



VILLAGE OF PALMETTO BAY

Mayor Eugene Flinn
Vice Mayor John DuBois
Council Member Karyn Cunningham
Council Member Tim Schaffer
Council Member Larissa Siegel Lara

Village Manager Edward Silva
Village Attorney Dexter Lehtinen
Village Clerk Meighan J. Alexander

In accordance with the Americans with Disabilities Act of 1990, persons needing special accommodation, a sign language interpreter, or hearing impaired to participate in this proceeding should contact the Village Clerk at (305) 259-1234 for assistance no later than four days prior to the meeting.

VILLAGE COUNCIL MEETING AGENDA Monday, March 7, 2016 - 7:00 pm Village Hall Chambers, 9705 E. Hibiscus Street (305) 259-1234

1. **CALL TO ORDER, ROLL CALL, PLEDGE OF ALLEGIANCE**
2. **DECORUM STATEMENT:** Any person making impertinent or slanderous remarks, or who becomes boisterous, while addressing the Council may be barred from further appearance before the Council by the Mayor, unless permission to continue or again address the Council is granted by a majority vote of the Council. Applauding speakers shall be discouraged. Heckling or verbal outbursts in support or opposition to a speaker, or his or her remarks, shall be prohibited. No signs or placards shall be allowed in the Council meeting. Persons exiting the Council meeting shall do so quietly. All cellular telephones and beepers are to be silenced during the meeting.
3. **PROCLAMATIONS, AWARDS, PRESENTATIONS**
 - A. Palmetto Senior High Girls Soccer Championship recognition
 - B. Proclamation for Bike 305 Month
 - C. Recognition of Michael Kesti
4. **APPROVAL OF MINUTES**
 - A. Special Council Meeting of January 21, 2016
 - B. Local Planning Agency Meeting of February 1, 2016
 - C. Regular Council Meeting of February 1, 2016
5. **REQUESTS, PETITIONS AND PUBLIC COMMENTS**

6. CONSENT AGENDA

- A. A RESOLUTION OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, RELATING TO ATTORNEYS' FEES; APPROVING ATTORNEYS' FEES AND COSTS FOR LEHTINEN SCHULTZ RIEDI CATALANO FUENTE, PLLC IN THE AMOUNT OF \$15,505; AND PROVIDING FOR AN EFFECTIVE DATE.

7. VILLAGE MANAGER'S REPORT

- A. Village Police Commander Report
- B. Information on Coral Gables Ordinance
- C. Miami-Dade Fire Rescue Annual Report
- D. Calendar update (Village Clerk)

8. VILLAGE ATTORNEY'S REPORT

9. BOARD AND COMMITTEE REPORTS - Minutes provided for Council's information, in lieu of verbal reports:

- A. Community Outreach Advisory Board – January 6, 2016
- B. Education Advisory Committee – January 5, 2016
- C. Palmetto Bay Partnership Advisory Committee – January 6, 2016
- D. Village Services Advisory Committee – January 6, 2016
- E. Art in Public Places Advisory Board – October 29, 2015

10. RESOLUTIONS

- A. A RESOLUTION OF THE VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA; SUPPORTING THE CITY OF HOMESTEAD'S RESOLUTION NO. R2015-12-130, URGING MIAMI-DADE COUNTY TO MOVE FORWARD WITH THE RELOCATION OF THE DADE COUNTY YOUTH FAIR (THE "FAIR") TO SOUTH DADE AND PROVIDING FOR AN EFFECTIVE DATE. (Sponsored by Councilwoman Karyn Cunningham)
- B. A RESOLUTION OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, RELATING TO PUBLIC SERVICES FLEET OPERATIONAL EQUIPMENT; AUTHORIZING THE VILLAGE MANAGER TO PIGGYBACK ONTO THE CITY OF KISSIMMEE, FLORIDA BID NUMBER BA2016-006; AND FURTHER AUTHORIZING THE VILLAGE MANAGER TO ISSUE A PURCHASE ORDER FOR THE PURCHASE OF A 2016 ALTEC LR-7 BUCKET TRUCK FROM ALTEC INDUSTRIES, INC. IN THE AMOUNT OF \$143,560; AND PROVIDING FOR AN EFFECTIVE DATE.

C. RESOLUTION CONCERNING SEAL/LOGO:

1. A RESOLUTION OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, RELATING TO THE VILLAGE OF PALMETTO BAY SEAL AND LOGO; DESIGNATING THE VILLAGE MANAGER TO AS THE VILLAGE COUNCIL DESIGNEE FOR THE PURPOSE OF AUTHORIZING THE USE OF THE VILLAGE SEAL (OFTEN REFERRED TO AS “LOGO”) IN SIGNAGE AND/OR MARKETING MATERIALS TO PROMOTE VILLAGE-SPONSORED EVENTS; REQUIRING THE VILLAGE MANAGER TO PROVIDE AN UPDATED LIST OF VILLAGE-SPONSORED EVENTS TO THE VILLAGE COUNCIL; AND PROVIDING FOR AN EFFECTIVE DATE.

OR – ALTERNATIVELY,

2. A RESOLUTION OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, RELATING TO THE VILLAGE OF PALMETTO BAY SEAL AND LOGO; AUTHORIZING THE VILLAGE MANAGER TO USE THE VILLAGE SEAL (OFTEN REFERRED TO AS “LOGO”) IN SIGNAGE AND/OR MARKETING MATERIALS FOR THE VILLAGE-SPONSORED EVENTS LISTED ON EXHIBIT A; AND PROVIDING FOR AN EFFECTIVE DATE.

11. RESOLUTIONS REQUIRING PUBLIC HEARING

A. A RESOLUTION OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, PURSUANT TO SECTION 30-30.15, ENTITLED TRANSFER OF DEVELOPMENT RIGHTS (TDR); TRANSFERRING 85 RESIDENTIAL UNITS FROM 17901 OLD CUTLER ROAD, AS MORE PARTICULARLY DESCRIBED AT ATTACHMENT A; TO 17777 OLD CUTLER ROAD, AS MORE PARTICULARLY DESCRIBED AT ATTACHMENT B; AND ACCEPTING BY THE VILLAGE, AS A CONDITION THEREOF, THE OWNERSHIP OF PARCELS OF APPROXIMATELY 40± ACRES, AS MORE PARTICULARLY DESCRIBED AT ATTACHMENT C, FOR PUBLIC FACILITIES, PARKS, AND CONSERVATION PURPOSES; AND PROVIDING FOR AN EFFECTIVE DATE. (Quasi-Judicial public hearing)

12. ORDINANCES FOR FIRST READING

A. 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 POLICY 1.1.3 OF THE VILLAGE’S COMPREHENSIVE PLAN LAND USE CATEGORY, “VILLAGE MIXED-

USE”, TO INCLUDE ALL PERMITTED RESIDENTIAL USES TO BE CLASSIFIED AS MULTIPLE FAMILY, AND TO PROVIDE A NOTATION REGARDING TRANSFER OF DEVELOPMENT RIGHTS CONSISTENT WITH POLICY 1.1.14 OF THE COMPREHENSIVE PLAN; PROVIDING FOR ORDINANCES IN CONFLICT, CODIFICATION, SEVERABILITY AND AN EFFECTIVE DATE. (Quasi-Judicial public hearing)

- B. 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 INCLUDE ALL PERMITTED RESIDENTIAL USES TO BE CLASSIFIED AS MULTIPLE FAMILY; TO ADJUST MAXIMUM PERMITTED HEIGHT FOR ALL BUILDINGS TO BE 85 FEET; AND TO PROVIDE A NOTATION THAT THE VMU ZONING DISTRICT IS ELIGIBLE TO PARTICIPATE IN SECTION 30-30.15 TRANSFER OF DEVELOPMENT RIGHTS; PROVIDING FOR ORDINANCES IN CONFLICT, CODIFICATION, SEVERABILITY AND AN EFFECTIVE DATE. (Quasi-Judicial public hearing)
- C. AN ORDINANCE OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, RELATING TO ZONING; AMENDING THE OFFICIAL ZONING MAP; CHANGING .98 ACRES (+/-), FROM E-1 ESTATE SINGLE FAMILY TO E-M ESTATE MODIFIED SINGLE FAMILY DISTRICT; FOR THE PROPERTY LOCATED AT 13650 SW 82ND COURT BEARING FOLIO 33-5022-000-0191, IN PALMETTO BAY, FLORIDA; PROVIDING FOR ORDINANCES IN CONFLICT, CODIFICATION, SEVERABILITY, AND AN EFFECTIVE DATE. (Public Hearing – Quasi-judicial hearing)
- D. AN ORDINANCE OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, RELATING TO ZONING; CREATING SECTION 30-70 OF THE LAND DEVELOPMENT CODE RELATING TO REQUIRED PARKING EXEMPTIONS; PROVIDING FOR ORDINANCES IN CONFLICT, CODIFICATION, SEVERABILITY AND AN EFFECTIVE DATE.
- E. AN ORDINANCE OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, RELATING TO THE FISCAL YEAR 2015-2016 BUDGET; AMENDING ORDINANCE NUMBER 2015-10; AMENDING THE VILLAGE’S BUDGET FOR THE 2015-2016 FISCAL YEAR; AUTHORIZING THE VILLAGE MANAGER TO TAKE ALL ACTIONS NECESSARY TO IMPLEMENT THE TERMS AND CONDITIONS OF THIS ORDINANCE; PROVIDING FOR ORDINANCES IN CONFLICT, CODIFICATION, SEVERABILITY AND AN EFFECTIVE DATE.

13. ORDINANCES FOR SECOND READING AND PUBLIC HEARING

- A. AN ORDINANCE OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA; RELATING TO PARKS AND RECREATION; AMENDING CHAPTER 20, ARTICLE 1, OF THE VILLAGE'S CODE OF ORDINANCE; PROVIDING FOR ORDINANCES IN CONFLICT, CODIFICATION, SEVERABILITY, AND AN EFFECTIVE DATE. (Sponsored by Councilwoman Karyn Cunningham)

- B. AN ORDINANCE OF THE VILLAGE OF PALMETTO BAY FLORIDA, MODIFYING CHAPTER 16 "ENVIRONMENT" BY CREATING ARTICLE V "EXPANDED POLYSTYRENE "STYROFOAM" FOOD SERVICE ARTICLES" AND PROVIDING FOR LEGISLATIVE INTENT, DEFINITIONS, PROHIBITIONS OF SALE OR USE BY VILLAGE CONTRACTORS, AND EXEMPTIONS; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTS; PROVIDING FOR CODIFICATION; AND PROVIDING FOR AN EFFECTIVE DATE. (Sponsored by Mayor Eugene Flinn and Councilwoman Karyn Cunningham)

- C. AN ORDINANCE OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, PERTAINING TO THE VILLAGE'S PARTICIPATION IN THE COMMUNITY RATING SYSTEM, "CRS"; ADDING REQUIRED ELEMENTS AND PROVIDING FOR OTHER ELEMENTS THAT MAY HAVE THE NET EFFECT OF LOWERING FLOOD INSURANCE PREMIUMS FOR THE RESIDENTS OF PALMETTO BAY; AMENDING, PURSUANT TO SECTION 30-30.7(b), SECTION 30-100.6, ENTITLED "FLOODPLAIN MANAGEMENT REGULATIONS" OF THE VILLAGE'S LAND DEVELOPMENT REGULATIONS; AND AMENDING, PURSUANT TO SECTION 553.73(5) OF THE FLORIDA BUILDING CODE, LOCAL ADMINISTRATIVE AND LOCAL TECHNICAL PROVISIONS OF THE FLORIDA BUILDING CODE PERTAINING TO THE DESIGN AND CONSTRUCTION OF BUILDINGS AND STRUCTURES IN FLOOD HAZARD AREAS; PROVIDING FOR ORDINANCES IN CONFLICT, REPEALER, CODIFICATION, SEVERABILITY AND AN EFFECTIVE DATE.

