis: The History Section is hereby incorporated as back-up to this analysis herein by reference. As presented in the History Section of this report, a number of events have occurred regarding conditions that affect the existing and future development of the site starting with Resolution No. Z-38-82 and the associated Declaration of Restrictions, which granted an "unusual use" variance to a portion of the property and required a written consent from surrounding residents prior to seeking a rezoning or another unusual use request.

South Motors' master zoning application was permitted to proceed because they were successful in securing the requisite number of signatures from the surrounding community allowing them to request a rezoning, and therefore, to also seek the site plan modification. Their site plan modification is not precluded by the Declaration of Restrictive Covenants, except to the extent that the covenant required a cluster home development on that portion of land, and required the community "sign-off" to request the rezoning. It is where the cluster development was to be located that South Motors' is offering to the Village for use as a park. Addition of the park land would provide a buffer to the adjacent residential uses.

Finding: Consistent.

Criteria (3) Whether, and the extent to which, the proposal would result in any incompatible land uses, considering the type and location of uses involved, the impact on adjacent or neighboring properties, consistency with existing

development, as well as compatibility with existing and proposed neighboring property land use.

Analysis: Goal 1 for Subsection I, above, is incorporated into this analysis herein by reference. The area subject to the FLUM amendment is proposed to convert the south 3.0973± acres of residentially designated land as a park to be dedicated to Village via a covenant, leasehold or easement. The park buffer would result in a buffer of over 200 feet (north to south). The park would not only provide screening of the proposed commercial use but may also increase property values of the single-family homes adjacent to the use.

Finding: Consistent.

Criteria (4) Whether, and the extent to which, the proposal would adversely affect the property values in the affected area, or adversely affect the general welfare.

Analysis: Please see Criteria 2 and 3. Development of a park would buffer the residential community and increase property values.

Finding: Consistent.

Criteria (5) Whether the proposal would result in an orderly and compatible land use pattern. Any positive and negative effects on such pattern shall be identified.

Analysis: The south 3.0973± acres of residentially designated land of South Motors' proposed project is to be dedicated as a park to the Village via a covenant, or other legal instrument. The park would serve as a buffer and covers a distance of over 200 feet (north to south). The park would not only provide screening of the commercial use but may also increase property values of the single-family homes adjacent to the use.

Finding: Consistent

Criteria (6) Whether the proposal would be in conflict with the public interest, and whether it is in harmony with the purpose and interest of the Comprehensive Plan.

Analysis: The History Section, Subsection I, and Criteria 1, 3, 4, and 5 are incorporated herein by reference.

Finding: Consistent.

Criteria (7) Whether the proposed amendment meets the requirements of Section 163.3161, Florida Statutes, entitled "The Local Government Comprehensive Planning and Land Development Regulation Act."

Analysis: Recent changes to Florida land use laws leveraged greater authority in the review and processing of small-scale land use amendments (those less than 10 acres). Submission, review and proposed implementation of the application is consistent with those provisions. The proposed small-scale amendment to amend the 3.0973± acre area from Low Density Residential to Parks and Recreation meets the requirements of Section 163.3161, Florida Statutes, as amended.

Finding: Consistent.

Criteria (8) Other matters which the Local Planning Agency [here the Village Council], in its legislative discretion, may deem appropriate.

Finding: Decision for the Village Council.

SUBSECTION III – REZONING

The following is a review of the request pursuant to the Village's rezoning criteria found at Section 30-30.7(b), of the Land Development Code. The Background Section and the Analysis Subsection I and II of this report is hereby incorporated by reference into this analysis.

Criteria (1) Whether the proposal is consistent with the Comprehensive Plan, including the adopted infrastructure minimum levels of service standards and the Village's concurrency management program.

Analysis: Please see Subsection I and Subsection II, Criteria 1, of this Analysis.

Finding: Consistent.

Criteria (2) Whether the proposal is in conformance with all applicable requirements of Chapter 30.

Analysis: Please see Subsection II, Criteria 2, and provided a covenant or other legal instrument runs with land tying the property to the park use for the south 3.0973± acres.

Finding: Consistent.

Criteria (3) Whether, and the extent to which, land use and development conditions have changed since the effective date of the existing regulations, and whether the changes support or work against the proposed change in land use policy.

