



Village of Palmetto Bay

To: Mayor and Village Council

Date: July 14, 2014

From: Ron E. Williams, Village Manager

Re: Village Mixed Use
First 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 AN AMENDMENT OF THE FUTURE LAND USE MAP CONSISTENT WITH 166.041, 163.3184 AND 163.3187, FLORIDA STATUTES; CHANGING THAT PORTION OF 17901 OLD CUTLER ROAD PRESENTLY DESIGNATED PARKS AND RECREATION CONSISTING OF APPROXIMATELY 22+ ACRES, TO VILLAGE MIXED-USE; PROVIDING FOR ORDINANCES IN CONFLICT, CODIFICATION, SEVERABILITY AND AN EFFECTIVE DATE. [Sponsored by Mayor Shelley Stanczyk]

AN ORDINANCE OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, ACTING IN ITS CAPACITY AS THE MAYOR AND VILLAGE COUNCIL AND AS THE LOCAL PLANNING AGENCY, AMENDING THE VILLAGE'S COMPREHENSIVE PLAN'S LAND USE CATEGORY, "VILLAGE MIXED-USE" TO PERMIT SINGLE FAMILY RESIDENTIAL AND PUBLIC FACILITY USES; PROVIDING FOR ORDINANCES IN CONFLICT, CODIFICATION, SEVERABILITY AND AN EFFECTIVE DATE. [Sponsored by Mayor Shelley Stanczyk]

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 THAT PORTION OF 17901 OLD CUTLER ROAD PRESENTLY ZONED INTERIM DISTRICT AND ADJACENT TO OLD CUTLER ROAD, CONSISTING OF APPROXIMATELY 20.5+ ACRES, TO VILLAGE MIXED USE - SINGLE FAMILY RESIDENTIAL (VMU-SFR) DISTRICT; PROVIDING FOR ORDINANCES IN CONFLICT, CODIFICATION, SEVERABILITY, AND AN EFFECTIVE DATE. [Sponsored by Mayor Shelley Stanczyk].

AN ORDINANCE OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, AMENDING SECTION 30-50.19, "VILLAGE MIXED-USE DISTRICT", TO PERMIT SINGLE FAMILY RESIDENTIAL USES, TOGETHER WITH APPLICABLE DEVELOPMENT REGULATIONS; PROVIDING FOR THE REPEAL OF ALL CODE PROVISIONS AND ORDINANCES INCONSISTENT WITH THIS ORDINANCE; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; AND PROVIDING FOR AN EFFECTIVE DATE. [Sponsored by Mayor Shelley Stanczyk]

A. BACKGROUND

On July 7, 2014, the Mayor of the Village of Palmetto Bay requested the preparation of the necessary report and ordinances modifying the uses permitted at 17901 Old Cutler Road, which in conjunction with 17777 Old Cutler Road, is commonly referred to as The Village Center. More specifically, the Mayor requested the following items:

1. Requesting a change for a Comprehensive Plan Land Use designation to Village Mixed Use Land Use designation (VMU),
2. Land use text amendment which would permit single family residential and public use facilities together with applicable land use regulations,
3. To rezone that portion of the land noted in the attached survey to VMU Zoning District from Interim, and
4. A zoning text amendment to permit single family residential and development regulations pertaining thereto.

This report is submitted in fulfillment of that request.

The property in question is presently zoned Interim (I), with a land use designation of Parks and Recreation. The I zoning category created by the Village was designed to mirror Miami-Dade County's Government Use (GU) designation which essentially provided for a trending of development. In other words, if a property is surrounded by one (1) acre single family homes, then you could apply those regulations to that property in lieu of rezoning. On the other hand, the Parks and Recreation (PR) land use designation is rather restrictive allowing little in the way of building construction other than that which may support a park use. Thus, as in the scenario above, the zoning permits a housing development; the PR designation blocks it. This potential for inconsistency between zoning and land use of the property is discussed in greater detail at Section F – FLUM and Zoning Map Inter-Relationship, and is incorporated into this Section.

When the Village adopted its Official Zoning Map in and around 2006, those lands zoned GU were rezoned to the Village's zoning equivalent of I. What is less clear is why the property became designated Parks and Recreation or what the previous Miami-Dade County designation was. The designation to PR was accomplished in 2005 when the Village adopted its first Comprehensive Plan and associated Future Land Use Map (FLUM).

Although the Zoning History revealed that the property in question had at one time in its past attained development rights for single family housing, subsequent site plan modifications removed that element. Through the adoption of the Village's Mixed Use Zoning designation on the adjoining property, 17777 Old Cutler Road, and the assignment of I and PR to the property in question, vesting of any development right was limited to that permitted by the more restrictive PR designation. This restriction would not only preclude the construction of single family homes as originally envisioned in Resolution No. 4-ZAB-576-69¹, it also precludes the construction of non-park related public uses such as a fire rescue facility.

As stated in Section F of this report, it should not be implied that there is in fact an inconsistency between zoning and land use, rather the I and PR are awkwardly coupled together given the private holding of the property and the Villages desire to accommodate the potential for a fire rescue facility. The proposed amendment is an attempt to remedy this condition by accommodating a trending of development of the property in a manner which is reflective of existing covenants, while also providing for a future public use.

Adoption of the proposed ordinance will provide clear development standards reflected by the I district's trending of development intent. Amending the FLUM together with the rezoning and associated text amendments provides clearer consistency throughout the code provisions. The proposed ordinances, in combination with each other, are visionary in approach, sensitive to adjoining neighborhoods, and protective of the natural environment. The amendments allow for a relatively low density single family residential cluster development which seeks to maximize preservation of the existing natural fauna and tree canopy of the affected property as well as the ability to accommodate a future fire rescue facility. Further, the amendments provide additional protection by prohibiting any development within the west 50 feet of the property. With a maximum permitted density of two (2) units per acre, as applied to the approximately 20.5± acres subject to the rezoning, the maximum number of permitted units cannot exceed 41. The inclusion of public facility use into the Land Use Element of the Comprehensive Plan, provides for a future opportunity to site a much needed fire rescue facility on the southeast side of the Village.

B GENERAL INFORMATION

REQUESTS:

1. **A Future Land Use Map change** (Large Scale Amendment) from Parks and Recreation to Village Mixed Use (Pursuant to Section 30-30.8(b) – Amendment to the Comprehensive Plan).

¹ All prior site plan approvals for development on the property in question were dissolved with adoption of Resolution No. Z-30-85, which approval is in large part reflective of the current development, less the library parcel, of the property commonly referred to as the Village Center.

2. A **Comprehensive Plan Text Amendment** (Use Amendment) permitting single family residential cluster development and public facilities (Pursuant to Section 30-30.8(b) – Amendment to the Comprehensive Plan).
3. A **Rezoning** from I, Interim District to Village Mixed Use – Single Family Residential sub-district (Pursuant to Section 30-30.7 – Amendment to the official zoning map).
4. A **Zoning Text amendment** (Use Amendment) permitting single family residential cluster development and applicable regulations thereto.

The area subject to FLUM Amendment and Rezonings are attached as Exhibit 1 to the respective ordinances.

OVERALL LOT SIZE: 22± net acres more or less.
AMENDMENT SIZE: 22± acres, more or less.
REZONING: 20.5± net acres more or less.
FOLIO NUMBERS: 33-5035-013-0010

C. ZONING HEARING HISTORY:

The following is a review of the zoning history as it applies to the property in question. The associated resolutions are attached herein.

On **April 22, 1946**, the Board of County Commissioners, Dade County, Florida denied a **Resolution** for a boundary district change from EU-2 (Single Family Estates) to BU-2. Complete resolution not available.

On **October 15, 1969**, the Zoning Appeals Board denied **Resolution No. 4-ZAB-576-69** denying a boundary district change from RU-2 (Single Family Five Acre Estates) to EU-4 (Apartment House and Hotel).

On **April 16, 1970**, the Board of County Commissioners, Dade County heard an appeal **Z-89-70**) of **Resolution No. 4-ZAB-576-69** and reversed the previous denial. Approving a boundary district change from RU-2 (Single Family Five Acre Estates) to EU-4 (Apartment House and Hotel), and approved a special exception to allow the construction of a water use facility, a marina and boat docks.

On **July 20, 1972**, the Board of County Commissioners, Dade County, heard a “Status of Zoning Revision” that was triggered by **Resolution R-924-72**, adopted **June 20 1972**, which imposed a building moratorium on the property. The memorandum proposed to reduce the permitted number of previously approved units to be consistent with the South Bay Area Land Use Plan which permitted approximately 600 units for a parcel this size. Moratorium expired after 120 days, no rezoning occurred.

On **January 10, 1973**, the Dade County Zoning Appeals Board heard **Resolution No. 4-ZAB-48-73** and voted for denial. The request was for a district boundary change from RU-4 (Apartment Houses and Hotels) to EU-1 (single family 1 acre estates), from RU-4 to EU-M, from RU-4 to RU-3M, and RU-4 to RU-4L.

On **June 6, 1974**, the Zoning Appeals Board, Dade County, Florida heard **Resolution No. 4-ZAB-352-74**. The board denied, a special exception to allow multiple family apartment buildings, an unusual use permit to allow two entrances, a special exception to allow five buildings with varying heights between 129' and 182', an unusual use to permit a lift station, an unusual use permit to allow eight boat piers, including boat storage, a boat supply store, and the enlargement of the existing lake.

On **July 23, 1974**, the Board of County Commissioners, Dade County, Florida approved **Resolution No. Z-196-74**, (overturning the Zoning Appeals Boards denial of resolution 4-ZAB-352-74). The board approved, a special exception to allow multiple family apartment buildings, an unusual use permit to allow two entrances, a special exception to allow five building with varying heights between 129' and 182', an unusual use to permit a lift station, an unusual use permit to allow eight boat piers, including boat storage a boat supply store, and the enlargement of the existing lake.