14. OTHER BUSINESS

- A. Cutler Bay Zoning matter (Council had placed the matter on the Agenda at the February 1st Council meeting; however, this matter is moot, as the zoning application in Cutler Bay has been withdrawn.)
- B. Update concerning Miami-Dade County Days by all participating members of Council
- C. Update concerning Cerebral Palsy 5K event
- D. Update concerning negotiations on Palmetto Bay Park appropriations

- E. Strategic Plan Meetings – attendance by Council (Councilwoman Siegel Lara)
- F. Discussion concerning signage along canal banks

15. COUNCIL COMMENTS

16. NEXT MEETING AND ADJOURNMENT

PURSUANT TO FLORIDA STATUTES 286.0105, THE VILLAGE HEREBY ADVISES THE PUBLIC THAT IF A PERSON DECIDES TO APPEAL ANY DECISION MADE BY THIS COUNCIL WITH RESPECT TO ANY MATTER CONSIDERED AT ITS MEETING OR HEARING, HE OR SHE WILL NEED A RECORD OF THE PROCEEDINGS, AND THAT FOR SUCH PURPOSE, THE AFFECTED PERSON MAY NEED TO ENSURE THAT A VERBATIM RECORD OF THE PROCEEDING IS MADE, WHICH RECORD INCLUDES THE TESTIMONY AND EVIDENCE UPON WHICH THE APPEAL IS TO BE BASED. THIS NOTICE DOES NOT CONSTITUTE CONSENT BY THE VILLAGE FOR THE INTRODUCTION OR ADMISSION OF OTHERWISE INADMISSIBLE OR IRRELEVANT EVIDENCE, NOR DOES IT AUTHORIZE CHALLENGES OR APPEALS NOT OTHERWISE ALLOWED BY LAW.

MINUTES OF THE SPECIAL COUNCIL MEETING
Thursday, January 21, 2016 - 6:30 pm
Village Hall Chambers, 9705 E. Hibiscus Street
Palmetto Bay, Florida

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

The meeting was called to order at 6:35 p.m.

The following members of the Village Council were present:

Mayor Eugene Flinn

Vice Mayor John DuBois

Council Member Karyn Cunningham (appeared via telephone)

Council Member Tim Schaffer

Council Member Larissa Siegel Lara

The following members of staff were present:

Village Manager Edward Silva

Village Attorney Dexter Lehtinen

Village Clerk Meighan J. Alexander

Attorney Lehtinen advised that there is legal precedence for allowing a Council member to hear the proceedings by telephone and to participate and comment. He stated that the public must be able to hear the Councilwoman.

Vice Mayor DuBois asked if the Councilwoman would be able to vote on the matter. Mayor Flinn replied that the Council will not be voting on matters.

2. **DECORUM STATEMENT:** Any person making impertinent or slanderous remarks, or who becomes boisterous, while addressing the Council may be barred from further appearance before the Council by the Mayor, unless permission to continue or again address the Council is granted by a majority vote of the Council. Applauding speakers shall be discouraged. Heckling or verbal outbursts in support or opposition to a speaker, or his or her remarks, shall be prohibited. No signs or placards shall be allowed in the Council meeting. Persons exiting the Council meeting shall do so quietly. All cellular telephones and beepers are to be silenced during the meeting.

3. **REQUESTS, PETITIONS AND PUBLIC COMMENTS:** No one wished to address the Council.

4. **DISCUSSION/DIRECTION CONCERNING STRATEGIC PLAN**

Mayor Flinn confirmed to the public that the broadcast currently on the television screens is the same as what is on the Council's monitors.

Ms. Michelle Ferguson of the Novak Group gave a presentation concerning the methodology and the documents reviewed. She reviewed the population and demographic data.

Councilman Schaffer remarked that the information that is being discussed by the Novak Group is outdated by over four years. He noted that the safety information was provided by the FBI. He asked why the police weren't asked to provide information.

Ms. Ferguson replied that they met with the police department and updated information would be helpful. Councilman Schaffer stated that 2012 information from the FBI is not valid and the Commander could provide accurate information. He asked why the information was not provided. Manager Silva advised that information was provided to the Consultants by the Planning Department; however, we would have the Police Department provide the information.

Ms. Ferguson continued with the presenting, providing information concerning stakeholders and other information gleaned from the survey.

Councilman Schaffer noted that the Council had previously expressed concerns regarding the survey and its accuracy. He stated that many survey responses were inaccurate and irrelevant questions were included. Ms. Julie Novak explained that the inaccurate information was removed. Councilman Schaffer expressed his disapproval with the survey and the data provided.

Ms. Novak concluded the presentation. Councilman Schaffer remarked that the Village needs to have a strong foundation in order to draft its strategic plan.

Ms. Novak stated that their firm is not a "survey" firm and the survey was designed to be qualitative in nature and her firm believes there is sufficient information as a result of the survey to move forward.

Councilwoman Siegel Lara remarked that while the Council has not been provided the level of information that she would have liked to receive, the information is currently consolidated, which is helpful. She explained that her assumption is that information is provided for the comparability factor, as it is relevant to see how Palmetto Bay is similar and different to other communities. She stated that the general precept of data being consolidated is valuable. Councilwoman Siegel Lara stated that the scope of this effort did not include commissioning a statistically relevant study and it was not part of the contract with the Novak Group.

Vice Mayor DuBois remarked that he believed 2015 information should have, minimally, been included. He stated that in 2015, 500 new employees came to the Village, being employed with the BUPA insurance company.

Councilwoman Cunningham thanked all for their comments, but noted that nothing in the environmental scan was surprising and that the Council should be familiar with the data provided. She shared Councilwoman Siegel Lara's opinion that all of the data being consolidated is valuable, as she believes the information validates what she believed to be correct. She concurred with Councilman Schaffer's view that the crime data should be up-to-date. Councilwoman Cunningham concluded that further surveys are necessary

and should be focused on specific areas of interest, once the Council has agreed on what those areas should be.

Ms. Novak reviewed the strategic plan framework.

Councilwoman Siegel Lara suggested that the Consultant seek the information from Council individually, through a phone conversation. She stated that the answers to each Councilperson's opinion could be provided in a table for ease in voting on each item.

Ms. Novak concurred, adding that they would include a column for their recommendation. The Council concurred that the Novak Group would call each member individually.

Discussion ensued regarding community input. The Council concurred that meeting by geography and also having a variety of times (morning, evening, weekend) would be the most productive way.

Attorney Lehtinen stated that if more than one Councilperson attends, public notice would have to be provided.

Councilwoman Siegel Lara stated that the Council should not be involved in the community meetings, as they may influence the outcomes.

Councilman Schaffer stated that the surveys should go where people are congregating -- local restaurants, etc. Councilwoman Siegel Lara stated that a "restaurant survey" is not the most effective, but the process does need to be convenient for the public. Councilman Schaffer said even visited the drop off locations at schools to seek parents' input would be valuable. Councilwoman Siegel Lara suggested that more than one community meeting is appropriate and the Consultant would seek Council's input on this matter.

Mayor Flinn suggested stating in the notice that these meetings are for the public, not for the Council, may increase attendance. Ms. Novak stated that having a meeting in the day, in the evening, and the weekend is the best way and they've been seeking a weekend that is not conflicting with a Village event.

Councilwoman Cunningham suggested that the picnic may be a good opportunity for seeking input, as it is well attended. She also suggested that promoting the upcoming strategic plan meetings at the Village events is an appropriate way to inform the public of the upcoming community input meetings.

Mayor Flinn suggested that the Community Outreach Committee meet with the Novak Group to discuss the matter. Ms. Novak stated that she would not be available for the Community Outreach's February 5th meeting. She explained that she would contact the Council next week.

Councilwoman Siegel Lara confirmed that as the Consultants will be contacting the Council in February, the community input/outreach will be considered in March. Ms. Novak stated that they would have informed provided to the Council in February.

Attorney Lehtinen stated that the Consultant can interview the Council members, but he cautioned Council members not to discuss the matter outside of a publicly-noticed meeting.

5. NEXT MEETING AND ADJOURNMENT

The meeting adjourned at 6:50 pm.

Prepared and submitted by:

*Meighan J. Alexander, CMC
Village Clerk*

Approved by the Village Council on this ____ day of March, 2016.

Eugene Flinn, Mayor

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

VILLAGE OF PALMETTO BAY
Minutes of the Local Planning Agency Meeting of February 1, 2016
Village Hall Chambers
9705 East Hibiscus Street

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

The meeting was called to order at 7:40 p.m.

The following members of the Village Council were present:

Mayor Eugene Flinn
Vice Mayor John DuBois
Council Member Karyn Cunningham
Council Member Tim Schaffer
Council Member Larissa Siegel Lara

The following members of staff were present:

Village Manager Edward Silva
Village Attorney Dexter Lehtinen
Village Clerk Meighan J. Alexander

2. **DECORUM STATEMENT:** Any person making impertinent or slanderous remarks, or who becomes boisterous, while addressing the Council may be barred from further appearance before the Council by the Mayor, unless permission to continue or again address the Council is granted by a majority vote of the Council. Applauding speakers shall be discouraged. Heckling or verbal outbursts in support or opposition to a speaker, or his or her remarks, shall be prohibited. No signs or placards shall be allowed in the Council meeting. Persons exiting the Council meeting shall do so quietly. All cellular telephones and beepers are to be silenced during the meeting.

3. **ORDINANCES FOR SECOND READING/PUBLIC HEARING**

- A. 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, RELATING TO THE VILLAGE'S COMPREHENSIVE PLAN; AMENDING THE COASTAL MANAGEMENT ELEMENT BY ADDING POLICY 5.4.5 TO PROVIDE LANGUAGE ADOPTING THE STATE OF FLORIDA COASTAL HIGH HAZARD AREA MAP; PROVIDING FOR ORDINANCES IN CONFLICT, CODIFICATION, SEVERABILITY AND AN EFFECTIVE DATE. (Included in Regular Agenda package as Item 13C)

Councilwoman Cunningham moved this item forward. Seconded by Councilman Schaffer.

Planning & Zoning Director Darby Delsalle provided staff report, noting that this matter moves forward the completion of the Village's Comprehensive Plan. He advised that the State had returned revised language to the staff. He stated that staff recommends approval.

Mayor Flinn opened the public hearing. Mr. Eric Tullberg, 7884 SW 179 Terrace, asked whether the height would be one foot above flood level.

Director Delsalle replied that Mr. Tullberg's question is actually related to a different Ordinance concerning the flood plain.

No other individuals wished to address the Council. The public hearing was closed.

Mayor Flinn called the question on approval of the matter, moving it forward to the Regular Council meeting. All voted in favor, following roll call vote. The matter passed unanimously (5-0) and is scheduled for the Regular Council meeting.

4. NEXT MEETING AND ADJOURNMENT

The meeting adjourned at 7:50 pm.

Prepared and submitted by:

*Meighan J. Alexander, CMC
Village Clerk*

Approved by the Village Council on this ____ day of March, 2016.

Eugene Flinn, Mayor

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

VILLAGE OF PALMETTO BAY
Minutes of the Regular Council Meeting of February 1, 2016
Village Hall Chambers
9705 East Hibiscus Street

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

The meeting was called to order at 7:10 p.m.

The following members of the Village Council were present:

Mayor Eugene Flinn
Vice Mayor John DuBois
Council Member Karyn Cunningham
Council Member Tim Schaffer
Council Member Larissa Siegel Lara

The following members of staff were present:

Village Manager Edward Silva
Village Attorney Dexter Lehtinen
Village Clerk Meighan J. Alexander

Mayor Flinn asked the Brownies to lead the pledge. He and Councilwoman Cunningham asked Officer Frederico Lopez (a former elementary student of the Councilwoman's) to come forward and join the young ladies in leading the pledge of allegiance.

- 2. DECORUM STATEMENT:** Any person making impertinent or slanderous remarks, or who becomes boisterous, while addressing the Council may be barred from further appearance before the Council by the Mayor, unless permission to continue or again address the Council is granted by a majority vote of the Council. Applauding speakers shall be discouraged. Heckling or verbal outbursts in support or opposition to a speaker, or his or her remarks, shall be prohibited. No signs or placards shall be allowed in the Council meeting. Persons exiting the Council meeting shall do so quietly. All cellular telephones and beepers are to be silenced during the meeting.