Analysis: Please see Subsection II, Criteria 2.

Finding: Consistent.

Criteria (4) Whether, and the extent to which, the proposal would result in any incompatible land uses, considering the type and location of uses involved, the impact on adjacent or neighboring properties, consistency with existing development, as well as compatibility with existing and proposed land uses.

Analysis: Please see Subsection II, Criteria 5.

Findings: Consistent.

Criteria (5) Whether, and the extent to which, the proposal would result in demands on transportation systems, public facilities and services; would exceed the capacity of the facilities and services, existing or programmed, including: transportation, water and wastewater services, solid waste disposal, drainage, recreation, education, emergency services, and similar necessary facilities and services.

Analysis: Please see Subsection I and Subsection II, Criteria 1 of this Analysis and provided a covenant or other legal instrument runs with land tying the property to the park use for the south 3.0973± acres.

Finding: Consistent.

Criteria (6) Whether, and to the extent to which, the proposal would result in adverse impacts on the natural environment, including consideration of wetland protection, preservation of groundwater aquifer, wildlife habitats, and vegetative communities.

Analysis: The south 3.0973± acres of residentially designated land of South Motors' proposed project is to be dedicated as a park to the Village via a covenant, or other legal instrument. The park would serve as a buffer and covers a distance of over 200 feet (north to south).

Finding: Consistent.

Criteria (7) Whether, and the extent to which, the proposal would adversely affect the property values in the affected area, or adversely affect the general welfare.

Analysis: Please see Subsection II, Criteria 4.

Finding: Consistent.

Criteria (8) Whether the proposal would result in an orderly and compatible land use pattern. Any positive and negative effects on land use pattern shall be identified.

Analysis: Please see Subsection II, Criteria 5.

Finding: Consistent.

Criteria (9) Whether the proposal would be in conflict with the public interest, and whether it is in harmony with the purpose and intent of Chapter 30.

Analysis: Please see Subsection II, Criteria 2. The proposed park will buffer the adjacent residential areas from South Motor's proposed development plan.

Finding: Consistent.

Criteria (10) Other matters which the Local Planning Agency or the Village Council in its legislative discretion may deem appropriate.

Finding: Decision for the Village Council.

H. RECOMMENDATION

The FLUM amendment and rezoning are consistent, with the Zoning, Land Development Regulations and Comprehensive Plan provided the following conditions are met:

1. Prior to second reading of the rezoning, the Village Council authorizes the release of the exiting Declaration of Restrictive Covenants, dated May 28, 1980, and recorded at Official Record Book 10973 at Pages 1003 through 1009.
2. Approve, in substantial form, the master plan application of South Motors for the FLUM amendment to BO; the rezoning to B-2; and the site plan modification under VPB-13-001. Failure to approve the master zoning application requests, would result in South Motors withdrawing its offer of providing the Village with 3.0973± acres of land for park purposes.
3. Covenant, easement or leasehold type document running with the land relating to the park use of the 3.0973± acres in a form to be approved by the Village Attorney.

4. Prior to second reading of the rezoning the FLUM amendment must be approved.



Darby Delsalle, AICP
Director of Planning and Zoning

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ORDINANCE NO. _____

AN ORDINANCE OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, RELATING TO ZONING; AMENDING THE OFFICIAL ZONING MAP TO REFLECT A DISTRICT BOUNDARY ZONE; CHANGING 3.0973 ACRES (+/-) OF THE TOTAL 9.4678 ACREAGE, FROM R-1 SINGLE FAMILY DISTRICT TO INTERIM ZONING DISTRICT; FOR A PORTION OF THE PROPERTY LOCATED AT 9271 SW 164 STREET BEARING FOLIO 33-5028-002-0070 AND A PORTION OF THE ADJACENT PROPERTY BEARING FOLIO 33-5028-002-0080, IN PALMETTO BAY, FLORIDA; PROVIDING FOR ORDINANCES IN CONFLICT, CODIFICATION, SEVERABILITY, AND AN EFFECTIVE DATE. [4/5 Vote].