On **July 31, 1981**, the Board of County Commissioners, Dade County, Florida approved **Resolution No. Z-191-81** approving a boundary district change from EU-2 (Single Family Estates) and RU-4 (Apartments) to EU-M (Estate Modified), a non-use variance to allow lots #9 & #12, 75' street frontages were 120' was required, a boundary change from EU-2 to RU-4L (Limited Apartment House), a special exception to allow 60' high buildings and six stories were four were permitted, and a boundary change from EU-2 to GU (Government Use).

On **February 7, 1985**, the Board of County Commissioners, Miami-Dade County, Florida approved **Resolution No. Z-30-85**. The Board of Miami-Dade County Commissioners approved the applicant's request for a district boundary change from RU-4 to OPD, EU-M, EU-2 and RU-4 to GU and a use variance to permit a 10 unit apartment building in the GU district in conjunction with an unusual use request to permit private recreational facilities, to wit: tennis courts, basketball courts, swimming pools, and playing fields in the GU district. The applicant was also granted a special exemption request to permit night lighting on the proposed recreational facilities and the request for an unusual use to filling and enlargement of portions of the existing lake.

On **July 25, 1985**, the Metropolitan Dade County Zoning Appeals Board, approved the applicant's request to delete an agreement pursuant to **Resolution 4-ZAB-270-85** as it affects the subject property, deletion of an agreement entered into between South Cutler Bay, Inc. and Dade County as required pursuant to Resolution Z-196-74, and deletion of the Declaration of Restrictive Covenants entered into between Sun-Belt Corporation of America and Miami-Dade County.

On **April 30, 1986**, the Metropolitan Dade County Zoning Appeals Board, approved Resolution **4-ZAB-143-86**, to permit the filling of a portion of an existing lake and

modification of condition #2 of Resolution Z-196-74 and modification of the proffered and Restrictive Covenants of Resolution Z-30-85. The purpose of the modification of said Resolution and agreement was to permit a revised site plan and parking plan which indicated a reconfiguration of the existing lake, elimination of a proposed second lake, merging of the technical center into one building, an increase of 2,485 square feet of building and additional outdoor parking areas.

On **March 24, 1989**, the Board of County Commissioners, Miami-Dade County, Florida approved Resolution **Z-34-89**, the applicant, Palmetto Bay Village Center (PBVC), request of an unusual use to permit a parking lot in a zone more restrictive than the use it served; to wit parking of cars in a GU district to serve an Office Park District (OPD) in conjunction with the Modification of Proffered Covenants and Modification of Declaration of Restrictive Covenants via prior Resolution 4-ZAB-143-86.

On **March 13, 2006**, pursuant to **VPB Resolution 06-30**, and the requirements of section 33-257 of the Miami-Dade County Code, the applicant (PBVC) requested and received a modification to the underlying 1985 declarations of restrictive covenants to allow a declaration of restrictions in lieu of unity of title, rather than requiring a unity of title (one ownership) of the property. This document was tied to a specific site plan. The remainder of the provisions of the declaration of restrictions would remain in effect and were not to be affected by the removal of the "unity of title" requirement. All future owners shall be bound by the provisions of the declaration of restrictions. More particularly, the provisions of section 3 of the underlying 1985 declarations as to the height, screening and other requirements which require 75% approval of all individual properties within 500 feet of the perimeter of the property remain in full force and effect.

On **March 12, 2007**, pursuant to zoning **VPB Resolution 07-31**, the Village Council pursuant to 33-303 of the Miami-Dade County Code, as adopted by the Village, changed the use of the library and park site (Ludovici Park and Library site) located at 17641 Old Cutler Road from residential to allow a governmental facility to be constructed. This change of use was found consistent with the Village's Comprehensive Plan and Future Land Use Map, which designated the site for Parks and Recreation as well as Institutional and Public Facility use. The Institutional and Public Facility designation entitles an area to be used to construct, amongst other things, a library. The application was to approve the placement of the public facility use (public library and park) on a vacant property zoned EU-2, and to use a portion of the northernmost acreage belonging to the PBVC for a parking area for the library.

On **June 21, 2007**, pursuant to Village of Palmetto Bay **Resolution 07-70**, the Mayor and Village Council of the Village of Palmetto Bay approved with conditions the applicants request to modify a set of previously approved plans under Resolution Z-34-89, to allow for the construction of a 356-space parking structure (97.5' in height) with roof top recreational amenities use where a surface parking lot presently exists along with the construction of a temporary parking lot.

On **March 3, 2008**, pursuant to Village of Palmetto Bay **Resolution 08-19**, the Mayor and Village Council of the Village of Palmetto Bay approved a perpetual easement agreement to use the parking area dedicated by the PBVC for the library.

On **June 9, 2008**, pursuant to Village of Palmetto Bay Ordinance **08-09**, the Mayor and Village Council of the Village of Palmetto Bay modified the Village's Land Development Code by creating section 30-50.20 (later numbered 30-50.19) entitled "Village Mixed-Used District (VMU)" and amending the Village's Official Zoning Map to reflect the creation of the VMU District on approximately 41.59 acres within 17777 - 18001 Old Cutler Road. The zoning ordinance incorporates by reference the underlying 1985 declaration of restrictive covenants (approved under the 1985 Office Park Development zoning resolution for the former Burger King site), providing that the more restrictive section (ordinance or declarations) would apply to the underlying property. This ordinance rezoned portions of the Palmetto Bay Village Center property from Office Park District (OPD) to the VMU District. The VMU District, as enacted, contemplates administrative site plan review of permitted uses. In other words, permitted uses within the District do not require a public hearing. Under the VMU District, fire stations or sub-stations, are permitted as an allowable, as of right, use within the District.

On **April 13, 2009**, pursuant to Village of Palmetto Bay **Resolution 09-41**, the Mayor and Village Council of the Village of Palmetto Bay modified the approved site plan and amended the declaration of restrictive covenants.

On **November 19, 2009**, pursuant to Village of Palmetto Bay **Resolution 09-96**, the Mayor and Village Council of the Village of Palmetto Bay approved new non-conforming signage to be used with the new library.

D. NEIGHBORHOOD CHARACTERISTICS:

ZONING

LAND USE DESIGNATION

Subject Property:

I; Interim District

Parks and Recreation

Surrounding Properties:

NORTH:

E-1 Estate Single Family (1 D.U./acre)

Estate Density Residential

E-2 Estate Single Family (1 D.U./5 acre)

(Less than 2.5 D.U.'s/acre)

EAST:

Village Mixed Use District

Village Mixed Use

SOUTH:

Town of Cutler Bay

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WEST:

E-1 Estate Single Family (1 D.U./acre)

Estate Density Residential

EM Estate Modified (1 D.U./15,00 sq. ft.)

(Less than 2.5 D.U.'s/acre)

D.U. = Dwelling Units

E. REZONING/FLUM AMENDMENTS – PROCEDURALLY

The Village's FLUM amendment and rezoning proposal is reflective of a large-scale (more than 10 acres) request. The proposal also includes changing the list of permitted uses within the Village's Zoning Code and Land Use Element of the Comprehensive Plan. As such, and consistent with the Village's Code requirements and state law, public hearings must be held for both first and second reading of the proposed ordinances. At the first public hearing, the Village Council shall take action to deny or approve the proposed ordinances, or approve it with modifications or conditions for purposes of transmittal to Florida Department of Economic Opportunity (DEO) Pursuant to Section 163.3161, Florida Statutes. If denied by the DEO, 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 upon adoption at the second public hearing (reading).

The proposed amendments to the Zoning Code and Zoning Map are contingent upon approval of the underlying FLUM and Land Use Element requests, as zoning is prohibited by State Statute from being inconsistent with and less restrictive than the Village's Comprehensive Plan. Thus, when it comes time to vote on the proposed ordinances, the order shall be as follows:

1. FLUM amendment,
2. Comprehensive Plan Land Use Element text amendment,
3. Rezoning, then
4. Text amendment.

F. FLUM AND ZONING MAP INTER-RELATIONSHIP

The current designation of the property subject to the FLUM amendment is Parks and Recreation (PR) and its zoning is Interim (I). Although the two designations are not absolutely inconsistent with each other, they may be considered as such in the context of the property's private ownership as well as the public's desire to locate a future fire rescue facility. The I zoning district provides the potential for uses that are currently blocked by the PR land use designation. Specifically, because the I district permits trending of development, it stands to reason that either the mixed use mid-rise office, multi-residential and townhome use to the east may be permitted, or the one acre estate homes to the west may be permitted, or some mid-range density that falls in between those two development patterns. In addition, the PR accommodates little more than those facilities that would support park uses, thus precluding the siting of a fire rescue facility. The proposed ordinances realign the land use and zoning so that they are fully consistent with each other given the disposition of the property identified above.

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 together with a concurrency review as required therein. The second subsection reviews the FLUM amendment request and the text amendment to the Land Use Element of the Comprehensive Plan. This analysis is combined because the two proposed ordinances are a companion to and dependent upon the other. The third subsection reviews the rezoning request and the text amendment to Section 30-50.19 of the Village's Land Development Regulations. As with the previous two ordinances, this analysis is combined because the two proposed ordinances are a companion to and dependent upon the other. The analysis portion for all four proposed ordinances incorporates 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.

SUBSECTION I – COMPREHENSIVE PLAN:

The application was reviewed for consistency with the Village's 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: The proposed ordinances seek to align the zoning and land use designations of the affected properties in a manner that is visionary in its approach, sensitive to adjoining neighborhoods, and protective of the natural environment. This is achieved through such considerations as prohibiting development along the west 50 feet of the property to ensure a lush and natural landscaped buffer area, clustered development to protect to the maximum extent possible the existing fauna and tree canopy, maximum overall density not to exceed 2 units per acre, which provides a responsible density transition from the estate home on the west side to the mixed use development east thereof, and limited access to Old Cutler Road, so as to provide for proper flow along the County Road. In addition, the inclusion of Public Facility into the Land Use Element of the Comprehensive Plan provides for a future opportunity to site a much needed fire rescue facility on the southeast side of the Village.