3. PROCLAMATIONS, AWARDS, PRESENTATIONS

- A. Brownies of Troop Girl Scout Troop 328 regarding water conservation: The Brownies came forward and provided a presentation regarding water conservation.
- B. Teachers of the Year and Rookie Teachers of the Year recognitions: Mayor Flinn, the Council, and Dr. Feldman provided each teacher with a certificate of recognition from the Village and a medal from the Miami-Dade County School Board.

- C. Presentation to Palmetto Senior High School PTSA – Color Run 2015: Mayor Flinn, Dr. Feldman, and the Council thanked all who participated in the event. Ms. Anna Hochhammer, President of the PTSA, and Principal Victoria Dobbs thanked the Council.

The meeting took a recess in order to convene the Local Planning Agency Meeting.

4. APPROVAL OF MINUTES

- A. Minutes of the Special Council Meeting of December 14, 2015 (6 pm meeting)
- B. Minutes of the Local Planning Agency Meeting of December 14, 2015
- C. Minutes of the Special Council Meeting of December 14, 2015
- D. Minutes of the Local Planning Agency Meeting of January 4, 2016
- E. Minutes of the Regular Council Meeting of January 4, 2016

Vice Mayor DuBois moved to approve the Minutes, as drafted. Seconded by Councilwoman Cunningham. All voted in favor.

- 5. REQUESTS, PETITIONS AND PUBLIC COMMENTS:** The following individuals addressed the Council: Antao Chen, 8601 SW 140 Terrace; and Eric Tullberg.

6. CONSENT AGENDA

- A. A RESOLUTION OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, RELATING TO ATTORNEYS' FEES; APPROVING ATTORNEYS' FEES AND COSTS FOR LEHTINEN SCHULTZ RIEDI CATALANO FUENTE, PLLC, IN THE AMOUNT OF \$15,417; AND PROVIDING AN EFFECTIVE DATE. (Village Attorney)
- B. A RESOLUTION OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, RELATING TO OFFICE EQUIPMENT; AUTHORIZING THE VILLAGE MANAGER TO ENTER INTO A 36-MONTH LEASE AGREEMENT WITH RICOH USA, INC., FOR TWO MULTI-FUNCTION PHOTOCOPIERS, THROUGH UNIVERSITY OF SOUTH FLORIDA CONTRACT ITN# 9-13-G; AND PROVIDING FOR AN EFFECTIVE DATE.
- C. A RESOLUTION OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, RELATING TO PUBLIC SERVICES FLEET OPERATIONAL EQUIPMENT; AUTHORIZING THE VILLAGE MANAGER TO PURCHASE A 2010 INTERNATIONAL 4300 BUCKET TRUCK-BOOM TRUCK FROM HOLLYWOOD KIA OF HOLLYWOOD, FLORIDA; AND FURTHER AUTHORIZING THE VILLAGE MANAGER TO ISSUE A PURCHASE ORDER AND EXECUTE

AN AGREEMENT FOR THE EXPENDITURE OF BUDGETED FUNDS IN AN AMOUNT NOT TO EXCEED \$60,000; VEHICLE PURCHASE SHALL INCLUDE LICENSING AND REGISTRATION; AND PROVIDING FOR AN EFFECTIVE DATE.

Vice Mayor DuBois moved to pull the item from Consent and hear in the Resolutions section of the Agenda. Seconded by Councilwoman Cunningham. All voted in favor (5-0.)

- D. A RESOLUTION OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, RELATING TO CIVIL ENGINEERING DESIGN SERVICES FOR SAFE ROUTES TO SCHOOL (SRTS) INFRASTRUCTURE IMPROVEMENTS NEAR CORAL REEF ELEMENTARY SCHOOL AND PERRINE ELEMENTARY SCHOOL WITHIN THE VILLAGE OF PALMETTO BAY; AUTHORIZING THE VILLAGE MANAGER TO NEGOTIATE A CONTRACT AGREEMENT WITH R.J. BEHAR, INC., A VILLAGE PRE-QUALIFIED CONTINUING SERVICES ENGINEER FOR CIVIL ENGINEERING SERVICES TO DESIGN (SRTS) INFRASTRUCTURE IMPROVEMENTS; AND PROVIDING FOR AN EFFECTIVE DATE.

Mayor Flinn called the question to approve the remaining Consent items. Items 6 A, B, and D were passed unanimously (5-0.)

7. VILLAGE MANAGER'S REPORT

- A. Budget to Actuals
Finance Director Desmond Chin provided a report for the first Quarter Budget to Actuals. He reported that the Village has a surplus of \$2.6 million primarily due to receiving most of the expected ad valorem revenues. He noted that expenditures are 4% under budget, resulting in approximately \$570,000 of the surplus. He estimates \$47,000 surplus by the end of the budget year. He explained that the Village Attorney's budget is showing zero due to the invoice not being paid until the January 2016 cycle.

Mayor Flinn asked if all budgeted services are being delivered. Director Chin stated that some of the Village's larger expenditures occur later in the year, such as Summer Camp. He stated that ad valorem is "front loaded", which is why it is being represented at this time.

Councilman Schaffer asked if Director Chin can predict any issues that may affect revenues or expenditures. Director Chin replied that he did not foresee any issues.

Councilwoman Siegel Lara asked why Facilities Maintenance was significantly under budget. Director Chin stated that the savings is due to contractor fees not being required due to the new structure of the Department.

Councilwoman Cunningham asked if the vacancies will be filled, noting the Human Resources Department is under budget. Director Chin stated that the positions are in the process of being filled.

Manager Silva explained that staff is performing projects that were previously contracted; and, those type of initiatives result in cost savings.

Manager Silva stated that two more traffic calming workshops will be held in the near future and staff is working on a comprehensive village-wide traffic effort, which will be presented to the Council in the near future. Additionally, the Village will be planning Town Hall meetings with regard to master plan amendments for parks, which will be reflective of residents' input. He noted that he and Mayor Flinn had met with several community mayors concerning Light Rail Transportation. He reported that Miami-Dade County has voted to allow the Village's IBus to use the County busways. Manager Silva stated that the Village anticipates receiving the \$7.5 million grant from the County and will report to the Council as information is received. He announced that the Florida Department of Transportation has reported that a grantee has withdrawn from the recent grant cycle, which results in the Village's Highway Beautification grant being increased by \$32K.

Manager Silva stated that he had received phone calls from the representatives of the Veterans in Palmetto Bay concerning discussing the veterans' park. Clerk Alexander stated that the Administrative Advisory Committee has not been fully seated; therefore, the Veterans' Park Advisory Committee cannot be filled.

Manager Silva stated that Palmer Trinity had provided the three bicycle repair stations that were agreed upon and the School has asked that they be permitted to install a sign stating they donated this amenity.

Manager Silva stated that the Strategic Plan consultants would like to schedule community input meetings; and, staff would be working with the Consultants.

- B. Village Police Commander Report: Lieutenant Maria Guerra came forward and presented an update concerning traffic enforcement and crime statistics.
- C. Calendar update (Village Clerk): Clerk Alexander provided the calendar update.

8. **VILLAGE ATTORNEY'S REPORT:** Attorney Lehtinen provided an update concerning the Alexander Montessori School litigation, noting that the Village had responded to Interrogatories. He stated that he assumes the matter will not be a

contestable legal battle, but the Village did object to certain items, as they sought legal conclusions, rather than actual facts.

Attorney Lehtinen explained the difference between a Council person as a member of an Advisory Board and serving as a non-member liaison. He noted that a Resolution clarifying the matter was drafted for Council consideration.

Attorney Lehtinen explained that two "time sensitive" items are provided for consideration at this meeting: a Resolution concerning the Village's opinion regarding Light Rail Transportation; and a Resolution confirming the installation of a score board at Coral Reef Park, seeking authorization for sponsorships.

Councilman Schaffer moved to add items 10E and 10F, as explained by the Village Attorney. Seconded by Councilwoman Cunningham. All voted in favor. The motion passed unanimously (5-0.)

9. BOARD AND COMMITTEE REPORTS - Minutes provided for Council's information, in lieu of verbal reports:

- A. Education Advisory Committee – December 2, 2015
- B. Community Outreach Advisory Committee – December 9, 2015
- C. Village Services Committee – November 4, 2015: Members of the Committee: Mr. Eric Eikenberg, 8041 SW 182 Street, and Mr. Robert Buzzelli, 17140 SW 86 Avenue, came forward and advised that Council that the Committee met and were notified of an ordinance concerning fees in the Village. Mr. Eikenberg stated that significant discussion was held and a unanimous decision was made by the Committee, asking for the Council to delay second reading until the Village Services Committee can meet again to understand the fee structure. Mr. Buzzelli concurred, stating that the Committee would like the matter to be postponed.

10. RESOLUTIONS

- A. A RESOLUTION OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, RELATING TO PALMETTO BAY PARK; RELATING TO THE PARKS MASTER PLAN; AMENDING THE ESTABLISHED PREFERENCE OF USE FOR THE FIELDS AT PALMETTO BAY PARK FROM PRIORITY USE WITH RIGHT OF FIRST REFUSAL TO EXCLUSIVITY FOR GIRLS' SOFTBALL USE; PROVIDING AN EFFECTIVE DATE. (Sponsored by Vice Mayor John DuBois and Councilwoman Karyn Cunningham)

Councilman Schaffer moved this item forward. Seconded by Vice Mayor DuBois.

Councilwoman Siegel Lara asked if the Parks & Recreation Advisory Committee had provided input on this item.

Vice Mayor DuBois provided the history of the Palmetto Bay Park softball fields and how the fields were designated in 2009 for preferential use for girls' softball. He explained that this proposed Resolution would make the fields exclusive for the girls. He stated that Florida Representative Frank Artiles advised that funding would be available in the amount of \$250,000 if these fields were for use exclusively as all-girls softball fields. He noted that this funding may be an opportunity to make significant improvements at the Park using State funding. He concluded that there has not been a problem with boys needing to use the fields due to the fields at Coral Reef Park.

Councilwoman Cunningham stated that she co-sponsored the items, as this may provide a unique opportunity to set Palmetto Bay apart. She added that this Resolution will provide grant opportunities.

Councilwoman Siegel Lara asked if community input was provided.

Discussion ensued. Vice Mayor DuBois noted that this matter was not a modification to the master plan; therefore, a public hearing was not required. He added that this Resolution does not change the configuration of the park.

Councilwoman Siegel Lara stated that she is not opposed; however, the residents of District 3 have voiced concerns about the activities at Palmetto Bay Park. She asked why Coral Reef did not have this type of designation.

Vice Mayor DuBois there are nine fields within Palmetto Bay; three fields in Coral Reef Park. He stated that two of the fields in Coral Reef Park can be used for softball, and all of the six fields in Palmetto Bay Park can be used for softball.

Councilwoman Siegel Lara asked if approval of the Resolution would make Palmetto Bay eligible for the grant dollars and not risk losing other types of funding. Vice Mayor DuBois noted that the FRDAP funding was addressed during the 2009 resolution and he did not believe a state grant would conflict with any other state grants. He stated that if the grants did conflict with each other, the Village could address it at that time.

Mayor Flinn commented that Representative Artiles provided \$200,000 in the previous year's budget, which was vetoed last year. Vice Mayor DuBois committed to working to make certain that the matter would not be vetoed.

Mayor Flinn asked if the intent was to upgrade the six fields. Vice Mayor DuBois stated that he would leave that matter to the Committee and the Village would meet with Committees in advance of negotiating and accepting any grant.

Mayor Flinn noted that there were people in the audience who wished to be heard. The following individuals addressed the Council: Andy Gower, 13600 SW 73 Avenue; Tad Bower, 9375 SW 178 Terrace; Ben Barlow, 7840 SW 183 Terrace; and Victor Vincent, 14725 SW 79 Court.

Mayor Flinn remarked that the creation of Palmetto Bay Park was not without contention in the past; however, it has developed into a great park and it is important to insure that the girls continue to have a place to place. He concluded that this Resolution does not and is not intended to change the master plan; rather, it gives the fields to the girls, which was the intention from the beginning.

Mayor Flinn called the question to approve. All voted in favor. The Resolution passed unanimously (5-0.)