WHEREAS, pursuant to Chapter 166, Florida Statutes, a change of zoning, otherwise known as a district boundary change, of less than 10 acres, requires a public hearing on second reading, and a Land Planning Agency public hearings prior to approval of the rezoning by ordinance; and,

WHEREAS, the property owner, South Motors Company of Dade County, Inc., located at 16215 South Dixie Highway, and 9271 SW 164 Street, bearing Folio 33-5028-002-0070 together with adjacent property bearing Folio 33-5028-002-0080, is seeking a modification of its site plan which includes a rezoning of a portion of its property (6.3705 ± acres out of a total of 9.4678 ± acres) from R-1, Single-Family Residential to B-2, Business District; and,

WHEREAS, as part of that application, South Motors of Dade County, Inc., proposes to provide use of a portion of its property as a park to the public, and submits together with its site plan modification application either a covenant, leasehold or easement for said land for possession and operation by the Village; and,

WHEREAS, should the Village accept the park area, the Village desires to designate the area as Parks and Recreation under the Village's Future Land Use Map and modify the zoning to reflect an Interim District (I); and,

WHEREAS, establishment of the park use shall serve as a buffer to the South Motors Company of Dade County, Inc., County's proposed site plan to the adjacent residential areas to the east and south; and,

WHEREAS, the properties to the north and west and southwest are all zoned B-2; and,

WHEREAS, a rezoning request is reviewed under the standards found at Village of Palmetto Bay Code, Section 30-30.8(b); and,

1 WHEREAS, to approve a rezoning, the request must be consistent with the Village's
2 Comprehensive Plan and a basic finding of compatibility must be rendered by the Council; and,
3

4 **BE IT ENACTED BY THE MAYOR AND VILLAGE COUNCIL OF THE**
5 **VILLAGE OF PALMETTO BAY, FLORIDA, AS FOLLOWS:**
6

7 Section 1. In evaluating an application for a rezoning, from R-1, Single Family
8 Residential to the I, Interim Zoning District for 3.0973± acres out of a total of 9.4678± acres for the
9 location known as 9271 SW 164 Street, bearing folio 33-5028-002-0070, together with adjacent
10 property bearing folio 33-5028-002-0080, the Palmetto Bay Village Council is to apply the standard
11 under 30-30.8(b) of the Village's Code. Applicant has met the criteria of 30-30.8(b). The map
12 amendment is attached and incorporated by reference herein as Exhibit 1.
13

14 Section 2. The property that is the subject of the rezoning bears the following legal
15 description:
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17 A portion of Tract 7 and 8, EAST HILL, according to the plat thereof, as recorded in Plat
18 Book 46, Page 43, of the public records of Miami-Dade County, Florida; more fully
19 described as follows:
20

21 Commencing at the Northwest corner of said Tract 7; thence South 00°05'42" East, on the
22 West line of said Tract 7, a distance of 413.79 feet to the Point of Beginning; thence
23 continuing South 00°05'42" East, on the said West line of said Tract 7, a distance of 52.80
24 feet to the Southwest corner of said Tract 7 and a point on a curve; thence Easterly on the
25 South line of said Tracts 7 and 8 and also on the North right-of-way line of S.W. 164th
26 Street and on said curve to the left, whose radius point bears North 51°49'30", with a radius
27 of 475.00 feet, a central angle of 51°07'36", and arc distance of 423.86 feet; thence South
28 89°11'33" East, on the South line of said Tract 8 and on said North right-of-way line, a
29 distance of 307.43 feet to the Southeast corner of said Tract 8; thence North 00°10'11"
30 West, on the East line of said Tract 8, a distance of 229.36 feet; thence North 89°14'49"
31 West, on a line 229.33 feet North of and parallel with the South line of said Tract 8 and
32 Westerly extension thereof, a distance of 673.58 feet to the Point of Beginning.
33

34 Said lands situate, lying and being in Miami-Dade County, Florida, and containing 134,918
35 square feet or 3.0973 acres, more or less.
36

37 Section 3. Covenant, Leasehold or Easement. As a condition to proceed with the
38 rezoning, the current property owner, South Motors Company of Dade County, Inc., has submitted
39 an application for a Land Use FLUM Amendment, Rezoning request for the remainder of the
40 6.3705+/- acres of above described parcel to B-2, and as part of that application, and site plan
41 modification, South Motors is required to provide a perpetual covenant, leasehold or easement to
42 the Village for a park use. As such, the proposed rezoning of the 3.0973 +/- acres shall require the
43 placement of such covenant, easement or leasehold document running with the land relating to the
44 passive park use of the 3.0973± acres on a portion of the above reference folio numbers. Failure to
45 do so shall preclude the modification of the site to the Interim zoning designation.