Finding: Consistent.

Policy 1.1.8 Discourage land use patterns indicative of urban sprawl in the FLUM and any amendment applications by dictating compact development, mixed use where appropriate, and efficient use of public facility capacity and resources, while protecting single-family neighborhoods.

Analysis: See Goal 1 above.

Finding: Consistent.

Policy 1.2.1 Continue to update the Village Land Development Code so that it is consistent with this Future Land Use Element and other applicable elements of the adopted Comprehensive Plan, and provides Village businesses, residents and developers with a clear and concise set of zoning and other regulations for implementing the Village of Palmetto Bay's future vision.

Analysis: See Goal 1 above. As stated above, adoption of the proposed amendments will properly align the Village's Comprehensive Plan and Future Land Use Map with the Village's Zoning Code.

Finding: Consistent.

Policy 1.5.4 Protect and enhance the lush flora and fauna of the Village through strong community landscaping guidelines, land development regulations, and code enforcement.

Analysis: See Goal 1 above. The proposed amendments contemplate a land development pattern which provides for a relatively low density (two (2) single family residential units per acre) cluster development which seeks to maximize preservation of the existing natural fauna and tree canopy of the affected property. Further, the zoning text amendment provides additional protection by prohibiting any development within the west 50 feet of the site.

Finding: Consistent.

Policy 1.7.9 Existing mature vegetation and distinctive trees should be retained and protected in developments.

Analysis: See Policy 1.5.4 above. Implementation of this policy is enforced at the time of permitting.

Finding: Consistent.

Transportation Element

Policy 2A.1.1 The Village of Palmetto Bay recognizes the Urban Development Boundary (UDB) designated by Miami-Dade County and the Urban Infill Area UIA² within its municipal limits. Pursuant thereto, the minimum acceptable peak-period LOS for all State and County roads within the UDB shall be the following:

1. All development applications within the Urban Infill Area Transportation Concurrency Exception Area are exempt from transportation concurrency requirements; however the following level of service thresholds are established for reviewing projects within the UIA TCEA: (1) Where no public mass transit service exists, roadways shall operate at or above Level of Service E (100% of capacity), (2) Where mass transit service having headways of 20 minutes or less is provided within a half-mile distance, roadways shall operate at Level of Service of 120% of capacity (3) Where extraordinary transit service, such as express bus service exists, parallel roadways within a half-mile shall operate at no greater than 150% of their capacity; and

Analysis: The proposed ordinances provide a maximum density of two (2) units per acre and has the potential to accommodate a public facility such as a fire rescue station. With the zoning portion of the property at approximately 20.5± acres, the maximum number of permitted units could not exceed 41. The property is within the UIA TCEA and thus is exempt from transportation concurrency. In addition, the project may be viewed through the prism as a de minimus impact given the relatively low density and resulting number of potential units. In light of such consideration, the project may be considered further exempt from traffic concurrency review as provide at Policy 9.3.6 of the Capital Improvement Element of the Village's Comprehensive Plan.

Finding: Consistent.

Infrastructure Element

Obj. 4A.1.1: The adopted level-of-service standard established by the Miami-Dade County Water and Sewer Department (WASD), for potable water service within the Village of Palmetto Bay is:

- a. Regional Treatment. System shall operate with a rated capacity that is no less than 2% above the maximum daily flow for preceding year.
- b. User LOS. Maintain capacity to produce and deliver 200 gallons, per capita, per day.
- c. Water Quality. Meet all Federal, State and County primary potable water standards.

² The UIA is defined as that area east and south of the State Road 826 (the Palmetto expressway) and 77th Avenue (including those portions of theoretical SW 77 Avenue.

- d. Countywide Storage. Storage capacity for finished water shall equal no less than 15% of countywide average daily demand.

Analysis: Per the Village's Comprehensive Plan's Data and Inventory Analysis, the 2005 WASD sanitary sewer system is in compliance with the 2% of maximum daily flow requirement and will continue to through 2020. As of 2002, Miami Dade-County possessed excess capacity of 63.5 million gallons, per day of potable water. Projections provided by the Comprehensive Plan shows the Village's population growth through 2029 will consume less than 2 million gallons of that excess capacity. Any project constructed will require compliance with water quality standards. Specific demand generated by any proposed site plan will be evaluated at time of permitting by Miami-Dade County's WASD. The property is served by an existing sewer line.

Finding: Consistent.

Policy 4B.1.1: The adopted level-of-service standard established by the Miami-Dade County Water and Sewer Department (WASD) for sanitary sewer service within the Village of Palmetto Bay is 100 gallons, per capita, per day.

Analysis: As of 2005, the Village of Palmetto Bay generates approximately .52% of the total demand countywide for sanitary sewer service. That results in approximately 99 gallons, per capita, per day. Per the Village's Comprehensive Plan, the County's capacity grew by 25 million gallons per day through 2010. Assuming the Village's available share remains constant and usage remains stable as compared against the Village's current population of approximately 24,000 residents, the result is an additional capacity of 130,000 gallons per day or 5.4 gallons, per capita, per day. Specific demand generated by any proposed site plan will be evaluated at time of permitting by Miami-Dade County's WASD.

Finding: Consistent.

Policy 4B.2.1: Encourage future development into areas that are already served, or programmed to be served, by Miami-Dade County WASD sanitary sewer facilities.

Analysis: The property is served by a sanitary sewer gravity line.

Finding: Consistent.

Policy 4C.1.1 The storm water management LOS standards for Village of Palmetto Bay are: Water Quality Standard. Stormwater facilities shall be designed to meet the design and performance standards established in Ch. 62-302.500 and 25.025, F.A.C., with treatment of first one (1) inch of rainfall runoff Water

Quality Standard. Where two or more standards impact a specific development, the most restrictive standard shall apply:

- a. Post development runoff shall not exceed the pre-development runoff rate for a 25-year storm event, up to and including an event with a 24-hour duration.
- b. Treatment of the runoff from the first one (1) inch of rainfall onsite or the first 0.5 inch of runoff, whichever is greater.

Analysis: This element is reflective of improvements that would need to be performed at the time the property is the subject of a development order request. As such, any future development of the property will require full compliance with this element at the time of site plan review or permitting.

Finding: Consistent.

Policy 4D.1.1 The adopted level-of-service standards maintained by the Miami-Dade County Department of Solid Waste Management for solid waste services within the Village of Palmetto Bay is 9.9 pound, per capita, per day and to maintain solid waste disposal capacity sufficient to accommodate waste flows committed to the system through long-term interlocal agreements or contracts along with anticipated non-committed waste flows for a period of five (5) years in accordance with Miami-Dade County's Comprehensive Development Master Plan.

Analysis: The Village of Palmetto Bay generates approximately 41,000 tons of solid waste annually which equals a rate of approximately 9.3 pounds, per-capita, per day. This accounts for only approximately 1.5% of total waste generated. As of 2003, the South Dade Landfill has a capacity of 9.148 million tons with a life expectancy through 2032. Actual impact to LOS of any site plan shall occur at site plan review or building permitting.

Finding: Consistent.

Conservation Element

Objective 6.5 Protection of Natural Resources

Conserve and protect the remaining natural systems of the Village of Palmetto Bay, in recognition of the inherent values of these areas left in their natural state.

Analysis: See Goal 1 above. The proposed amendments contemplate a land development pattern which provides for a relatively low density (two (2) single family residential units per acre) cluster development which seeks to maximize preservation of the existing natural fauna and tree canopy of the affected property. Further, the zoning text amendment provides additional protection by prohibiting any development within the west 50 feet of the site.

Finding: Consistent.

Policy 6.5.8 Existing mature vegetation and distinctive trees should be retained and protected in developments that homes are shaded from direct sunlight, which then reduces the energy demand from air conditioning units and other appliances. This also contributes to a reduction in the area's carbon footprint since less energy is used to keep the houses cool in the development.

Analysis See Objective 6.5 above. Implementation of this policy is enforced at the time of permitting.

Finding: Consistent.

Policy 6.7.6 Existing mature vegetation and distinctive trees should be retained and protected in developments.

Analysis See Objective 6.5 above. Implementation of this policy is enforced at the time of permitting.

Finding: Consistent.

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 5.0 acres by 2025.

Analysis: Based on current Village population (approximately 24,100) and inventory of existing Village parks (137 acres), current LOS equals approximately 5.6 per 1,000 residents.

Finding: Consistent.

Capital Improvements Element

Policy 9.3.3 Evaluate proposed Plan amendments and requests for new development or redevelopment according to the following guidelines:

1. Will the action contribute to condition of public hazard as described in the Infrastructure Element?
2. Will the action exacerbate any existing public facility capacity deficiency, as described in the Transportation Element, Infrastructure, and recreation and Open Space, Public Educational Facilities Elements, and Water Supply Elements?
3. Will the action generate public facility demands that may be accommodated by capacity increases, which will maintain adopted

level-of-service standards either planned in the Five-Year Schedule of Capital Improvements or by developer commitment?

4. Is the action consistent with the goals, objectives, and policies of the Future Land Use Element, including the Future Land Use Map?
5. If the Village provides public facilities, in part or while, is the action financially feasible pursuant to this Element?

Analysis: Please see all Goals, Objectives and Policies reviewed in this Subsection. The proposed FLUM amendment and rezoning does not negatively impact minimum Level of Service (LOS) for sanitary sewer, solid waste, drainage, potable water and transportation. Actual LOS of the project shall be reviewed at time of site planning and building permit review.

Finding: Consistent.

Policy 9.3.6 Any proposed development that is deemed to generate a minimal impact (as defined in subsection 163.3180 (4) F.S.), shall not be required to establish transportation concurrency.

Analysis: Please see Policy 2A.1.1 above.

Finding: Consistent.