- B. A RESOLUTION OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, RELATING TO ADVISORY COMMITTEES AND BOARDS; PROVIDING THAT MEMBERS OF THE VILLAGE COUNCIL WHO SERVE AS LIAISON TO ANY VILLAGE ADVISORY COMMITTEE OR BOARD ARE NOT MEMBERS OF SUCH ADVISORY COMMITTEE OR BOARD AND THE LIAISON SHALL NOT BE INCLUDED IN THE RECORDED ROLL CALL OF THE ADVISORY COMMITTEE OR BOARD; PROVIDING THAT PARTICIPATION IN ADVISORY COMMITTEE OR BOARD MEETINGS BY A MEMBER OF THE VILLAGE COUNCIL SERVING AS LIAISON SHALL BE GOVERNED BY THE SAME PRINCIPLES AND PROCEDURES WHICH OTHERWISE GOVERN PARTICIPATION BY MEMBERS OF THE PUBLIC; PROVIDING AN EFFECTIVE DATE (Sponsored by Village Attorney Lehtinen).

Councilman Schaffer moved this item forward. Seconded by Vice Mayor DuBois.

Attorney Lehtinen provided his report, explaining that this matter clarifies the understanding of what is defined as a member versus the definition of a liaison. He added that Councilmembers are not ex-officio members.

Mayor Flinn clarified that this Resolution would allow Council to communicate with the Boards. Attorney Lehtinen concurred, adding that the liaison cannot act as a liaison between two members of the same Board, but can speak to individual members outside of a public meeting.

Following brief discussion, Mayor Flinn called the question in favor of the Resolution. All voted in favor. The Resolution passed unanimously (5-0.)

- C. A RESOLUTION OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, RELATING TO

CONTRACTS; TERMINATING THE AGREEMENT WITH NOVAK CONSULTING GROUP FOR THE DEVELOPMENT OF A MULTI-YEAR STRATEGIC PLAN; AND PROVIDING FOR AN EFFECTIVE DATE. (Sponsored by Councilman Tim Schaffer.)

Councilman Schaffer moved this item forward. Seconded by Councilwoman Siegel Lara.

Councilman Schaffer expressed his displeasure with the process, stating that the scope of service was not crafted sufficiently in order to receive the results desired.

Vice Mayor DuBois stated that he does not believe that this matter should be performed by staff. He asked whether the deficiencies could be resolved through better communications between the consultant and staff.

Councilman Schaffer replied that he believes the problem is that the consultant is performing the job as defined by the scope of services, which is not sufficient. He stated that the Village has the information and staff has the ability to facilitate this effort.

Following brief discussion, Councilwoman Cunningham remarked that while she does not agree with all of Councilman Schaffer's statements, she believes that re-directing the vendor is appropriate. She stated that she was impressed with the environmental scan. She noted that she spoke with the consultant and believes the Village should move forward with the next steps.

Councilman Schaffer stated that the consultants had confirmed that they are unable to prepare the surveys as the Village wishes them to be prepared.

Manager Silva stated that there seemed to be miscommunication between staff and the Consultant, as the consultant had specifically asked for information to be downloaded from a website, which was later discovered to contain information outside the municipal boundaries.

Brief discussion ensued. Mayor Flinn called the question to approve the Resolution. The motion failed (1 to 4, Councilman Schaffer being in sole support.)

- D. A RESOLUTION OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, RELATING TO PUBLIC SERVICES FLEET OPERATIONAL EQUIPMENT; AUTHORIZING THE VILLAGE MANAGER TO PURCHASE A 2010 INTERNATIONAL 4300 BUCKET TRUCK-BOOM TRUCK FROM HOLLYWOOD KIA OF HOLLYWOOD, FLORIDA; AND FURTHER AUTHORIZING THE VILLAGE MANAGER TO ISSUE A PURCHASE ORDER AND EXECUTE AN AGREEMENT FOR THE EXPENDITURE OF BUDGETED FUNDS

IN AN AMOUNT NOT TO EXCEED \$60,000; VEHICLE PURCHASE SHALL INCLUDE LICENSING AND REGISTRATION; AND PROVIDING FOR AN EFFECTIVE DATE.

Councilwoman Cunningham moved this item forward. Councilman Schaffer seconded.

Manager Silva provided staff report and explained that this equipment is “lightly used” and will assist with tree maintenance and right-of-way management. He explained that there is currently a grant in the amount of \$20,000 that will off-set some of the cost of this equipment.

Vice Mayor DuBois expressed that there is a discrepancy in the figures provided, as the caption should read \$40,000, since the grant will pay \$20,000. He stated that the hydraulic maintenance of this type of equipment is extensive and that he is not in favor of purchasing a piece of equipment that normally cost over \$150,000, as he is skeptical of its condition.

Mayor Flinn called the question to approve. The motion failed (1 to 4, Councilman Schaffer being in sole support.)

- E. A RESOLUTION OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, AUTHORIZING THE MAYOR TO EXECUTE CORRESPONDENCE, JOINING ELECTED OFFICIALS OF SOUTH MIAMI-DADE COUNTY IN EXPRESSING SUPPORT FOR THE IMPLEMENTATION OF LIGHT-RAIL TRANSPORTATION; FURTHER REQUESTING THAT THE CURRENT CITIZENS' INDEPENDENT TRANSPORTATION TRUST 2.0 ANALYSIS INCLUDE LIGHT-RAIL TRANSPORTATION; AND PROVIDING AN EFFECTIVE DATE (Sponsored by Mayor Eugene Flinn)

Vice Mayor DuBois moved this item forward. Seconded by Councilman Schaffer.

Mayor Flinn advised that while County buses need to be updated, the community must consider transit for the future, a “vibrant downtown” needs light rail that will get the cars off the road. He stated that he would like authorization to sign on to Representative McGhee’s effort.

Following brief discussion, Councilwoman Siegel Lara expressed that service is the most vital component, not simply the mode of transportation. She expressed her concern that the MPO will determine that there is opposition to the current transit system and not offer much needed improvements.

Mayor Flinn replied that Metrorail is full of riders and the MPO must recognize that the South Dade communities need to part of the conversation.

Vice Mayor DuBois stated that light rail is necessary for a successful downtown.

Councilwoman Cunningham expressed her full support, adding that there are several Bills in the State legislature currently to address this. She explained that the local delegation recognizes that a better, faster mode of transportation throughout South Dade and points west is necessary.

Mayor Flinn called the question to approve the Resolution. All voted in favor. The Resolution passed unanimously (5-0.)

- F. A RESOLUTION OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, RELATING TO PARKS; APPROVING THE PURCHASE OF A SCOREBOARD FOR THE CORAL REEF PARK BASEBALL FIELDS FOR THE AMOUNT OF \$24,900; AUTHORIZING THE VILLAGE MANAGER TO SEEK SPONSORSHIP OPPORTUNITIES TO MITIGATE THE VILLAGE COST; AND PROVIDING AN EFFECTIVE DATE.

Manager Silva provided staff report. He stated that this project has been in process for almost two years and staff would like approval and authorization to actively find sponsorship opportunities to mitigate the cost of the scoreboard.

Mayor Flinn asked the cost of the six scoreboards at Palmetto Bay Park. Manager Silva stated there was sponsorship from a private company; the Village only paid for installation.

Vice Mayor DuBois remarked that he is not opposed, but wondered why it is time-sensitive. Manager Silva replied that there are sponsors interested.

All voted in favor of the Resolution. The matter passed unanimously (5-0.)

11. **RESOLUTIONS REQUIRING PUBLIC HEARING:** None scheduled.

12. **ORDINANCES FOR FIRST READING**

- A. AN ORDINANCE OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, RELATING TO ZONING; AMENDING THE OFFICIAL ZONING MAP; CHANGING .98 ACRES (+/-), FROM E-1 ESTATE SINGLE FAMILY TO E-M ESTATE MODIFIED SINGLE FAMILY DISTRICT; FOR THE PROPERTY LOCATED AT 13650 SW 82ND COURT BEARING FOLIO 33-5022-000-0191, IN PALMETTO BAY, FLORIDA; PROVIDING FOR ORDINANCES IN CONFLICT, CODIFICATION, SEVERABILITY, AND AN EFFECTIVE DATE.

Vice Mayor DuBois moved this item forward. Seconded by Councilwoman Cunningham.

Director Delsalle provided staff report. Attorney Lehtinen stated that this matter would be treated as a quasi-judicial matter on final passage.

Vice Mayor DuBois asked whether it would be appropriate to allow for the matter to be treated as quasi-judicial at this hearing. Mayor Flinn stated that the applicant could, in the future, come before the Council and seek to split the lot; and, at that time, the standard of review would be different.

Attorney Lehtinen explained that if the application changes the land use, it is advisable to give those who are presented to the Council the right to a quasi-judicial hearing. He suggested that it would be appropriate to allow someone to testify.

Vice Mayor DuBois noted that neighbors have not been given notice. He suggested that the matter be treated as if it were a zoning hearing, with posting and signage. Councilwoman Cunningham concurred.

Vice Mayor DuBois moved to defer the matter in order to provide a 30-day notice. Seconded by Councilwoman Siegel Lara.

Attorney Jerry Proctor, 1450 Brickell Avenue, as recognized, representing Harry Hollub who has a contract to purchase the property. He stated that the boundary change would align the property with the adjoining area. He noted that there are 36 days between tonight and second reading and he would prefer this matter be considered on first reading and conduct a public hearing for second.

Following discussion, Councilman Schaffer remarked that the application seems as if the request is not being made by a homeowner seeking the change; but, rather, the change being made for the benefit of a future development. Vice Mayor DuBois stated that the request is legal. Councilman Schaffer agreed, adding; however, that this is request is being made as part of a business transaction, not the homeowner seeking the matter.

Attorney Proctor remarked that it is common in a rezoning proceeding to have a transaction pending. The owner has been living on the property for over 40 years and now wishes to sell the parcel; however, the parcel is almost an acre, with all other neighbors having half-acre or less. He stated that the buyer wishes to build two homes.

Vice Mayor DuBois withdrew his previous motion.

Councilman Schaffer moved to defer the matter to the next Council meeting for first reading and post and notice the hearing as if it were a zoning hearing. Seconded by Councilwoman Siegel Lara.

Vice Mayor DuBois asked if Councilman Schaffer intends to have a public hearing on first and second reading. Councilman Schaffer said he would, if the matter passes on first reading. Councilwoman Siegel Lara clarified the intent is notice and treat this matter as if it were a zoning matter before the first public hearing occurs. The motion passed unanimously (5-0.)

- B. 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, RELATING TO A LARGE SCALE AMENDMENT OF THE FUTURE LAND USE MAP (FLUM) CONSISTENT WITH 163.3161 AND 163.3184, FLORIDA STATUTES; CHANGING THE LAND USE DESIGNATION OF CERTAIN LANDS WITHIN THE DOWNTOWN AREA OF THE VILLAGE OF PALMETTO BAY, AS FURTHER DESCRIBED AT ATTACHMENT A, FROM LOW DENSITY RESIDENTIAL, LOW MEDIUM RESIDENTIAL, AND MEDIUM RESIDENTIAL MEDIUM, TO FRANJO ACTIVITY CENTER (FAC); AND AMENDING THE VILLAGE'S COMPREHENSIVE PLAN'S LAND USE CATEGORY, FAC; ADJUSTING THE NUMBER OF UNITS PERMITTED WITHIN THE FAC FROM 5,389 TO 5,661; PROVIDING FOR TRANSMITTAL TO THE DEPARTMENT OF ECONOMIC OPPORTUNITY; PROVIDING FOR ORDINANCES IN CONFLICT, CODIFICATION, SEVERABILITY, AND AN EFFECTIVE DATE.

Councilwoman Siegel Lara moved this item forward. Seconded by Councilman Schaffer.

Director Delsalle provided staff report.

Mayor Flinn opened the public hearing. No one wished to be heard.

Mayor Flinn called the question to approve. All voted in favor. The matter passed on first reading (5-0.)