1
2 **Section 4.** The Village Council in compliance with Chapter 166, Florida Statutes, after
3 the first reading approved/denied the applicant's request to rezone.
4

5 **Section 5.** All ordinances or parts of ordinances in conflict with the provisions of this
6 ordinance are repealed.
7

8 **Section 6.** This ordinance shall be codified and included in the Code of Ordinances
9 upon the above conditions being fulfilled.
10

11 **Section 7.** If any section, clause, sentence, or phrase of this ordinance is for any reason
12 held invalid or unconstitutional by a court of competent jurisdiction, the holding shall not affect the
13 validity of the remaining portions of this ordinance.
14

15 **Section 8.** This ordinance shall take effect upon the later of compliance with the above
16 conditions, or within 30 days of approval of the proposed Comprehensive Plan Amendment,
17 associated with the application, by the Florida Department of Economic Opportunity as required
18 under Section 163.3184, Florida Statutes, which amendment would modify the FLUM from Low
19 Density Residential to Parks and Recreation; and upon release of the covenant recorded on May 28,
20 1980, the Covenant, Declaration of Restrictions, at Official Record Book 10973 at Pages 1003
21 through 1009.
22

23 **PASSED and ENACTED** this ____ day of _____, 2013.

24 First Reading: _____

25 Second Reading: _____

26
27
28
29 Attest: _____
30 Meighan Alexander Shelley Stanczyk
31 Village Clerk Mayor
32

33 APPROVED AS TO FORM:
34
35 _____
36 Eve A. Boutsis
37 Village Attorney
38

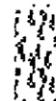
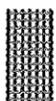
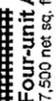
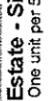
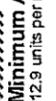
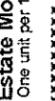
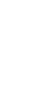
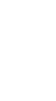
39 FINAL VOTE AT ADOPTION:
40
41 Council Member Patrick Fiore _____
42
43 Council Member Tim Schaffer _____
44
45 Council Member Joan Lindsay _____

1
2
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4
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6