Education Element

Objective 10.1 Work with Miami-Dade County Public Schools towards the Reduction of the overcrowding which currently exists in Miami-Dade County Public Schools, while striving to attain and optimum level of service pursuant to Objective 2. Provide additional solutions to overcrowding so that countywide enrollment in Miami-Dade County's public schools will meet state requirements for class size by September 1, 2010.

Analysis: All public schools within the Village are under capacity and the proposed amendments do not provide for enough development rights to exceed the established Level of Service.

Finding: Consistent.

Water Supply Facility Element

Policy 11.1.1 The adopted level-of-service standard established by WASD for potable water service within the Village:

- a. Regional Treatment. System shall operate with rated capacity that is no less than two (2) percent above the maximum daily flow for preceding year.

- b. User LOS, Maintain capacity to produce and deliver 155 gallons/per capita/per day.
- c. Water Quality. Meet all federal, state, and county primary potable water standards.
- d. Countywide Storage. Storage capacity for finished water shall equal no less than 15 percent of countywide average daily demand.

Analysis: The property is connected to Miami-Dade County water via a 6 inch line. As of 2002, the County wide water system had a maximum capacity of 454.8 million gallons per day (MGD) with peak water demand reported at 391.3 MGD. Of that capacity, The Village of Palmetto Bay draws approximately 3.69 MGD (based upon a population of approximately 24,000 residents) or just less than one percent (.0087) of available capacity. At that rate, per capita daily consumption is 153 gallons. At an average household size of 3.01, maximum potential number of residents resulting from the proposed amendments is 123.41 (2 units per acre x 20.5 acres = 41 homes). Given the relatively small size of the development, it is unlikely the addition of the residents will result in exceeding two (2) percent of maximum flow.

Finding: Consistent.

SUBSECTION II – FLUM AND COMPREHENSIVE PLAN AMENDMENT

The following is a review of the request pursuant to the Village's Comprehensive Amendment 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 are 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. Site specific LOS calculations shall be performed at the time of site planning and building permit as appropriate.

Finding: Consistent.

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 Background and History Sections are hereby incorporated as back-up to this analysis herein by reference. On April 16, 1970, the Board of County Commissioners, Dade County heard an appeal of Resolution No. 4-ZAB-576-69 approving a boundary district change from RU-2 (Single Family Five

Acre Estates) to EU-4 (Apartment House and Hotel), and approved a special exception to allow the construction of a water use facility, a marina and boat docks. July 23, 1974, the Board of County Commissioners, Dade County, Florida approved Resolution No. Z-196-74. The board approved, a special exception to allow multiple family apartment buildings, an unusual use permit to allow two entrances, a special exception to allow five building with varying heights between 129' and 182', an unusual use to permit a lift station, an unusual use permit to allow eight boat piers, including boat storage, a boat supply store, and the enlargement of the existing lake. On February 7, 1985, the Board of County Commissioners, Miami-Dade County, Florida approved Resolution No. Z-30-85. The Board of Miami-Dade County Commissioners approved the applicant's request for a district boundary change from RU-4 to OPD, EU-M, EU-2 and RU-4 to GU and a use variance to permit a 10 unit apartment building in the GU district in conjunction with an unusual use request to permit private recreational facilities. The Village of Palmetto Bay in 2006 modified the Village's Land Development Code by creating section 30-50.20 (later numbered 30-50.19) entitled "Village Mixed-Used District (VMU)" and amending the Village's Official Zoning Map to reflect the creation of the VMU District on approximately 41.59 acres within 17777 - 18001 Old Cutler Road. The zoning ordinance incorporates by reference the underlying 1985 declaration of restrictive covenants (approved under the 1985 Office Park Development zoning resolution for the former Burger King site), providing that the more restrictive section (ordinance or declarations) would apply to the underlying property. This ordinance rezoned portions of the Palmetto Bay Village Center property from Office Park District (OPD) to the VMU District.

Although the Zoning History reveals that the property in question had at one time in its past attained development rights for single family housing, subsequent site plan modifications removed that element as further presented in the Background Section of this report. Through the assignment of I and PR to the property in question, vesting of any development right was limited to that permitted by the more restrictive PR designation. This restriction not only precludes the construction of single family homes as envisioned in prior resolution, it also precludes the construction of non-park related public uses such as a fire rescue facility. This condition leaves the property owner in possession of lands limited to park use only and the Village without land to site a public facility as so desired to provide better rescue response times. The amendments provide clarity to the concept of trending of development, while properly aligning the land use and zoning to such the low density residential cluster use together with the ability to site a public facility.

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: Sections A and F of this report and the analyses' at Goal 1, Policies 1.1.8, 1.5.4, 1.7.9, Objective 6.5, and Policies 6.538 and 6.7.6, are incorporated into this analysis herein. The proposed amendments align the land use and zoning while providing for permitted uses that are sensitive to the existing natural fauna and tree canopy and buffered from the estate residential uses to the west.

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: Sections A and F of this report and the analyses' at Goal 1, Policies 1.1.8, 1.5.4, 1.7.9, Objective 6.5, and Policies 6.538 and 6.7.6, are incorporated into this analysis herein. Statistical data was not available that provides a clear projection of property values to the adjacent residential neighborhood. Regardless, conventional wisdom would suggest a rise in home values given the newly permitted uses would provide the opportunity for the development of a high-end residential community and a provision for a public facility that would serve to decrease rescue response times.

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: Sections A and F of this report and the analyses' at Goal 1, Policies 1.1.8, 1.5.4, 1.7.9, Objective 6.5, and Policies 6.538 and 6.7.6, are incorporated into this analysis herein. Adoption of the proposed ordinance removes the ambiguity that exists when attempting to interpret trending of development as so provided by the I, Interim Zoning District. Amending the FLUM together with the rezoning and associated text amendments provides consistency throughout the code provisions.

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 of this Subsection are incorporated herein by reference. Amendment of the FLUM and associated text to the Comprehensive Plan, in conjunction with the rezoning and zoning text amendment bring the Comprehensive Plan and Land Development Code into consistency with each other. Further, the review at Subsection 1 of this report's analysis finds the request to be consistent with the Comprehensive Plan.

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 large-scale land use amendments (those greater than 10 acres). Submission, review and proposed implementation of the requests pertaining to the Comprehensive are consistent with those provisions. The proposed large-scale amendment to amend and the proposed use changes meet 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 AND ZONING TEXT AMENDMENT

The following is a review of the request pursuant to the Village's rezoning and text amendment criteria found at Section 30-30.7(b), of the Land Development Code. The Background Section and the Analysis at Subsection I of this report are hereby incorporated by reference into this analysis. Notwithstanding the analysis of the individual criteria below, any approval of the rezoning and zoning text amendment shall be considered conditional upon the approval of the FLUM amendment and Comprehensive Plan Land Use Element text amendment as required by State Statute.

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: Conditionally consistent provided the proposed FLUM amendment and Comprehensive Plan Land Use Element is adopted.

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

Analysis: The Background Section is incorporated herein by reference. The Land Development Code requires consistency with the zoning to the underlying land use designation. The proposed amendments provide for greater consistency than already exists between the land use and zoning designations as discussed throughout this report and incorporated into this analysis by reference. Further, the amendments to the text of the VMU zoning code at Section 30-50.19 seek to fulfill the I district's trend of development intent.

Finding: Conditionally consistent provided the proposed FLUM amendment and Comprehensive Plan Land Use Element is adopted.

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 3 et.al. The proposed amendments align the land use and zoning while providing for permitted uses that are sensitive to the existing natural fauna and tree canopy and buffered from the estate residential uses to the west.

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.

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

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: Conditionally consistent provided the remaining residentially designated portions of the property are designated for park use.

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: Conditionally consistent provided a covenant or other legal instrument runs with land tying the property to the park use for the 3.0973+ acres.

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: Sections A and F of this report and the analyses' at Goal 1, Policies 1.1.8, 1.5.4, 1.7.9, Objective 6.5, and Policies 6.538 and 6.7.6, are incorporated into this analysis herein. Adoption of the proposed ordinances removes the ambiguity that exists when attempting to interpret trending of development as so provided by the I, Interim Zoning District. Amending the FLUM together with the rezoning and associated text amendments provides consistency throughout the code provisions.

Finding: Consistent.

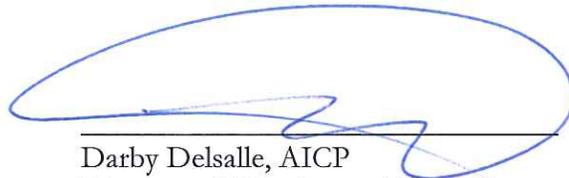
Criteria (10) Other matters which the Local Planning Agency or the Village Council in its legislative discretion may deem appropriate.

Finding: Decision for the Village Council.

H. RECOMMENDATIONS

Staff recommendations of the proposed ordinances are as follows:

1. The FLUM amendment from PR to VMU – Approval
2. Comprehensive Plan Land Use Element text amendment – Approval
3. The rezoning from I to VMU-SFR sub-district – Conditional approval provided the FLUM amendment and the Comprehensive Plan Land Use Element text amendment are adopted.
4. The zoning text amendment – Conditional approval provided the FLUM amendment and the Comprehensive Plan Land Use Element text amendment are adopted.