- C. AN ORDINANCE OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, RELATING TO ZONING; AMENDING SECTION 30-50.23, ENTITLED "DOWNTOWN URBAN VILLAGE", TO INCLUDE THE AMENDED PAGES AT ATTACHMENT A; AND AMENDING THE OFFICIAL ZONING MAP BY CHANGING THE ZONING OF THOSE LANDS EFFECTED AS DESCRIBED AT ATTACHMENT B, FROM AG, AGRICULTURAL DISTRICT; R-1, SINGLE FAMILY DISTRICT; R-2; TWO FAMILY RESIDENTIAL, R-3M APARTMENT DISTRICT; R-4L, LIMITED APARTMENT DISTRICT; AND I, INTERIM DISTRICT; TO DOWNTOWN URBAN VILLAGE DISTRICT; IN PALMETTO BAY, FLORIDA; PROVIDING FOR ORDINANCES IN CONFLICT, CODIFICATION, SEVERABILITY, AND AN EFFECTIVE DATE.

Councilman Schaffer moved this matter forward. Seconded by Councilwoman Siegel Lara.

Director Delsalle provided staff report.

Mayor Flinn opened the public hearing. No one wished to be heard.

Mayor Flinn called the question to approve. All voted in favor. The matter passed on first reading (5-0.)

- D. AN ORDINANCE OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, PERTAINING TO THE VILLAGE'S PARTICIPATION IN THE COMMUNITY RATING SYSTEM, "CRS"; ADDING REQUIRED ELEMENTS AND PROVIDING FOR OTHER ELEMENTS THAT MAY HAVE THE NET EFFECT OF LOWERING FLOOD INSURANCE PREMIUMS FOR THE RESIDENTS OF PALMETTO BAY; AMENDING, PURSUANT TO SECTION 30-30.7(b), SECTION 30-100.6, ENTITLED "FLOODPLAIN MANAGEMENT REGULATIONS" OF THE VILLAGE'S LAND DEVELOPMENT REGULATIONS; AND AMENDING, PURSUANT TO SECTION 553.73(5) OF THE FLORIDA BUILDING CODE, LOCAL ADMINISTRATIVE AND LOCAL TECHNICAL PROVISIONS OF THE FLORIDA BUILDING CODE PERTAINING TO THE DESIGN AND CONSTRUCTION OF BUILDINGS AND STRUCTURES IN FLOOD HAZARD AREAS; PROVIDING FOR ORDINANCES IN CONFLICT, REPEALER, CODIFICATION, SEVERABILITY AND AN EFFECTIVE DATE.

Director Delsalle provided staff report. He explained that this Ordinance is related to the Village's efforts to participate in the CRS to bring down the flood insurance rates of Village residents. He noted that staff incorporated the language from the freeboard ordinance into this item; therefore, staff would be withdrawing the second ordinance.

Vice Mayor DuBois asked if the language was revised from two feet to one foot on the freeboard standard.

Director Delsalle advised that language was included so that the flood plain measurement could be properly made.

Mayor Flinn called the question to approve. All voted in favor. The matter passed on first reading (5-0.)

13. ORDINANCES FOR SECOND READING AND PUBLIC HEARING

- A. AN ORDINANCE OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA; RELATING TO PARKS AND

RECREATION; AMENDING CHAPTER 20, ARTICLE 1, OF THE VILLAGE'S CODE OF ORDINANCE; PROVIDING FOR ORDINANCES IN CONFLICT, CODIFICATION, SEVERABILITY, AND AN EFFECTIVE DATE. (Sponsored by Councilwoman Karyn Cunningham)

Councilman Schaffer moved this item forward. Seconded by Councilwoman Siegel Lara.

Councilwoman Cunningham stated that she will defer this item to the March meeting. She asked that staff be present at the Village Services Advisory Meeting on February 3rd to discuss the parks fees with the committee. She asked for the memorandum given to her by the Manager be provided so that the Committee will have a clear understanding of the cost of parks operation. She stated that she would like the Committee to review the parks fee structure, as she believes the \$13,000 roll-back is a small amount when you consider the enjoyment of parks for all.

Councilwoman Cunningham moved to defer the item to March. Seconded by Councilman Schaffer. All voted in favor (5-0.)

- B. AN ORDINANCE OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, RELATING TO SECTION 30-100.6, FLOODPLAIN MANAGEMENT REGULATIONS; ESTABLISHING A FREEBOARD STANDARD ABOVE THE ESTABLISHED FLOOD ELEVATION; PROVIDING FOR ORDINANCES IN CONFLICT, CODIFICATION, SEVERABILITY, AND AN EFFECTIVE DATE.

The matter died, as no one from the Council wished to move it forward.

- C. 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, RELATING TO THE VILLAGE'S COMPREHENSIVE PLAN; AMENDING THE COASTAL MANAGEMENT ELEMENT BY ADDING POLICY 5.4.5 TO PROVIDE LANGUAGE ADOPTING THE STATE OF FLORIDA COASTAL HIGH HAZARD AREA MAP; PROVIDING FOR ORDINANCES IN CONFLICT, CODIFICATION, SEVERABILITY AND AN EFFECTIVE DATE.

Vice Mayor DuBois moved this item forward. Seconded by Councilwoman Siegel Lara.

Director Delsalle explained that this matter was heard at the Local Planning Agency meeting, just previous to this meeting.

Councilwoman Siegel Lara moved to incorporate staff's report, all documents, and the testimony heard at public hearing. Councilman Schaffer seconded the matter.

Mayor Flinn opened the public hearing: Eric Tullberg, 7884 SW 179 Terrace, stated that one foot above flood plain was reasonable and it seems to be what others municipalities have.

Councilwoman Siegel Lara commented that Mr. Tullberg's concern was regarding the last ordinance, which died for lack of second.

Mayor Flinn closed public hearing.

The matter passed unanimously (5-0) via roll call vote.

14. OTHER BUSINESS

Vice Mayor DuBois stated that he would seeking to "have standing" as an individual and will be attending a hearing concerning a zoning matter in Cutler Bay. He stated that he would have to abstain from voting on the matter, if it comes before the Council.

Councilwoman Cunningham advised that she had met with Mayor Flinn in a Sunshine meeting and discussed the Agenda and procedures of the Council. She suggested the matter be addressed at a Committee of the Whole meeting. Mayor Flinn concurred that the procedure ordinance, as it exists, needs to be reviewed. Councilwoman Siegel Lara suggested moving the Village Manager's report to be heard prior to the Consent Agenda, so that he may explain some of the items prior to the vote. She added that she would not be available for February 17th (the standing date for the Committee of the Whole meeting.)

Councilwoman Cunningham reported that there is State Bill being heard tomorrow concerning Styrofoam. She noted that HB 7007 is opposed by the Florida League of Cities; and if it passes, the Bill would prevent a community from banning Styrofoam products.

Mayor Flinn stated that a resident of Cutler Bay had asked him to consider Palmetto Bay becoming a party in the zoning matter (mentioned by Vice Mayor DuBois.) The Council concurred to agenda the matter for March.

15. COUNCIL COMMENTS

Councilman Schaffer thanked Public Works and the Parks Department for their excellent service at the recent Miracle League and Palmetto High Blue and White game, which resulted in a successful event.

Councilwoman Cunningham echoed Councilman Schaffer's statement, adding that the only recommendation would be to have a golf cart available to help some of the Miracle

League players travel over the grassy areas. She announced the February 28th Bows & Bow Ties 5K to benefit Samantha's Purpose, bringing awareness to Cerebral Palsy.

Mayor Flinn noted that he will be running in the February 28th event and is pleased with the community events.

Attorney Lehtinen announced the Attorney Claudio Riedi would be present at the February 16th Special Council meeting.

16. NEXT MEETING AND ADJOURNMENT

The meeting adjourned at 6:50 pm.

Prepared and submitted by:

*Meighan J. Alexander, CMC
Village Clerk*

Approved by the Village Council on this ____ day of March, 2016.

Eugene Flinn, Mayor

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

PURSUANT TO FLORIDA STATUTES 286.0105, THE VILLAGE HEREBY ADVISES THE PUBLIC THAT IF A PERSON DECIDES TO APPEAL ANY DECISION MADE BY THIS COUNCIL WITH RESPECT TO ANY MATTER CONSIDERED AT ITS MEETING OR HEARING, HE OR SHE WILL NEED A RECORD OF THE PROCEEDINGS, AND THAT FOR SUCH PURPOSE, THE AFFECTED PERSON MAY NEED TO ENSURE THAT A VERBATIM RECORD OF THE PROCEEDING IS MADE, WHICH RECORD INCLUDES THE TESTIMONY AND EVIDENCE UPON WHICH THE APPEAL IS TO BE BASED. THIS NOTICE DOES NOT CONSTITUTE CONSENT BY THE VILLAGE FOR THE INTRODUCTION OR ADMISSION OF OTHERWISE INADMISSIBLE OR IRRELEVANT EVIDENCE, NOR DOES IT AUTHORIZE CHALLENGES OR APPEALS NOT OTHERWISE ALLOWED BY LAW.

RESOLUTION NO. _____

A RESOLUTION OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, RELATING TO ATTORNEYS' FEES; APPROVING ATTORNEYS' FEES AND COSTS FOR LEHTINEN SCHULTZ RIEDI CATALANO FUENTE, PLLC IN THE AMOUNT OF \$15,505; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Village Council of the Village of Palmetto Bay engaged the law firm of Lehtinen Schultz Riedi Catalano Fuente, PLLC to provide Village Attorney legal services for the Village; and

WHEREAS, Lehtinen Schultz Riedi Catalano Fuente, PLLC, submitted its statements to the Village for legal services rendered, and costs advanced, for the period ending January 31, 2016, in the amount of \$15,505; and

WHEREAS, the amounts are reasonable and were necessarily incurred.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND VILLAGE 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. Approval. The statements for attorneys' fees and costs received from Lehtinen Schultz Riedi Catalano Fuente, PLLC, in the total amount of \$15,505, copies of which are attached, are approved for payment.

Section 3. Effective Date. This Resolution shall take effect immediately upon approval.

PASSED and ADOPTED this _____ day of March, 2016.

Attest: _____
Meighan J. Alexander
Village Clerk

Eugene Flinn
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

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FINAL VOTE AT ADOPTION:

Council Member Karyn Cunningham _____

Council Member Tim Schaffer _____

Council Member Larissa Siegel Lara _____

Vice-Mayor John DuBois _____

Mayor Eugene Flinn _____

Lehtinen Schultz Riedi Catalano Fuente
1111 Brickell Avenue, Suite 2200
Miami, Florida 33131

January 2016
Village of Palmetto Bay

Statement Period: **January 2016**

Client: **Village of Palmetto Bay, Florida**

<u>Date</u>	<u>Individual</u>	<u>Subject</u>	<u>Time</u>
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General Government

1/4	DL	Review contracts and right-of-way issues; meet with staff; agenda review meeting; meeting of Local Planning Agency and regular Village Council meeting	6.7
1/4	BF	Research/due diligence re: marijuana ordinance	0.3
1/5	DL	confer with staff regarding contract and procurement issues; Review pending materials for upcoming Council meetings	2.8
1/5	BF	Research re: current status of vacation rental legislation and ordinances; review issues re: modification/release of covenants and unities of title	2.8
1/6	DL	Review proposed ordinances and resolutions; meeting of Palmetto Bay Partnership; brief on Florida Sunshine laws; prepare for meeting	4.2
1/6	JC	Attend to questions re: procurement, and telephone conference with South Motors re: same	
1/6	BF	Review correspondence from VPB Manager re: short term rental ion Miami Beach; review ordinance draft; research re: Ft. Lauderdale ordinance; drafting and specific issues/needs	0.9
1/7	BF	Due diligence re: county marijuana ordinance; correspondence re: same	0.4
1/8	BF	Review RFP (Request for Proposal) format matters and potential changes	0.3

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January 2016/Village of Palmetto Bay

General Government (continued)