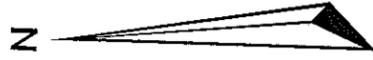
Vice-Mayor John DuBois

Mayor Shelley Stanczyk

Existing Zoning for South Portion of BMW

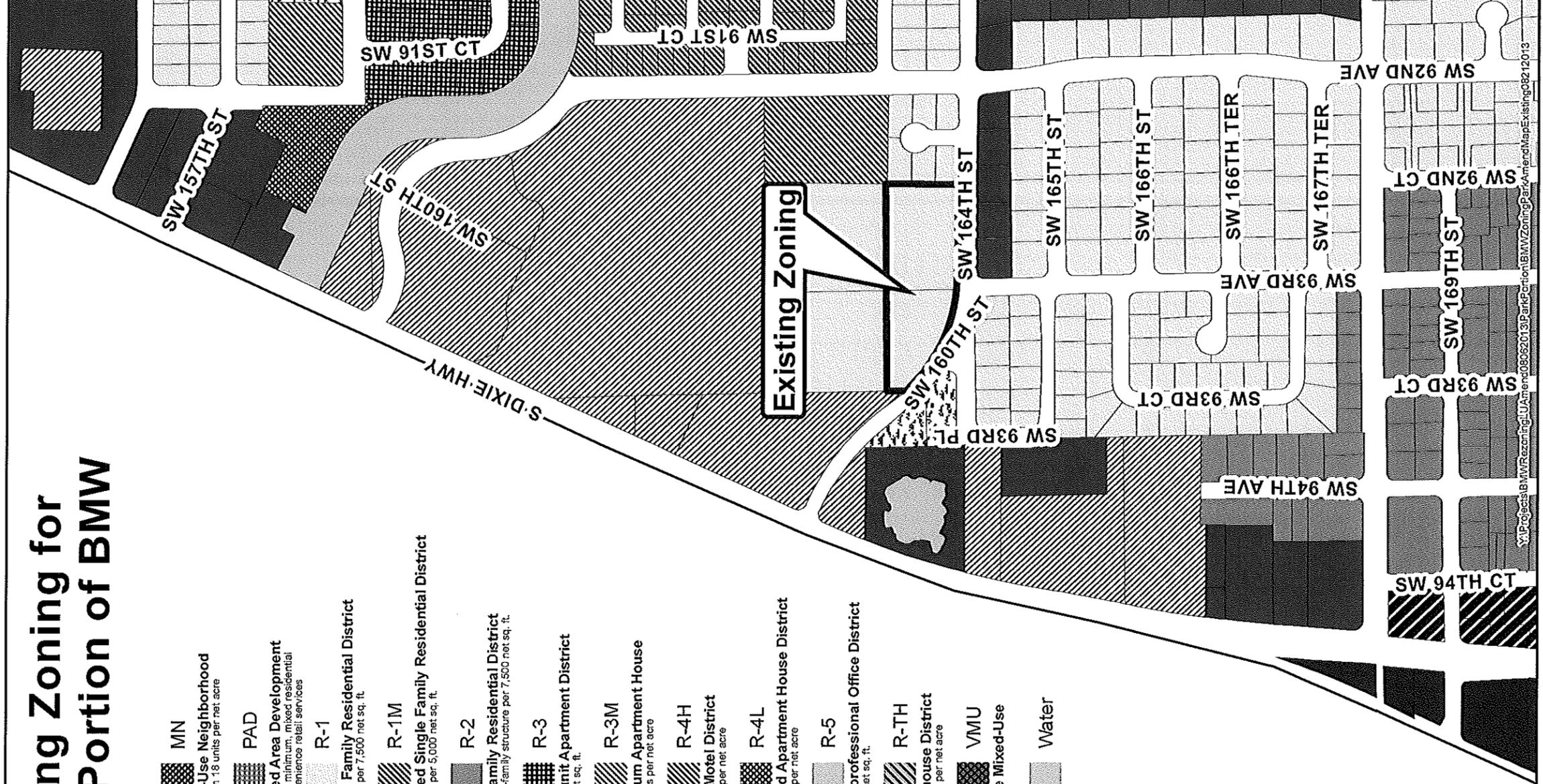
- | | |
|--|---|
|  AG
Agricultural / Residential
Minimum 5.0 gross acres |  MN
Mixed-Use Neighborhood
Maximum 18 units per net acre |
|  B-1
Business District - Limited
Maximum floor area ratio 0.4 at (1) story increased by 0.11 for each additional story |  PAD
Planned Area Development
20 acres minimum; mixed residential and convenience retail services |
|  B-2
Business District - Special
Maximum floor area ratio 0.4 at (1) story increased by 0.11 for each additional story |  R-1
Single Family Residential District
One unit per 7,500 net sq. ft. |
|  BO
Business Office
Maximum 13 units per net acre |  R-1M
Modified Single Family Residential District
One unit per 5,000 net sq. ft. |
|  E-1
Estate - Single Family
One unit per gross acre or more |  R-2
Two-Family Residential District
One two-family structure per 7,500 net sq. ft. |
|  E-1C
Estate - Single Family
One unit per 2.5 gross acres |  R-3
Four-unit Apartment District
7,500 net sq. ft. |
|  E-2
Estate - Single Family
One unit per 5 gross acres or more |  R-3M
Minimum Apartment House
12.9 units per net acre |
|  E-M
Estate Modified - Single Family
One unit per 15,000 net sq. ft. |  R-4H
Hotel/Motel District
75 units per net acre |
|  E-S
Estate Use - Suburban Single Family
One unit per 25,000 net sq. ft. |  R-4L
Limited Apartment House District
23 units per net acre |
|  I
Interim District |  R-5
Semi-professional Office District
10,000 net sq. ft. |
|  LW
Live-Work Neighborhood
Maximum 8.5 units per net acre |  R-TH
Townhouse District
8.5 units per net acre |
|  MC
Mixed-Use Corridor
Maximum 40 units per net acre |  VMU
Village Mixed-Use |
|  MM
Mixed-Use Main Street
Maximum 18 units per net acre |  Water |

N




0 250 500 Feet

Created: 10/23/2013



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