Darby Delsalle, AICP
Director of Planning and Zoning

1 **WHEREAS**, the adoption of an ordinance requires two public hearing readings, and a
2 public hearing as the Local Planning Agency; and
3

4 **WHEREAS**, a large scale amendment to the Comprehensive Plan for the Village of
5 Palmetto Bay has been prepared to be fully consistent with Chapter 163, Florida Statutes; and
6

7 **WHEREAS**, the Village Council acting in its capacity as the Local Planning Agency has
8 acted in accordance with state law, and in specific compliance with Section 163.3174, Florida
9 Statutes and has reviewed and recommends approval of its large scale amendment to its FLUM; and
10

11 **WHEREAS**, the Village desires to amend its FLUM to extend the Village Mixed Use
12 designation to the set aside land area presently designated Parks and Recreation and as further
13 described at Exhibit 1; and
14

15 **WHEREAS**, after receiving extensive input and participation by the public at first reading
16 of the proposed amendment, the Village Council transmitted the proposed FLUM amendment to
17 the Florida Department of Economic Opportunity and to all other agencies, as required under law,
18 for their review pursuant to Section 163.3184, Florida Statutes; and
19

20 **WHEREAS**, the Florida Department of Economic Opportunity (DEO) reviewed the
21 proposed FLUM and return its Objections, Recommendations and Comments (ORC) Report to the
22 Village; and
23

24 **WHEREAS**, the Village Council considered the ORC and made certain changes to the
25 proposed amendment to the Comprehensive Plan, which changes shall be incorporated in the
26 Comprehensive Plan of the Village of Palmetto Bay, as applicable; and
27

28 **WHEREAS**, the Mayor and Village Council conducted a second duly noticed public hearing
29 on the FLUM amendment as required under law following the receipt of approval by the DEO; and
30

31 **WHEREAS**, the proposed FLUM amendment shall be included in the "2013-2025 Future
32 Land Use Map".
33

34 **NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND VILLAGE**
35 **COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, ACTING IN ITS**
36 **CAPACITY AS THE LOCAL PLANNING AGENCY OF THE VILLAGE OF**
37 **PALMETTO BAY, FLORIDA, AS FOLLOWS:**
38

39 **Section 1.** **Recitals.** The above referenced whereas clauses are true and correct and are
40 incorporated into this ordinance by reference. The amended Future Land Use Map is incorporated
41 by reference and attached hereto as Exhibit 1, and shall be included in the "2013-2025 Future Land
42 Use Map."
43

1 **Section 2.** Compliance with Criteria. In evaluating an application for a FLUM
2 amendment, from Parks and Recreation to Village Mixed Use, the Palmetto Bay Village Council is to
3 apply the standard under 30-30.8(b), of the Village's Code.
4

5 **Section 3.** FLUM Amendment and Legal Description. The property that is the subject
6 of the FLUM amendment bears the legal description as provided at Exhibit 1 and such property is
7 hereby re-designated Village Mixed Use.
8

9 **Section 4.** Transmittal. The Village Council, acting in its capacity as the Local Planning
10 Agency, approves the above amendment, as further modified herein, to the FLUM, which is
11 attached to this ordinance. The Village Council, acting in its capacity as the Local Planning Agency,
12 further recommends to the Village Council that it authorize the Village Clerk to transmit the
13 attached amendments to the FLUM to the State of Florida Department of Economic Opportunity
14 (DEO) and all other governmental bodies, agencies, or private individuals as required by State law.
15

16 **Section 5.** Severability. The provisions of this ordinance are declared to be severable,
17 and if any section, sentence, clause or phrase of this ordinance shall for any reason be held to be
18 invalid or unconstitutional, such decision shall not affect the validity of the remaining sections,
19 sentences, clauses, and phrases of this ordinance but they shall remain in effect, it being the
20 legislative intent that this ordinance shall stand notwithstanding the invalidity of any part.
21

22 **Section 6.** Conflicts. The provisions of the Comprehensive Plan of the Village of
23 Palmetto Bay, Florida and all ordinances or parts of ordinances in conflict with the provisions of
24 this ordinance are hereby repealed.
25

26 **Section 7.** Effective date. This ordinance shall take effect immediately upon enactment.
27
28
29
30

31 **PASSED and ENACTED** this ____ day of September, 2014.

32 First Reading: _____

33 Second Reading: _____
34
35
36

37 Attest: _____
38 Meighan Alexander
39 Village Clerk
40

Shelley Stanczyk
Mayor

1
2 APPROVED AS TO FORM AND LEGAL SUFFICIENCY FOR THE
3 USE AND RELIANCE OF THE VILLAGE OF PALMETTO BAY ONLY:
4

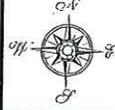
5
6 _____
7 Dexter W. Lehtinen
8 Village Attorney
9

10
11 FINAL VOTE AT ADOPTION:

12
13 Council Member Patrick Fiore _____
14
15 Council Member Tim Schaffer _____
16
17 Council Member Joan Lindsay _____
18
19 Vice-Mayor John DuBois _____
20
21 Mayor Shelley Stanczyk _____
22

EXHIBIT 1

Existing Future Land Use Designation for 17777 Old Cutler Rd LLC



0 250 500 Feet

Created: 07/08/2014



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

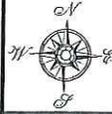


Existing Future Land Use Designation

Palmetto Bay Village Center Protected Areas

Unincorporated Miami-Dade

Proposed Future Land Use Designation for 17777 Old Cutler Rd LLC



0 250 500 Feet

Created: 07/08/2014



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

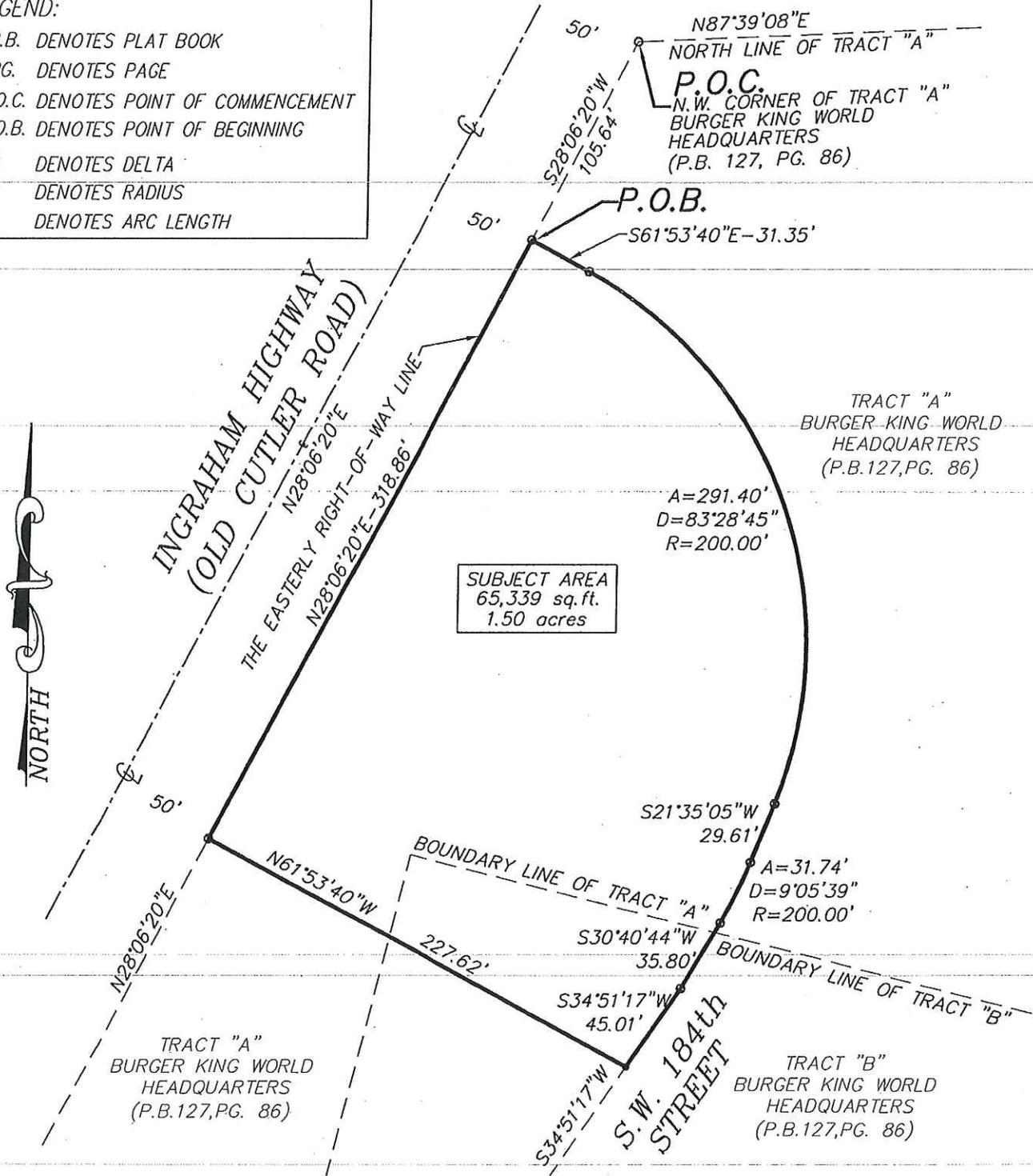


SKETCH TO ACCOMPANY LEGAL DESCRIPTION

EXHIBIT " — " "

LEGEND:

- P.B. DENOTES PLAT BOOK
- PG. DENOTES PAGE
- P.O.C. DENOTES POINT OF COMMENCEMENT
- P.O.B. DENOTES POINT OF BEGINNING
- D DENOTES DELTA
- R DENOTES RADIUS
- A DENOTES ARC LENGTH



NOT TO SCALE

SHEET 1 OF 2 SHEETS



Schwabke-Shiskin & Associates, Inc.
 LAND SURVEYORS-ENGINEERS-LAND PLANNERS - 3240 CORPORATE WAY-MIRAMAR, FL 33025
 PHONE No. (954)435-7010 FAX No. (954)438-3288
 ORDER NO. 203019 PREPARED UNDER MY SUPERVISION:
 DATE: JULY 14, 2014
 THIS IS NOT A " BOUNDARY SURVEY"
 CERTIFICATE OF AUTHORIZATION No. LB-87
 JOSE G. HERNANDEZ ASSISTANT VICE-PRESIDENT
 FLORIDA PROFESSIONAL LAND SURVEYOR No. 6952

REVISIONS

REVISIONS

LEGAL DESCRIPTION TO ACCOMPANY SKETCH

EXHIBIT " _____ "