1/11	DL	Meet with Manager on various issues; meeting with Miami-Dade Ethics Commission investigator at VPB Hall; prepare for meeting review materials	2.2
1/11	BF	Review RFP format/content issues; prepare for meeting; conference with DL and Manager; review unity of title re: Van Orsdel and termination of same	2.6
1/12	DL	Meet with Manager and Manager Assistant on review of pending matters	1.5
1/12	BF	Research piggy-backing issues in procurement; correspondence re: same	1.6
1/13	BF	Correspondence to L. Pitser re: procurement matters; follow-up re: various procurement issues	0.4
1/13	DL	Review pending issues, contracts, etc at Village Hall	2.4
1/14	BF	Research procurement process; research re: unsolicited proposals; follow-up with L. Pitser	1.1
1/15	DL	Conference with Miami-Dade Ethics Commission at Commission offices downtown; prepare for meeting	2.1
1/15	BF	Review unsolicited proposal issues; conference call with L. Pitser; correspondence to L. Pitser	0.4
1/20	DL	Review resolutions and contracts at VPB Hall with Manager Assistant and various staff and Department Directors	5.8
1/20	BF	Receipt and review of revisions for ordinance re: short-term rentals; follow-up with L. Pitser re: procurement; conference call re: piggybacking issues; review draft agenda item re: piggybacking for trucks; correspondence to client re: same; research re: cooperative purchasing agreements	1.7

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January 2016/Village of Palmetto Bay

General Government (continued)

1/21	DL	Confer with VPB staff regarding pending issues, contracts, resolutions, procurement; attend Special Council meeting; prepare for meeting	5.5
1/21	BF	Review procurement issues vis-a-vis Ricoh/USF; review draft legislation re: vacation rentals; revise unsolicited bid issues/process; conference call with L. Pitsner; revise draft vacation rental ordinance	1.9
1/25	BF	Research re: cooperative purchasing agreements; research/due diligence re P3 notices (public private partnerships)	0.5
1/26	BF	Review modifications to draft vacation rental ordinance; revise same; correspondence to client re: same; due diligence research re: cooperative purchasing	1.0
1/22	DL	Meet with VPB staff on pending issues	2.3
1/24	DL	Prepare resolution regarding Village Council member liaison representatives to advisory committees, so as to exclude Council liaison from coverage under Florida Sunshine Law; research <i>ex officio</i> status under Sunshine Law	3.6
1/25	DL	Attend Special Council meeting and Council zoning meeting; meet with staff regarding meeting issues; prepare for meetings	3.8
1/27	DL	Confer regarding strategic plan resolution, other pending issues	1.2
1/28	CR	Research concerning public records	

Zoning/Land Use

1/5	JC	Research matters relating to release of covenants and review restrictions relating to same; review correspondence from Water and Sewer Authority; follow-up with J. Admire, counsel to Van Orsdel re: Total Bank occupancy; further follow-up with Total Bank counsel	1.9
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January 2016/Village of Palmetto Bay

Zoning/Land Use (continued)

1/7	JC	Review issues relating to Van Orsdel property; further follow-up with Total Bank attorney re; modification of various instruments pertaining to property and conveyance	0.9
1/8	JC	Communication with attorney for Van Orsdel and attorney for Total Bank re: various questions re: easements and covenants; finalize initial draft to amendment to covenants and termination of unity of title	2.2
1/11	DL	Meeting regarding land use/zoning issues in VMU (Village Mixed Use) zoning district; analyze TDRs (Transfer Development Rights in connection with VMU	2.1
1/11	JC	Research issues re: covenant in lieu of unity of title; prepare correspondence to Planning Director re: same	0.9
1/12	DL	Meet with Planning Director regarding pending land use, issues, including VMU and TDRs	1.0
1/20	JC	Attend to issues re: amendment to restrictive covenant; termination of unity of title; and covenant to convey; prepare summary and follow-up to Planning Director	0.9
1/22	JC	Review open items for covenant to convey; follow-up with Planning Director re: same	0.3

Human Resources (Personnel)

1/12	CR	Review entire file for Ms. Grant; review letter to attorney Witlin	1.3
1/25	JC	Analyze acknowledgement, waiver and release agreement; review issues relating to EEOC waiver	1.2
1/27	DL	Review employees resignation agreement; review applicable employment law	1.0

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January 2016/Village of Palmetto Bay

Litigation

1/5	CR	Renew renewed claim by Hencile Dorsey for civil rights violation due to code enforcement action; confer with DL	0.7
1/11	CR	Prepare answers and affirm. defenses for Deutsche Bank v. West; pull copies of recorded lien from records office; e-mail to opposing counsel in Tapia case	1.3
1/15	DL	Appear in Circuit Court on behalf of Palmetto Bay to protect VPB lien in mortgage foreclosure case	2.3
1/22	CR	Confer with Village Attorney DL concerning proper interrogatory responses; research interrogatories of pure questions of law	1.3
1/22	DL	Confer with CR regarding Montessori interrogatories; discuss and review discovery on pure questions of law	1.0.
1/26	CR	Review production pursuant to subpoena (Lopez v. Citizens Insurance); e-mail to opposing counsel with production	0.3

Total Fees

Monthly total hours.....	80.6
Total fees due (@ \$190/hour.....)	\$ 15,314

Reimbursable Expenses

WestLaw computer research charge.....	\$ 159
Parking for Village business.....	\$ 32
Total Reimbursable Expenses.....	\$ 191

Total amount due (fees and expenses).....\$ 15,505

DL = Dexter Lehtinen CR = Claudio Riedi JC = John Catalano
BF = Bob de la Fuente TS – Tom Schultz

**VILLAGE OF PALMETTO BAY
COMMUNITY OUTREACH ADVISORY COMMITTEE
NOTES**

**Wednesday, January 6, 2016 - 7:00 p.m.
Village Hall Chambers - 9705 East Hibiscus Street
Palmetto Bay, FL 33157**

1. Call to Order

Welcome and Introductions - Meeting began at 7:05.

In attendance for the meeting were Councilwoman Karyn Cunningham, Liede DeValdivielso, Chris Olson, Heidi Caplan Feder, Beatriz Hermann and Olga Cadaval, Village Communications. Diane has resigned from the committee.

2. Approval of Minutes

Change of the minutes, second page, last paragraph, change "old People" to elderly. Beatrice set motion and it was second.

3. Public Comments

None

4. Residents' section of the newspaper

Ideas for what should be on the newspaper:

- Back of the newspaper should be a calendar.
- Mayor put a "state of the village" comment in the newspaper.
- Elected officials to rotate putting in a message. Liede asked who is going to design it and who is doing the write up.
- Beatrice described the "soap box" of the neighbor sections where the residents could write.
- Pictures will take up a lot of space, however this is probably the biggest way of showing what the community has done.
- Sections of the paper, we should put crime and incident, garage sales, or statistics.
- Bring up the ideas for The Tips section i.e., security tips for holidays, going out of town, departmental information.
- On the bottom of calendar putting the links for police, facebook, etc.
- Section: New to the village.
- We want to put in what is happening in the upcoming months.

- A section of New Businesses. New Happenings: What is opening or in the works. "Are you new to Palmetto Bay? Check out this website."
- We have to remember that there will be other parts of the newspaper that will cover schools and other issues. The Palmetto Bay News will publish local information if it is sent to them. A conversation would need to be had on how the paper could be more about Palmetto Bay than other areas. Do we want to put information in the newspaper about the committees that have been formed and so the public can get involved in.
- Pinecrest publishes an "after action" on their website and it is a way to know what has happened in the council meeting. We want a place for our residents to go and find out what the outcome was.
- Telling residents about Downtown or that there is a new website.
- Would you like your business highlighted on channel 77

The first publication will go out the end of February 2016.

5. Website – suggestions

The new website was approved on Monday and is looking good. Discussed where on the website there is a link of outcomes of meetings or future meetings.. For the TV channel 77, there is a new videographer. The Village hopes that there will be new programming and any suggestions are welcome. There is some really old information on there and should be updated and they are in the process of doing so. Under business link on our website is good for linking you to the businesses (Restaurants, attractions, merchants, etc.) that have joined Palmetto Bay.

Is there a way to highlight businesses to give a discount for Palmetto Bay residents? Perhaps a Palmetto Bay Spice...similar to Miami Spice.

Karyn would like for our committee to speak at the education advisory council and share information with them. Liede as chair should speak to them and discuss the website and some of our ideas. We are the thread to the other committees and we can feature something in the newspaper and on the website. Karyn said we have a great webpage with advisory boards, who is on them and when the next meeting is.

Our minutes for consideration should be put up on the website.

The council has approved having an app for the village.

6. Survey questions and suggestions

There is a lot to be decided and it will be addressed. We need to put this back on next month's agenda. We look at what the next big event is and plan toward it. The next large event is in March and we should plan to use our surveys for it. Heidi will look to see if there is a giveaway to bring the residents to the tables. We can also bring in students (NHS from Coral Reef) for community hours to help with the surveys. Heidi will coordinate with the school.

How do you receive your communication now?
How often would you like them? How frequent?
What would you like to see in Palmetto Bay?
If you could be more involved, how?
What do you think we are doing that is working best?
Where can we improve?
If you could be more involved would you and how?

Suggestion for two parts of the survey. For residents...For non residents.

The last survey was done on laptops.

7. **Next steps**

Review what we want for the newspaper
See what we suggest for changing the website
Prepare a survey to use at the Picnic on March 5. 11-2 is the picnic
Discuss plan to attend the other committee meetings

8. **Schedule of future meetings**

February 5 @ 5:00pm
March 2 @ 7:00 pm

9. **Adjournment**

Meeting adjourned at 8:37 pm

VILLAGE OF PALMETTO BAY
EDUCATION ADVISORY COMMITTEE
Tuesday, January 5, 2016 at 6:30 p.m.
9705 E. Hibiscus Street
Palmetto Bay, FL 33157

Attendees:

- Committee Members: Orestes Mayo, Chairperson; Sue Buslinger-Clifford, Diane Quick, Pam Tabor, Erica Watts-Sosa
- Elected Officials: Mayor Eugene Flinn, Committee Liaison
- Members of the Public: Annette Katz and Carole Bernstein, National Council of Jewish Women; Eva Regueira, Director, Office of Intergovernmental Affairs and Grants Administration and Ms. Ana Rodriguez, Administrative Director, Miami-Dade County Public Schools

1. Call to Order

- a. Meeting was called to order by Mr. Mayo at 6:38 p.m.

2. Approval of Minutes

- a. November 3, 2015 minutes will be amended and approval will be added to February agenda.
- b. December 2, 2015 minutes were approved.

3. Pending Items/Updates

- a. Presentation by Annette Katz and Carole Bernstein, National Council of Jewish Women, regarding human trafficking in the United States
 - i. Message is being delivered to PTAs and other organizations associated with education
 - ii. Goal is to get the word out to the community about the problem of human trafficking
 - iii. What is human trafficking? The transporting and harboring of children leading to forced labor or sex work
 - iv. Human trafficking occurs everywhere including an instance in Palmetto Bay
 - v. Aired video "Not for Sale | Human Trafficking"
 - 1. 244,000 people could be at risk
 - 2. Within 72 hours, a runaway is propositioned
 - vi. The Numbers: Why Should We Care
 - 1. 1 in 3 middle school children may be approached for human trafficking

2. Human trafficking has been reported in all 50 states
 - a. California, Texas and Florida have highest rates of reports
 - b. Top two cities: Ft. Lauderdale and Miami
 3. Average age of victim being trafficked is 12-14 because they are most vulnerable. Children can be victims even if they are living at home and attending school.
 4. 200,000 people are trafficked on any given day
 5. \$500,000 generated from just one sexually exploited girl in one year
 6. Human trafficking is a 3.2 billion dollar industry
- vii. Take action to protect your children
1. Know the signs: new jewelry, gifts, expensive clothes, cell phones, anything not purchased by parents
 2. Watch for physical and emotional changes: bruising, piercing, attendance/grades, older new friends, emotional/behavioral changes
 3. Monitor cell phone and computers
 4. Children are targeted online, at the mall, parks, and other places where children and teens hang out
 - a. Signs with hotline phone numbers should be placed in Palmetto Bay's public bathrooms (National Human Trafficking Hot Line: 888-373-7888).
 - b. Anytime a resident suspects something, report it
 - i. Super Bowl Sunday is the number one day for human trafficking
 - ii. Call national hotline, not police. They can answer questions and take a report of something seen
- viii. Human Trafficking Symposium will be held at Southwood Middle School on January 14, 2016 at 6:00 p.m. in the Media Center, 2nd floor
1. Symposium will feature State Attorney Katherine Fernandez Rundle, Dr. Larry Feldman, School Board Member, members of the U.S. Attorney's Office, the FBI and Miami-Dade Public Schools
 2. Ms. Watts states that she would like to have a similar presentation held at Palmetto Middle School in an effort to target parents of middle school children
 3. Councilwoman Cunningham suggests that the Committee make a formal recommendation to the Council to place signs in the Village's public bathrooms with the phone number for the hotline
 - a. Mayor Flinn asks the presenters what protocol should be followed with regard to awareness. Ms. Katz recommends contacting State Attorney Rundle for full protocol
 - b. Mayor Flinn also asks whether further steps should be taken, including proposing a safe house in the Village

- c. Dr. Buslinger-Clifford suggests some sort of sign for teachers and staff of individuals who have been trained to welcome students who are victims of human trafficking as it would provide students a safe haven at school.
 - b. Veteran's Park – appointee to the new Advisory Committee
 - i. Ms. Tabor is the committee's appointee to the Veteran's Park advisory committee
 - ii. Mayor Flinn states that plans are moving quickly. The American Legion is involved.

