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To: Honorable Mayor and Village Council

Date: August 30, 2013

From: Eve A. Boutsis, Village Attorney

Re: AIPP Modification  
Ordinance for First Reading

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**AN ORDINANCE OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, RELATING DIVISION 30-160, "ART IN PUBLIC PLACES"; MODIFYING SECTION 30-160.7, TO EXEMPT ~~SINGLE FAMILY HOME RESIDENTIAL~~ REPAIRS AND ~~OR~~ CONSTRUCTION FROM THE PROGRAM; PROVIDING FOR ORDINANCES IN CONFLICT, CODIFICATION, SEVERABILITY AND AN EFFECTIVE DATE. [Sponsored by Council Person Patrick Fiore].**

**BACKGROUND:**

During the June 3, 2013, Council meeting, Council Person Patrick Fiore requested modification of the Art In Public Places (AIPP) Ordinance to exempt all single family residential properties from contribution into the AIPP fund. Thereafter, Council Person Fiore requested that this item be prepared for the July Council meeting. The Village of Palmetto Bay was the first local municipality in Miami-Dade County to implement a more extensive AIPP program which included a dedicated account for the funds collected from private sector development projects including but not limited to single-family home developments valued at over \$750,000.

On July 11, 2013 the item was presented for first reading. During Council deliberation, a motion was passed amending the original request to exempt all residential uses from the AIPP program. Because that motion exceeded the original scope of the proposed ordinance request, the item needed to come back again for first reading to reflect request the adjustment. Reflective of the action taken on July 11, 2013, the proposed modification exempts all residential construction from the AIPP program.

**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 AIPP program.

**Finding:** Consistent.

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

**Analysis:** The proposed modification of the AIPP ordinance would limit the scope of its applicability to governmental, commercial, and mixed use projects exclusive of residential construction. No provisions of the Land Development Code conflicts the ordinance as proposed.

**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:** Since the inception of the program in 2005, only one (1) single family development project of ten (10) homes contributed to the AIPP fund. The Village is 98% built out, thus limiting the likelihood of such developments on a large scale. Given such, there does not appear to be many development opportunities within the Village that would meet threshold establish by the program to warrant required continuation of the single family home construction element. Expanding the exemption to other residential forms of development puts all such development on equal footing so that no one type of residential development is subject to the AIPP program.

**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 change does not alter in anyway the development standards for residential construction regardless of zoning designation.

**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: N/A.

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 (4) above.

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. The Village has the most extensive AIPP program in Miami-Dade County.

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.

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Finding: As determined by the Village Council.

**FISCAL/BUDGETARY IMPACT:**

To date, only one (1) single family development project of ten (10) homes contributed to the AIPP fund. The Village is 98% built out, thus limiting the likelihood of any such development on a large scale. Given such, there does not appear to be sufficient development within the threshold establish by the program to warrant required continuation of single family home construction element. Expanding the exemption to other residential forms of development puts all such development on equal footing so that no one type of residential development is subject to the AIPP program. The AIPP fund would be limited to governmental, commercial, and mixed use (exclusive of residential).

**RECOMMENDATION:**

Decision for the Village Council.

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Darby Delsalle, AICP  
Planning & Zoning Director



1 of the construction cost of the project, provided that no funds may be appropriated for this  
2 purpose from the ad valorem tax operations fund.  
3

4 (b) *Nongovernmental and private sector development projects.* All nongovernmental and private  
5 sector development projects (including interior or exterior modifications, additions, or new  
6 construction) including: parking structures, residential developments of more than two units,  
7 mixed use projects, and/or commercial sites shall provide for the acquisition of works of art  
8 in value to not less than one and one-quarter percent of the construction costs, for artwork  
9 provided on site, or one percent of the construction costs for either art work provided off  
10 site or a contribution to the art fund or some combination thereof, subject to the project  
11 valuation schedule below:

12 (1) Project developments with construction costs exceeding \$250,000.00 shall be  
13 subject to the provisions of this division.

14 (2) ~~A single residential unit (including interior or exterior modifications,~~  
15 ~~additions or new construction) with construction costs exceeding \$750,000.00 shall be~~  
16 ~~subject to the provisions of this Code.~~  
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18 (c) *Exemptions.* Nongovernmental and private sector development projects may be  
19 exempt from this division by the village council, provided:

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21 (1) The structure is intended primarily to house one or more social service  
22 agency providers, affordable housing projects, or religious facilities; or,

23 (2) The project consists of the reconstruction of structures which have been  
24 damaged by fire, flood, wind, or other calamity;

25 (3) Governmental development projects or portions thereof that do not include  
26 buildings.

27 (4) ~~Single family residential improvements or~~ and original construction.  
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31 **Section 2.** All ordinances or parts of ordinances in conflict with the provisions of this  
32 ordinance are repealed.

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34 **Section 3.** This ordinance shall be codified and included in the Code of Ordinances.

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36 **Section 4.** If any section, clause, sentence, or phrase of this ordinance is for any reason  
37 held invalid or unconstitutional by a court of competent jurisdiction, the holding shall not affect the  
38 validity of the remaining portions of this ordinance.  
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1           **Section 5.**     This ordinance shall take effect immediately upon enactment.

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3     First reading: \_\_\_\_\_  
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5     Second reading: \_\_\_\_\_  
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7           PASSED AND ENACTED this \_\_\_\_\_ day of \_\_\_\_\_, 2013.  
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10    Attest: \_\_\_\_\_  
11           Meighan Alexander  
12           Village Clerk

\_\_\_\_\_   
Shelley Stanczyk  
Mayor

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14    APPROVED AS TO FORM:  
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17    \_\_\_\_\_  
18    Eve A. Boutsis  
19    Village Attorney

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21    FINAL VOTE AT ADOPTION:  
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23    Council Member Patrick Fiore           \_\_\_\_\_

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25    Council Member Tim Schaffer           \_\_\_\_\_

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27    Council Member Joan Lindsay           \_\_\_\_\_

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29    Vice-Mayor John DuBois                \_\_\_\_\_

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31    Mayor Shelley Stanczyk                 \_\_\_\_\_

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