A PORTION OF TRACT "A" AND TRACT "B", "BURGER KING WORLD HEADQUARTERS", ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 127 AT PAGE 86, OF THE PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE NORTHWEST CORNER OF SAID TRACT "A"; THENCE SOUTH 28 DEGREES 06 MINUTES 20 SECONDS WEST, ALONG THE EASTERLY RIGHT-OF-WAY LINE OF INGRAHAM HIGHWAY (OLD CUTLER ROAD), FOR A DISTANCE OF 105.64 FEET TO THE POINT OF BEGINNING OF THE FOLLOWING DESCRIBED PARCEL OF LAND; THENCE RUN SOUTH 61 DEGREES 53 MINUTES 40 SECONDS EAST FOR A DISTANCE OF 31.35 FEET TO THE POINT OF CURVATURE WITH A CIRCULAR CURVE CONCAVE TO THE SOUTHWEST AND HAVING A RADIUS OF 200.00 FEET; THENCE ALONG SAID CURVE TO THE RIGHT FOR AN ARC DISTANCE OF 291.40 FEET THROUGH A CENTRAL ANGLE OF 83 DEGREES 28 MINUTES 45 SECONDS TO A POINT OF TANGENCY; THENCE SOUTH 21 DEGREES 35 MINUTES 05 SECONDS WEST FOR A DISTANCE OF 29.61 FEET TO THE POINT OF CURVATURE WITH A CIRCULAR CURVE CONCAVE TO THE NORTHWEST AND HAVING A RADIUS OF 200.00 FEET; THENCE ALONG SAID CURVE TO THE RIGHT FOR AN ARC DISTANCE OF 31.74 FEET THROUGH A CENTRAL ANGLE OF 9 DEGREES 05 MINUTES 39 SECONDS TO A POINT OF TANGENCY; THENCE SOUTH 30 DEGREES 40 MINUTES 44 SECONDS WEST FOR A DISTANCE OF 35.80 FEET; THENCE SOUTH 34 DEGREES 51 MINUTES 17 SECONDS WEST FOR A DISTANCE OF 45.01 FEET; THENCE NORTH 61 DEGREES 53 MINUTES 40 SECONDS WEST FOR A DISTANCE OF 227.62 FEET TO THE EASTERLY RIGHT-OF-WAY LINE OF INGRAHAM HIGHWAY (OLD CUTLER ROAD); THENCE NORTH 28 DEGREES 06 MINUTES 20 SECONDS EAST, ALONG THE EASTERLY RIGHT-OF-WAY LINE OF INGRAHAM HIGHWAY (OLD CUTLER ROAD), FOR 318.86 FEET TO THE POINT OF BEGINNING.

SAID PARCEL OF LAND CONTAINS 65,339 SQUARE FEET MORE OR LESS (1.50 ACRES MORE OR LESS)

LYING AND BEING IN SECTION 35, TOWNSHIP 55 SOUTH, RANGE 40 EAST, MIAMI-DADE COUNTY, FLORIDA.

NOTES:

- 1) BEARINGS SHOWN HEREON REFER TO AN ASSUMED BEARING OF NORTH 28°06'20" EAST, ALONG THE EASTERLY RIGHT-OF-WAY LINE OF INGRAHAM HIGHWAY (OLD CUTLER ROAD).
- 2) ORDERED BY: GROUPER FINANCIAL, INC.
- 3) AUTHENTIC COPIES OF THIS SKETCH AND LEGAL DESCRIPTION MUST BEAR THE EMBOSSED SEAL OF THE ATTESTING PROFESSIONAL LAND SURVEYOR.

SHEET 2 OF 2 SHEETS



Schwelbke-Shiskin & Associates, Inc.
LAND SURVEYORS-ENGINEERS-LAND PLANNERS - 3240 CORPORATE WAY-MIRAMAR, FL 33025
PHONE No.(954)435-7010 FAX No. (954)438-5288
ORDER NO. 203019 PREPARED UNDER MY SUPERVISION:
DATE: JULY 14, 2014
THIS IS NOT A " BOUNDARY SURVEY"
CERTIFICATE OF AUTHORIZATION No. LB-87
JOSE G. HERNANDEZ ASSISTANT VICE-PRESIDENT
FLORIDA PROFESSIONAL LAND SURVEYOR No. 6952

REVISIONS

ORDINANCE NO. _____

AN ORDINANCE OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, ACTING IN ITS CAPACITY AS THE MAYOR AND VILLAGE COUNCIL AND AS THE LOCAL PLANNING AGENCY, AMENDING THE VILLAGE'S COMPREHENSIVE PLAN'S LAND USE CATEGORY, "VILLAGE MIXED-USE" TO PERMIT SINGLE FAMILY RESIDENTIAL AND PUBLIC FACILITY USES; PROVIDING FOR ORDINANCES IN CONFLICT, CODIFICATION, SEVERABILITY AND AN EFFECTIVE DATE. [Sponsored by Mayor Shelley Stanczyk]

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

WHEREAS, the Comprehensive Plan for the Village of Palmetto Bay was adopted on August 1st, 2005, and amended in December 2009, and included, among other items, the Land Use designation Village Mixed Use (VMU), which provided for a range of permitted uses and development intensities for certain lands within the Village; and

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

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

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

WHEREAS, in 2009 the Mayor and Village Council modified the Land Use Designation Village Mixed Use (VMU), which provided for a range of permitted uses and development intensities for certain lands within the Village; and

WHEREAS, in amending the VMU, certain portions of the land adjacent to and east of the existing development, were initially set aside with a land use designation of Parks and Recreation, which severely limited the future use of the property; including but not limited to certain essential public services such as a fire rescue facility; and

WHEREAS, the underlying Interim (I) zoning designation permits the trending of development, as well as public facilities, thus creating a potential conflict between land use and zoning designations; and

WHEREAS, the Mayor of the Village of Palmetto Bay desires to sponsor an amendment to Land Use Element of the Village's Comprehensive Plan which would align the set aside area with zoning designations able to accommodate trending of development as well as needed public facilities; and

WHEREAS, the adoption of an ordinance requires two readings, a public hearing as the Land Planning Agency, and a public hearing for second reading of the ordinance; and

WHEREAS, a an amendment which changes permitted uses to the Comprehensive Plan for the Village of Palmetto Bay has been prepared to be fully consistent with Chapter 163, Florida Statutes; and,

WHEREAS, the Village Council acting in its capacity as the Local Planning Agency has acted in accordance with state law, and in specific compliance with Section 163.3174, Florida Statutes and has reviewed and recommends approval of the amendment to its Land Use Element of the Comprehensive Plan; and

WHEREAS, after receiving extensive input and participation by the public at first reading of the proposed amendment, the Village Council transmitted the proposed amendment to the Florida Department of Economic Opportunity and to all other agencies, as required under law, for their review pursuant to Section 163.3184, Florida Statutes; and

WHEREAS, the Florida Department of Economic Opportunity (DEO) reviewed the proposed FLUM and return its Objections, Recommendations and Comments (ORC) Report to the Village; and

WHEREAS, the Village Council considered the ORC and made certain changes to the proposed amendment to the Comprehensive Plan, which changes shall be incorporated in the Comprehensive Plan of the Village of Palmetto Bay, as applicable; and

WHEREAS, the Mayor and Village Council conducted a second duly noticed public hearing on the amendment as required under law following the receipt of approval by the DEO; and

WHEREAS, the Mayor and Village Council of the Village of Palmetto Bay desire to amend the Land Use Element of the Comprehensive Plan.

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

Section 1. Recitals. The above recitals are true and correct and incorporated herein by this reference.

Section 2. Compliance with Criteria. In evaluating an application for a FLUM (Future Land Use Map) amendment, from Parks and Recreation to Village Mixed Use, the Palmetto Bay Village Council is to apply the standard under 30-30.8(b), of the Village's Code.

Section 3. The Land Use Element of the Village's Comprehensive Plan is amended to read as follows:

1.0 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.

Objective 1.1 Future Land Use Map

Adoption and implementation of the Future Land Use Map (FLUM), including the land use amendments to individual parcels as referenced in the supporting Data, Inventory, and Analysis, and presented in Exhibit 1 and the element goals, objectives, and policies herein as the official and primary standard governing land use density and intensity in the Village of Palmetto Bay.

* * *

Village Mixed Use (VMU): The land use designation is designed to encourage compact, mixed-use development comprised of business, office, residential, civic, institutional, recreation, open space, and hotel. Development must emphasize the efficient reuse of existing infrastructure, preservation of natural systems, integration of pedestrian and bicycle facilities, and an urban form characterized by close-knit neighborhoods and sense of community. The minimum VMU parcel size is 25.0 gross acres. Each parcel must also adhere to a unified "Development Plan" established through a public charrette process to specify the permitted uses, densities/intensities, building scale and types, and design features and controls. Residential density shall range from a minimum of 52.0 to a maximum of 10.0 dwelling units per gross acre, subject to the approved Development Plan.

* * *

Policy 1.1.3 The Palmetto Bay Village Center (approximately 39 acres) has been designated on the FLUM as "Village Mixed-Use" land use. The entire 80.0 acre site is located northeast of the intersection of SW 184th Street and Old Cutler Road and is subject to the Master Plan accepted by the Village Council in October 2004, which may include the following maximum development potential:

- Senior Living Facility – up to 300 units
- Multifamily Residential – up to 100 units
- Commercial – incidental and supporting uses

- Office – up to 315,000 square feet (including ancillary uses)
- Single Family Residential – up to two (2) units per acre
- Public facility

None of the above uses shall create substantial adverse impacts on the Biscayne National Park or Biscayne Bay.

* * *

Section 4. Transmittal. The Village Council, acting in its capacity as the Local Planning Agency, approves the above amendment, as further modified herein, to the FLUM, which is attached to this ordinance. The Village Council, acting in its capacity as the Local Planning Agency, further recommends to the Village Council that it authorize the Village Clerk to transmit the attached amendments to the FLUM to the State of Florida Department of Economic Opportunity (DEO) and all other governmental bodies, agencies, or private individuals as required by State law.