4. Public Comments

- a. Ms. Regueira, Miami-Dade County Public Schools
 - i. Ms. Regueira reviewed the matrix and identified four goals for 2016 and will discuss this at the appropriate point in the agenda.
 - ii. More news on the legislative agenda will be available next month as the legislative session begins on January 12th.
 - iii. State Board of Education is meeting tomorrow to review the school grading process. Vice-Chair's proposed plan would lower the grades of a number of Miami-Dade schools.
 - iv. Mr. Mayo asked about the impact of No Child Left Behind no longer being in existence. Ms. Regueira states that U.S. Representatives Carlos Curbelo and Frederica Wilson have been involved at the federal level and this support will have a positive impact on some of the District's proposals.

5. New Business

- a. Goals for 2016 (moved up in agenda) proposed by Ms. Regueira
 - i. Increased communication on both ends to spread news and information to Village residents and the committee
 - ii. Creating internships within the Village and with local businesses. The District has a process in place to create internships run by the Office of Community Engagement. Ms. Regueira will send information to Village Clerk to be disseminated to the committee. The District needs assistance connecting the District to Village businesses.
 - iii. Transportation of students. Streamline local transportation with county and school busses. Ensure that students can take local transportation to internships.
 - 1. Mr. Mayo asks what the Committee can do with regard to iBus transportation. Mayor Flinn suggests finding out what other

municipalities are doing to be successful. Mayor Flinn asks whether it is possible to contract with Miami-Dade Schools to provide bus services to students who do not qualify for bussing. This is ideal because the County buses are best equipped to transport children (has GPS, safety lights and arms for stops).

2. Question is whether it is more economical for the Village to contract with the District or to have their own bus system.
 - a. Ms. Watts proposes polling parents at the next Coral Reef Elementary PTA meeting to ask whether parents would use the iBus whether by putting their child on the bus alone or riding with their child to avoid having to drive to drop off or pick up child at school.
 3. Proposal is made to add to a future agenda a discussion of transportation featuring Joe Coradino, who is conducting a study of the iBus and someone from the District transportation office.
- iv. Safe learning environment (page 11 of matrix)
1. Two initiatives currently in place: district initiative "If You See Something Say Something" and a monthly value program.
 2. Suggests adding the human trafficking message
 3. Mayor Flinn asks what can be done to prevent situations where children find themselves in a dangerous setting.
 - a. Ms. Watts states that there are children bused into local schools who cannot participate in after school activities because there is no bus service provided at a later hour. Ms. Quick and Mr. Mayo states that an activity bus is the solution to this problem at the middle and high school level. Is this possible at the elementary school level? Ms. Ana Rodriguez states she will look into the use of an activity bus.
 - b. There are two different ways to achieve this: providing after school transportation for school clubs and/or providing transportation to the Village library and parks for after school activities.
- b. Do The Right Thing – moved to February meeting
- c. Review success and discuss EAC going forward
- i. Mr. Mayo asks that each committee member think about past success and the committee going forward. How do we define ourselves moving forward. Also proposes that all schools attend the February meeting to

discuss what is happening at each school before testing season begins. Also would like to invite the principal of Bio Tech High School.

- ii. Mayor Flinn would like to extend an invitation to Anna Hockhammer of Palmetto High School PTSA to come and discuss the success of the Color Run.
- iii. Mayor Flinn also suggests that the Committee think about recommendations for expanding the annual picnic to provide opportunities for schools to raise awareness and/or money. Suggests adding a discussion of this to the February agenda.
- iv. Mayor Flinn recommends thinking about partnerships with existing groups to expand what the committee is able to do.

6. Future Meeting Dates

- a. Tuesday, February 2, 2016

7. Adjourn

- a. Mr. Mayo adjourned the meeting at 8:59 p.m.

Approved: _____

Date: _____

VILLAGE OF PALMETTO BAY
PALMETTO BAY PARTNERSHIP COMMITTEE
MINUTES

Wednesday, January 6, 2016 – 6:30 pm
Village Hall Chambers - 9705 East Hibiscus Street
Palmetto Bay, FL 33157

1. **Welcome and Introductions:** Mayor Eugene Flinn

- Juan Alayo
- Peter England
- Eddie Escobar
- Anthony Gorman
- Suzanne Gottlieb Calleja
- Eric Haas
- Susan Holtzman
- Edward Joffee
- Ben Powell
- Courtney Reeder
- Dan Yglesias

- Rick Lujan –absent
- Hal Feldman-absent

Staff present:
 Village Attorney Dexter Lehtinen
 Village Clerk Meighan Alexander
 Village Manager Ed Silva
 Director of Planning & Zoning Darby Delsalle

2. **Discussion of Mission and Scope of Committee:** Mayor Eugene Flinn explained the mission and scope of the committee and thanked them for their willingness to serve.

3. **Information concerning Miami-Dade County Code of Ethics and Sunshine Laws:** Attorney Lehtinen provided an explanation of the Ethics laws and Sunshine Laws.

Discussion ensued regarding the position of liaison and whether the liaison, a non-voting member, is able to communicate with individual members. Attorney Lehtinen stated that, currently, the liaison is considered an ex-officio member and, thus, bound by the Sunshine prohibitions.

4. Election of Chairperson and Secretary (the latter will take the Minutes):

Clerk Alexander spoke to the Board concerning the Public Records laws and the importance of serving as the Secretary and the responsibility of preparing Minutes. She also advised that the position of Chair should be someone who has the type of temperament to be able to moderate conversation among the Board members.

Attorney Lehtinen provided information concerning Roberts Rules of Order and the methods of voting.

Mr. Gorman nominated Peter England to serve as the Chair. Seconded by Mr. Powell. Mr. England explained his experience, previously serving as an elected official in St. Petersburg, Florida. The motion passed unanimously; Mr. England was appointed as Chair.

Mr. Joffe moved to allow Chair to vote, as other members. Seconded by Ms. Gottlieb-Calleja. All voted in favor. The motion passed unanimously.

Ms. Suzanne Gottlieb-Calleja nominated Hal Feldman to serve as the Secretary. She explained that Mr. Feldman has served well as the Secretary to the Palmetto Bay Business Association. Seconded by Mr. Gorman. All voted in favor. Mr. Feldman was appointed as Secretary.

Mr. Joffe moved to allow any committee member to place an item on the Agenda. Seconded by Mr. Gorman. All voted in favor.

Clerk Alexander encouraged the Board to set their next meeting this evening, due to the number of members and the difficulty of coordinating calendars.

5. Public Comments: No one from the public came forward to speak.

6. Schedule of future Committee Meetings:

Discussion ensued regarding the best nights to meet. The consensus was to schedule the next meeting for January 27th, the last Wednesday of January. The Committee set the meeting for 6:30 pm at the Edward & Arlene Feller Community Room at Ludovici Park.

7. Next steps:

Chairman England asked the Committee to consider the assets that the Village has (for example, the Deering Estate and Palmer Trinity School) and how important community partnerships are to the Village. He stated that there are certain Ordinances that he believes are inimical to businesses. He also noted that certain elements of the Charter also may affect the community partnerships. Chairman England asked all to consider that

business retention is important and reaching out to businesses to determine their needs and satisfaction level should be considered by this Committee. He suggested that helping our local businesses succeed is crucial to the economic health of the Committee.

Discussion ensued regarding the importance of local business owners serving on the Committee, as the opinions of the stakeholders remain vital.

Chairman England stated that communications with the businesses should also be reviewed.

Mayor Flinn thanked the Committee for their attention to the success of the local businesses.

Chairman England concurred. He encouraged the Committee to review the information provided concerning the Market Study performed for the redevelopment effort.

Director Delsalle explained the Downtown Urban Village (DUV) designation.

8. **Adjournment:** The meeting adjourned at 8:30 pm.

Submitted by Meighan Alexander, Village Clerk.

Approved:

Peter England, Chairman



VILLAGE OF PALMETTO BAY
 Minutes of the Village Service Committee Meeting of
 January 6, 2016 at 7:00pm
 Village Hall- 9705 East Hibiscus Street
 Palmetto Bay, FL 33157

Agenda Item No. 1- Call to Order

7:05PM- Meeting called to order by Chairman Rex Lehmann

In attendance:

Committee Members:

Rex Lehmann, Chairman

Jon Beisenherz

Roger Snyder

Robert Buzzelli

Edward Silva, Village Manager

Larissa Siegel-Lara, Councilwoman and Committee Liaison

Karen Cunningham, Councilwoman

Corrice Patterson, Director of Public Services Dept.

Agenda Item No. 2- Approval of October 1, 2015 Minutes

7:08 Motion made and seconded to approve November meeting minutes. Motion approved unanimously.

Agenda Item No. 3- Public Comments

7:10 No members of the public present, therefore no public comments made. Councilwoman Larissa Siegel-Lara mentioned an incident at Coral Reef Park wherein someone brought a puppy to the sand area of the playground and allowed the puppy to pee and poop in the same sand where their own kids, as well as other people's kids were playing. She did let the man know that the dog was peeing in the sand. It may be a good idea to implement a dog park within Coral Reef Park, even though we do have a dog park at Wayside next to the BMW dealership. Board member brought up the liability issue of probable dog attacks that would need to be looked at if it were implemented.

Agenda Item No. 4- Discussion Concerning Welcome packets for new Village residents

Eric Eikenberg moved to formerly recommend to Council that staff mock up a Welcome to the Village letter or 5x7 postcard printed on both sides (not the 3 1/2 x 5) saying welcome to the Village and with information on services and maybe include some of these frequently asked questions in the packet as well. Another Board member mentioned that he believes there were approximately 300 homes sold in the Village just last year, and Larissa confirmed that information would be easy to track through the MLS, with precise information down to the zip code, street, days on market,

price range. Board member also suggested posting a Notice on the Public bulletin board at SW 144th Street since that's where most people would probably shop, and guide them to visit our website for new resident information. Larissa then suggested we could even get local sponsors who could be listed for services and distribute the cards in their businesses. Recommendation includes that welcome card be mailed every 30 days to new residents with website post directed at "New Residents". Motion seconded by Larissa Siegel-Lara. Motion carried unanimously.

Agenda Item No. 5- Review/drafting FAQ webpage

Staff provided committee members with handout that includes recommended questions for webpage. Committee members will review draft questions and provide feedback to Village staff by January 15th.

Larissa commented that the Parks FAQ presented is weak and there should be more information for Parks. For example, what are the parks activities? Where can I see the calendar of park activities? That's not on here. The Park addresses would be helpful. The Village Clerk's FAQ are interesting. Larissa stated that a good job was done preparing the FAQ and they look good. Board will review and revise as needed.

Board member asked what Villages services are underutilized. Larissa mentioned the County services, or 311 which residents don't know use. Corrice confirmed that Public Services do receive calls about bulky waste pick up and they are referred to call the county because we don't pick up waste in the Village.

It was determined that Board members will review the lists of FAQ for each department and fax back the editing and 3 questions off of each department.