Section 5. Severability. The provisions of this ordinance are declared to be severable, and if any sentence, section, clause or phrase of this ordinance shall, for any reason, be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sentences, sections, clauses or phrases of the ordinance, but they shall remain in effect it being the legislative intent that this ordinance shall stand notwithstanding the invalidity of any part.

Section 6. Conflicts. The provisions of the Comprehensive Plan of the Village of Palmetto Bay, Florida and all ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

Section 7. Codification. It is the intention of the Village Council and it is hereby ordained the provisions of this Ordinance shall become and be made part of the Comprehensive Plan of the Village of Palmetto Bay, Florida.

Section 8. Effective Date. This ordinance shall take effect immediately upon enactment.

PASSED and ENACTED this ____ day of September, 2014.

First Reading: _____

Second Reading: _____

Attest: _____
 Meighan Alexander
 Village Clerk

 Shelley Stanczyk
 Mayor

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

Dexter W. Lehtinen
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	_____

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 THAT PORTION OF 17901 OLD CUTLER ROAD PRESENTLY ZONED INTERIM DISTRICT AND ADJACENT TO OLD CUTLER ROAD, CONSISTING OF APPROXIMATELY 20.5± ACRES, TO VILLAGE MIXED USE – SINGLE FAMILY RESIDENTIAL (VMU-SFR) DISTRICT; PROVIDING FOR ORDINANCES IN CONFLICT, CODIFICATION, SEVERABILITY, AND AN EFFECTIVE DATE. [Sponsored by Mayor Shelley Stanczyk].

WHEREAS, on June 6, 2008, the Mayor and Village Council created the zoning district Village Mixed Use (VMU), which provided for permitted uses and development standards thereto; and

WHEREAS, in creating the VMU, certain portions of the land originally encompassed by the zoning approvals that proceeded the VMU, were set aside with a zoning designation of Interim (I) which permits uses consistent with the trend of development as guided by the surrounding properties; and

WHEREAS, the Mayor of the Village of Palmetto Bay desires to sponsor an amendment to Village's Official Zoning Map which would provide within that set aside area, a sub-district within the VMU entitled Single Family Residential (VMU-SFR); and

WHEREAS, a companion ordinance offered in tandem with this ordinance provides for development regulations pertaining to the proposed VMU-SFR; and

WHEREAS, the proposed development standards incorporated into the companion ordinance seek to ensure to the maximum extent possible, continuation of the dense landscape buffer/screen as currently provided adjacent Old Cutler Road, and be limited to single family residential uses clustered in a fashion to preserve the natural fauna and wooded character of the property; and

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

WHEREAS, a rezoning request is reviewed under the standards found at Village of Palmetto Bay Code, Section 30-30.7(b); and

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

1 **WHEREAS**, the Mayor and Village Council of the Village of Palmetto Bay desire to rezone
2 the land described at Exhibit 1 from I, Interim to VMU-SFR, Village Mixed Use – Single Family
3 Residential Sub-District.
4

5 **BE IT ENACTED BY THE MAYOR AND VILLAGE COUNCIL OF THE**
6 **VILLAGE OF PALMETTO BAY, FLORIDA, AS FOLLOWS:**
7

8 **Section 1.** Recitals. The above referenced whereas clauses are true and correct and are
9 incorporated into this ordinance by reference. The amended Zoning Map is incorporated by
10 reference and attached hereto as Exhibit 1.
11

12 **Section 2.** Compliance with Criteria. In evaluating the rezoning, I, Interim Zoning
13 District to VMU-SFR, Village Mixed Use – Single Family Residential, the Palmetto Bay Village
14 Council is to apply the standard under 30-30.7(b) of the Village's Code. The map amendment is
15 attached and incorporated by reference herein as Exhibit 1.
16

17 **Section 3.** Re-zoning and Legal Description. The legal description of the property is
18 provided at Exhibit 1 and such property is rezoned to Village Mixed Use – Single Family Residential
19 Sub-District.
20

21 **Section 4.** Severability. The provisions of this ordinance are declared to be severable,
22 and if any section, sentence, clause or phrase of this ordinance shall for any reason be held to be
23 invalid or unconstitutional, such decision shall not affect the validity of the remaining sections,
24 sentences, clauses, and phrases of this ordinance but they shall remain in effect, it being the
25 legislative intent that this ordinance shall stand notwithstanding the invalidity of any part.
26

27 **Section 5.** Conflicts. All ordinances or parts of ordinances in conflict with the
28 provisions of this ordinance are repealed.
29

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

34 **PASSED and ENACTED** this ____ day of September, 2014.
35

36 First Reading: _____

37 Second Reading: _____
38

39 Attest: _____
40 Meighan Alexander
41 Village Clerk

Shelley Stanczyk
Mayor

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

Dexter W. Lehtinen
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 _____

EXHIBIT 1

Existing Zoning for 17777 Old Cutler Rd LLC



0 250 500
Feet

Created: 07/8/2014

 E-1
Estate - Single Family

 E-1C
Estate - Single Family

 E-2
Estate - Single Family

 E-M
Estate Modified - Single Family

 I
Interim District

 VMU
Village Mixed-Use

 Water



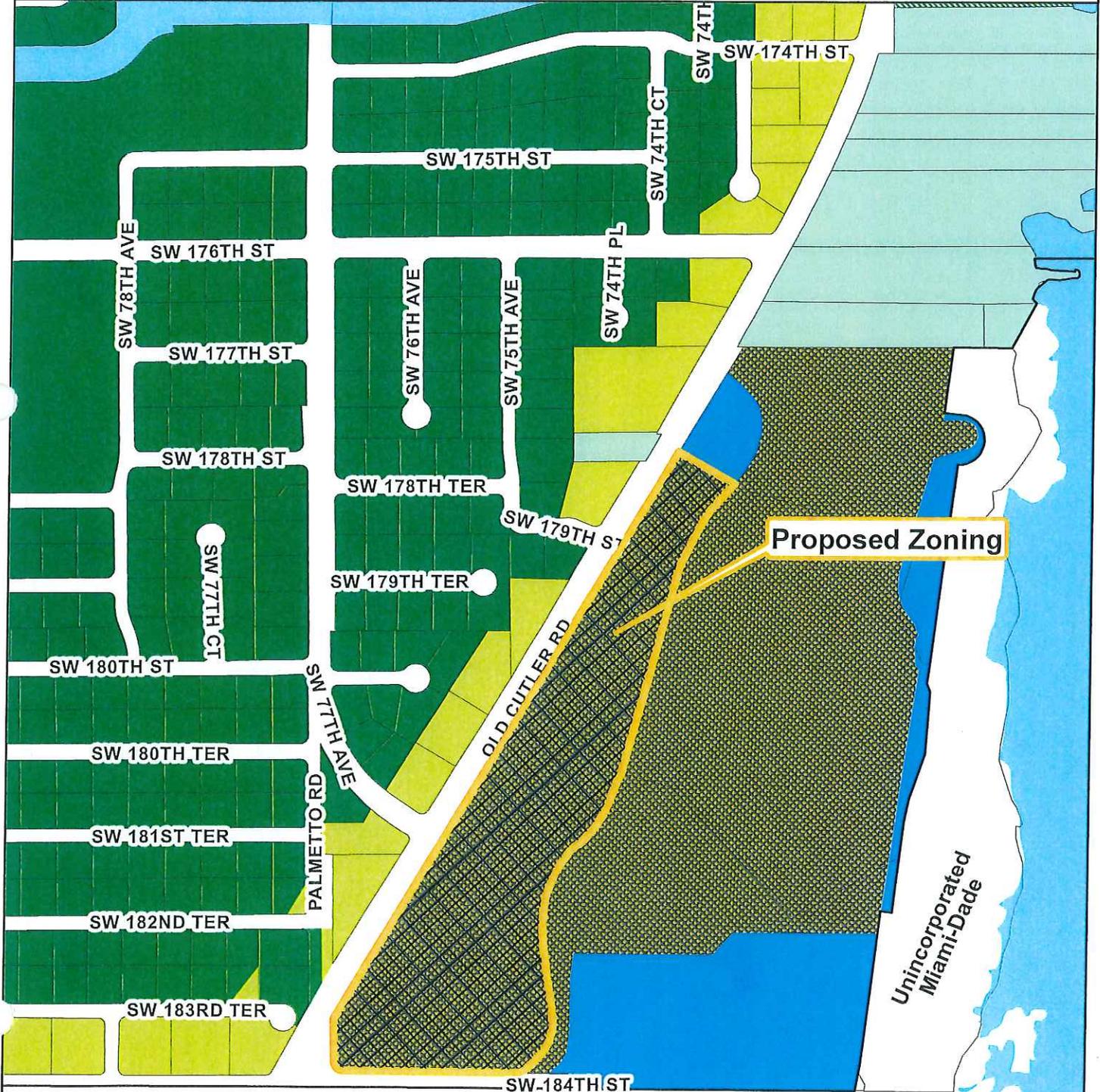
Proposed Zoning for 17777 Old Cutler Rd LLC

N



0 250 500
Feet
Created: 07/11/2014

- E-1
Estate - Single Family
- E-1C
Estate - Single Family
- E-2
Estate - Single Family
- VMU - SFR Subdistrict
- E-M
Estate Modified - Single Family
- I
Interim District
- VMU
Village Mixed-Use
- Water



Unincorporated
Miami-Dade

ORDINANCE NO. _____

**AN ORDINANCE OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, AMENDING SECTION 30-50.19, "VILLAGE MIXED-USE DISTRICT", TO PERMIT SINGLE FAMILY RESIDENTIAL USES, TOGETHER WITH APPLICABLE DEVELOPMENT REGULATIONS; PROVIDING FOR THE REPEAL OF ALL CODE PROVISIONS AND ORDINANCES INCONSISTENT WITH THIS ORDINANCE; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; AND PROVIDING FOR AN EFFECTIVE DATE.
[Sponsored by Mayor Shelley Stanczyk]**

WHEREAS, on June 6, 2008, the Mayor and Village Council created the zoning district Village Mixed Use (VMU), which provided for permitted uses and development standards thereto; and

WHEREAS, in creating the VMU, certain portions of the land originally encompassed by the previous zoning approvals that preceded the VMU, were set aside with a zoning designation of Interim (I) which permits uses consistent with the trend of development as guided by the surrounding properties; and

WHEREAS, the Mayor of the Village of Palmetto Bay desires to sponsor an amendment to Section 30-50.19 which would provide within that set aside area, a sub-district within the VMU entitled Single Family Residential (VMU-SFR), with specific development standards consistent with the general trend of development; and

WHEREAS, the proposed development standards are provided to ensure to the maximum extent possible, continuation of the dense landscape buffer/screen currently provided adjacent Old Cutler Road, and be limited to single family residential uses clustered in a fashion to preserve the natural fauna and wooded character of the property; and

WHEREAS, pursuant to Chapter 166, Florida Statutes, a change of permitted uses within a zoning district requires a two public hearings and a Land Planning Agency public hearing prior to approval of the rezoning by ordinance; and

WHEREAS, a rezoning request is reviewed under the standards found at Village of Palmetto Bay Code, Section 30-30.7(b); and

WHEREAS, to approve a zoning text amendment, the request must be consistent with the Village's Comprehensive Plan and a basic finding of compatibility must be rendered by the Village Council; and,

WHEREAS, the Mayor and Village Council of the Village of Palmetto Bay desire to amend Division 30-50.19.

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

Section 1. Recitals. The above recitals are true and correct and incorporated herein by this reference.

Section 2. Compliance with Criteria. In evaluating the amendment to Village Mixed Use District, the Palmetto Bay Village Council is to apply the standard under 30-30.7(b) of the Village's Code.

Section 3. Chapter 30, of the Village's Land Development Code, at Section 30-50.19 is amended to read as follows:

**DIVISION 30-50
ZONING DISTRICTS**

* * *

Sec. 30-50.19. Village Mixed Use District, VMU.

(a) *Purpose, intent and applicability.* The purpose of the Village Mixed Use District (VMU) is to offer residents and visitors an expanded range of opportunities to live and work within the village, by creating a mixed-use development with the characteristics of a pedestrian oriented neighborhood that promotes the health and wellbeing of its residents by encouraging physical activity, alternative transportation and greater social interaction. By enacting the VMU District, the village shall:

- (1) Create and preserve an interconnected system of green space to protect Biscayne Bay;
- (2) Create an inviting mixed-use, pedestrian-friendly environment and a new use predominately comprised of high-end housing for older persons;
- (3) Establish a postcard-quality town scene that will be a symbol of the caliber, character and identity of the Village of Palmetto Bay; and
- (4) Protect and enhance scenic Old Cutler Road, minimizing any visual impacts from proposed development.

~~Within the boundaries shown in attached Figure 1 shall constitute of the Village Mixed Use District exists the sub-district Single Family Residential (VMU-SFR), which shall solely be permitted for single family residential cluster development. boundary plan with all areas therein designated as zoned within the requirements of the ordinance.~~

(b) No provision in this section 30-50.2019 shall be applicable to any property lying outside the boundaries of the Village Mixed-Use District ("VMU").

(c) *Definitions.* Terms used throughout this zoning district, under sSection 30-50.2019 shall take their commonly accepted meaning unless otherwise defined in other Village Code provisions. Terms requiring interpretation specific to this zoning district are as follows:

* * *

Single Family Residential Cluster (SFRC): Detached dwelling units generally sited in clusters so as to preserve native and specimen trees and flora as much as reasonably possible, taking into account reasonable requirements for infrastructure. Such use shall be solely permitted with the VMU-SFR sub-district with an overall density not to exceed two (2) units per acre, thus to allow for open/naturally wooded areas devoid of structural improvements.

- (d) *Uses.* Uses are allowed in the VMU District as provided for in this subsection. However, these uses shall not be deemed or construed to prohibit a continuation of any structure, use or occupancy in the VMU that were existing as of the date of the effective date of this division.

(1) *Permitted uses: Village Mixed Use District.*

- a. *Residential uses.* Residential uses are permitted in the VMU as provided below in accordance with the ~~V~~Village's adopted ~~e~~Comprehensive ~~p~~Plan and the Declaration of Restrictive Covenants and the First Amendment to the Declaration of Restrictive Covenants recorded May 1, 1989 at Official Records Book 14089 at Pages 2349-52 and Official Records Book 12428 at Pages 923-1010, of the Public Records of Miami-Dade County, Florida, as may be amended from time to time and by the provisions of this section.
- i. Multi-family residential rowhouses/townhouses up to 100 units.
 - ii. Senior housing, intended to comply with F.S. § 760.29, in the form of multi-family condominiums or apartments up to 300 residential units.

* * *

(2) Village Mixed Use-Single Family Residential Sub-District.

- a. Single family residential cluster use is permitted with overall density not to exceed two (2) units per acre. Accessory servants quarters/guest houses shall be permitted when constructed above the garage of the principal structure.
- b. The first fifty (50) feet adjoining the eastern edge of the bike path along Old Cutler Road shall not contain any building structure and shall maximize tree canopy and landscaping in order to comply with any existing view corridor covenants. To the extent any plantings are required in the swale area east of the bike path, the property owner shall maintain same.
- c. No more than two curb cuts from the VMU-SFR shall be permitted so as to provide a common access point to subdivision lying therein.
- d. No individual single family residential property shall have direct access to Old Cutler Road. All access shall be through the common curb cuts provided above.

(3) *Prohibited uses.* Schools, public or private.

- (e) *General requirements.* These requirements shall not be deemed or construed to prohibit a continuation or restoration after casualty of any structure, use or occupancy in the VMU District that was existing as of the date of the effective date of this section.

(1) *Buildings.*

- a. *Heights.* All height restrictions herein are deemed as consistent with the intent of the previously enacted Village of Palmetto Bay Comprehensive Plan which established parameters for this VMU District. Furthermore, all height restrictions must remain in conformity with any existing deed restrictions, declarations, or covenants in effect as to any lands within the VMU District. Multi-family rowhouse/townhouse units shall not exceed 70 feet above grade in height. Multi-family senior housing facilities shall not exceed 85 feet above grade in height. Nonresidential buildings shall be no higher than 85 feet above grade in height. This shall not preclude, above such height restrictions, antennae, elevator and roof equipment, stairway roof access and railings or similar safety barrier, as long as said structures are not visible from the property line of the VMU District at Old Cutler Road. Maximum permitted height for homes built within the VMU-SFR shall not exceed 35 feet to the eave of the roof, with up to an additional 5 feet to the peak of the roof. Such home may have up to three stories provided the height does not exceed the height limitations above, and the third floor enclosed area does not exceed 500 square feet.

* * *

- c. *Building placement and buildable area:*

* * *

- ii. Minimum lot width, depth and size for single family residential: 15 minimum frontage on a private drive, minimum lot depth of 40 feet, minimum total square footage (all enclosures) on one (1) lot shall be 2,500 square feet.
- iii. *Maximum lot coverage:* Maximum lot coverage shall be 35 percent times gross lot area. The maximum lot coverage may be calculated by measurement of the entire VMU District with lot area coverage allocated by covenant or declaration of the property owners within the property. Areas covered by water features, access roads, seawalls, sidewalks and other installations which are not habitable building space shall be considered as open space in calculations under this division. Maximum permitted lot coverage within the VMU-SFR is 60 percent of the net lot area.

* * *

- e. *Density.* Overall density for all residential units on the property within the VMU, including senior housing facilities, shall be a minimum of 3.0 and a maximum of 14.0 dwelling units per gross acre, all as consistent with the

Comprehensive Plan of the Village. Maximum permitted overall density for the VMU-SFR shall not exceed two (2) units per acre.

* * *

g. *Parking:*

* * *

iii. *Multiple-family and single family dwelling units:* One parking space for each bedroom, up to two bedrooms, and then one parking space for every two bedrooms thereafter.

* * *

- (i) *Nonconforming structures, uses, and occupancies.* Nothing contained in this Section 30-50.2019 shall be deemed or construed to prohibit a continuation or restoration after casualty of a legal nonconforming structure, use or occupancy in the VMU District that was existing as of the effective date of this division.
- (j) *Review procedure/administrative site plan review.* All applications for development approval within the VMU District that are not otherwise permitted as nonconforming uses or structures shall comply with the requirements of Section 30-30.5 and this section and with the site plan review criteria contained therein. Developments shall be processed and approved administratively or by Village Council action, as applicable, as follows:

(1) *Administrative site plan review.*

- a. The department shall review plans, including all materials required under section 30-30.5 for completeness and compliance with the provisions of Sections 30-30.5 and 30-50.2019, and for compliance with the site plan review criteria provided therein, including but not limited to traffic analysis.

* * *

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

Section 5. Conflicts. The provisions of the Code of Ordinances of the Village of Palmetto Bay, Florida and all ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

Section 6. Codification. It is the intention of the Village Council and it is hereby ordained the provisions of this Ordinance shall become and be made part of the Code of Ordinances of the Village of Palmetto Bay, Florida, that sections of this Ordinance may be

renumbered or re-lettered to accomplish such intentions, and that the word "Ordinance" shall be changed to "Section" or other appropriate word.

Section 7. Effective Date. This ordinance shall take effect immediately upon enactment.

PASSED and ENACTED this ____ day of September, 2014.

First Reading: _____

Second Reading: _____

Attest: _____

Meighan Alexander
Village Clerk

Shelley Stanczyk
Mayor

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

Dexter W. Lehtinen
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 _____