Agenda Item No. 6- New Business

Board member asked about who decides where to "No Right Turn" street signs like the one on Old Cutler and SW 152nd Street. Response was that the County is in charge of signage. The light at that intersection is horrible because it only holds for 12 seconds and backs everything up, so he cuts left onto 74th and go up to 148th and come out on Old Cutler and come out at the high school parking lot. Now there is a "No Left Turn" sign, and I understand the issue, but that light is horrible. Larissa mentioned that could be resolved with a traffic circle. From a services view point people object to the roadworks that need to be done but this is the only thing that really works to slow down traffic. You can't have it both ways.

Corrice confirmed that more speed humps have already been ordered and more installations are being done soon. Board member stated that traffic is an issue in the Village right now. Larissa mentioned that money has been allotted for traffic enforcement, and purchase of temporary traffic calming devices, we implemented procedures on how to handle the complaints.

Corrice stated that we need to work with the County in order to be able to put a traffic circle. Studies need to be made and money needs to be budgeted for that kind of project. Larissa stated there is a traffic plan and a traffic circle could be something that can be done through this plan. Corrice mentioned upcoming neighborhood traffic workshops that will be held on January 27, 2016 for the Palmer Trinity area, and February 1, 2016 for the area of the 74th Court between 136th

Street and 139th Terr. There is a lot of cut through in that area because people try to avoid the school traffic.

Councilmember Larissa Siegel-Lara presented the proposed park fee ordinance to the committee, and provided context on the proposed fee schedule and the previous actions by the Village Council. The issue is that as part of the budgeting exercise an increase in fees was taken into account. The proposed increase in fees is an Ordinance and it has to go through two readings. In the first reading it passed 5-0, in the second reading it passed 4-1. Councilwoman Cunningham voted against the park fee increase of \$95,000.

Mr. Silva confirmed that the budget was approved in September and fees were approved based on those numbers. Larissa asked about the recovery rate and Mr. Silva confirmed that Miami-Dade recovers 0.28 cents of every dollar they spent on transit, as opposed to Washington DC which recovers 0.78/0.79 for every dollar.

Larissa- It's a good thing to be self-funded but the government entity is not a for-profit entity, but the dynamics of Parks is a little challenging because you have user specific services, so you choose to use them, and it's a pay per use system. Question becomes what is the appropriate recovery rate. The tennis fee increase was 100% and went from \$2.50 /player/court to \$10.00/hour/per court. We did hear a lot of complaints and as a result the recommendation was to roll back. We voted unanimously to roll back the tennis fees, and the rationale was that we made a mistake. In addition to this roll-back, at the second reading in January, Councilwoman Cunningham proposed another change and discovered that the tennis fee roll back accounted for \$47,000 of the \$95,000, and proposed another \$12,500 in roll back, something like that. So in essence we have now \$65,000 of the \$95,000 that we must fund if we approve the ordinance of the changes. Larissa recommended for Village Services board members to downstream Monday night's council meeting and find out themselves on the outcome. There is a question as to what the committee would advise as an appropriate recovery rate- whether if late fees should be considered, because right now it only happens per ordinance, if it happens. These current fees are 9 years old, and we are not keeping up with the business/service mentality of what we offer. Maybe we can offer league rate for those who play more often.

Mr. Silva brought up that Palmetto Bay right now in Parks is in the 20's. In other words for every dollar we spend in the parks we recover maybe 25 cents. Cutler Bay recovers less than 10 cents, Pinecrest recovers about 40-50 cents, and Key Biscayne recovers about 70-80 cents per dollar. The difference is that Key Biscayne has a community center that has money coming into it. If we take out Thalatta, our recovery rates would drop down to about 7-8 cents per dollar and the money that we recover at Thalatta stays at Thalatta. More than 60% of the users of our facilities are not Palmetto Bay residents. We are also, I think, out of Cutler Bay and Pinecrest, the only ones out that rent our library for free because if you are a not-for-profit, we give you are facilities for free, like we've done with Coral Gables.

After a lengthy discussion, including a visit by Councilwoman Karyn Cunningham, Eric Eikenberg moved that a recommendation be made to Village Council to defer any further action on fee ordinances until Village Services Committee can review, research and make a formal recommendation of consideration. The motion was seconded by Chair Lehmann and was unanimously approved.

The committee set the next meeting for Wednesday, February 3rd at 7:00 PM at Village Hall.

With no further business, Roger Snyder moved that the committee adjourn. Second by Eric Eikenberg.

9:14- Meeting adjourned.



**ART IN PUBLIC PLACES ADVISORY BOARD
MEETING MINUTES FROM MEETING ON
THURSDAY, OCTOBER 29, 2015
6:30PM VILLAGE HALL**

ADVISORY BOARD MEMBERS PRESENT:

Dana Pezoldt, Jamie Wasser, & Rebecca Peterson

STAFF PRESENT:

Travis Kendall, Department of Planning and Zoning

PUBLIC PRESENT:

none

- I. **Approval of minutes** – Rebecca makes motions to accept the minutes and Jamie seconds the motion.

- II. **New Business**
 - a. BMW donating land to create Veteran's Park.
 - b. Selection of a member to sit on the Veteran's Park Advisory committee. Jamie motions for Dana Pezoldt to represent and Rebecca seconds the motion.

- III. **Old Business**
 - a. Alexander Update – Proposal met all requirements and is going to Council November 16th for approval.
 - b. AIPP members will receive RFQ via email for review regarding the new call to artists.
 - c. Planning and Zoning still in negotiations with Mr. Sol and the outstanding requirements owed AIPP.
 - d. Village Hall chandelier, after refurbishment, being delivered by the artist Hans Feyerabend to Village Hall in December.
 - e. AIPP members request update from Friends of Harry's, Amy Creekmur, on the rocks for future.
 - f. Next meeting will take place the third Thursday in January.

- IV. **Adjourn**
 - a. Rebecca motions to adjourn and Dana seconded the motion. Meeting ended at approximately 7:23

RESOLUTION NO. _____

1
2
3 A RESOLUTION OF THE VILLAGE COUNCIL OF THE VILLAGE OF
4 PALMETTO BAY, FLORIDA; SUPPORTING THE CITY OF
5 HOMESTEAD'S RESOLUTION NO. R2015-12-130, URGING MIAMI-DADE
6 COUNTY TO MOVE FORWARD WITH THE RELOCATION OF THE
7 DADE COUNTY YOUTH FAIR (THE "FAIR") TO SOUTH DADE AND
8 PROVIDING FOR AN EFFECTIVE DATE. (Sponsored by Councilwoman
9 Karyn Cunningham)

10
11 WHEREAS, Florida International University ("FIU") is the oldest public university in
12 Miami-Dade County, established in 1965, serving over 50,000 students from throughout the County,
13 the United States, and the world. FIU has a long-standing relationship with the South Dade
14 Community, which includes over 17,000 alumni and 1,000 staff members living in the South Dade
15 area; and

16
17 WHEREAS, the South Dade area has long benefited from the plethora of community
18 partnerships established through FIU's interest in enhancing our community; and

19
20 WHEREAS, in order to continue to serve the ever-growing South Florida community, it is
21 vitally important that FIU be permitted to utilize the option of expanding onto the fairground land
22 immediately adjacent to its Modesto A. Maidique Campus; however, the Dade County Youth Fair
23 (the "Fair") would require relocation; and

24
25 WHEREAS, the relocation of the Fair to property located adjacent to the Homestead Air
26 Reserve Base Park, which is owned by Miami-Dade County, will economically benefit the South-
27 Dade community by creating jobs, expanding the tax base, and assisting with economic stability
28 growth.

29
30 NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND VILLAGE
31 COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, AS FOLLOWS:

32
33 Section 1. The Village hereby supports the City of Homestead's Resolution R2015-12-
34 130 (attached hereto as Exhibit "A") and joins with the City in urging the relocation of the Fair to
35 South Dade County.

36
37 Section 2. The Village Clerk is directed to send a copy of this Resolution to the
38 members of the Miami-Dade County Commission, the City of Homestead, the City of Florida City,
39 the Town of Cutler Bay, the Village of Pinecrest, and the City of South Miami.

40
41 Section 3. This Resolution shall become effective immediately.

42
43 PASSED AND ADOPTED this ____ day of March, 2016.

44
45
46 Attest: _____
47 Meighan J. Alexander
48 Village Clerk

Eugene Flinn
Mayor

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

Dexter W. Lehtinen
Office of the Village Attorney

FINAL VOTE AT ADOPTION:

Council Member Karyn Cunningham	_____
Council Member Tim Schaffer	_____
Council Member Larissa Siegel-Lara	_____
Vice-Mayor John DuBois	_____
Mayor Eugene Flinn	_____

CITY OF HOMESTEAD, FLORIDA

RESOLUTION NO. R2015-12-130

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF HOMESTEAD, FLORIDA; URGING MIAMI-DADE COUNTY TO MOVE FORWARD WITH THE RELOCATION OF THE DADE COUNTY YOUTH FAIR (THE "FAIR") TO SOUTH DADE AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Florida International University (FIU) has a long-standing relationship with the South Dade Community, which includes over 17,000 alumni and 1,000 staff members living in the South Dade area; and

WHEREAS, FIU provides the means by which thousands of Miami-Dade County students can obtain a world-class education every year; and

WHEREAS, the expansion of FIU on to the Dade County Youth Fair (the "Fair") grounds is vitally important to the future of FIU and, therefore, vitally important to South Dade and the City of Homestead; and

WHEREAS, the relocation of the Fair to property owned by the County located adjacent to the Homestead Air Reserve Base Park will provide the type of economic development envisioned by the Tomorrow South Dade's Plan.

NOW THEREFORE BE IT RESOLVED, BY THE CITY COUNCIL OF THE CITY OF HOMESTEAD, FLORIDA; AS FOLLOWS:

Section 1. Recitals. That the above stated recitals are hereby adopted and confirmed.

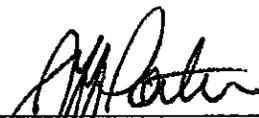
Section 2. Dade County Youth Fair Relocation Encouraged. That the City Council hereby urges Miami-Dade County to move forward with the relocation of the

Fair to the South Dade location and to work cooperatively with FIU and the Fair to develop plans for the fairgrounds to include convention center space and research space.

Section 3. Implementation. That the City Clerk is hereby directed to send a copy of this Resolution to the City of Florida City, the Town of Cutler Bay, the Village of Palmetto Bay, the Village of Pinecrest and the City of South Miami.

Section 4. Effective Date. That this Resolution shall become effective immediately upon adoption.

PASSED AND ADOPTED THIS 16th day of December, 2015.

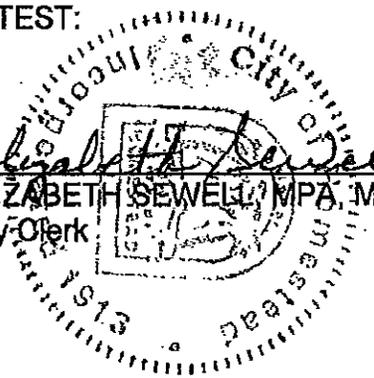


JEFF PORTER,
Mayor

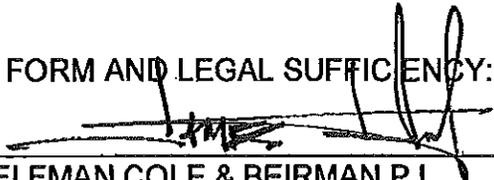
ATTEST:



ELIZABETH SEWELL, MPA, MMC
City Clerk



APPROVED AS TO FORM AND LEGAL SUFFICIENCY:



WEISS SEROTA HELFMAN COLE & BEIRMAN P.L.
City Attorney

Moved by:
Seconded by:
Council Vote:

Vice Mayor Patricia Fairclough
Councilman Elvis Maldonado
7-0

FINAL VOTE AT ADOPTION

<i>Mayor Jeff Porter</i>	<u>YES</u>
<i>Vice Mayor Patricia Fairclough</i>	<u>YES</u>
<i>Councilman Jon Burgess</i>	<u>YES</u>
<i>Councilman Elvis Maldonado</i>	<u>YES</u>
<i>Councilman Larry Roth</i>	<u>YES</u>
<i>Councilman Stephen Shelley</i>	<u>YES</u>
<i>Councilman Jimmie L. Williams, III</i>	<u>YES</u>



To: Honorable Mayor and Village Council Date: March 7, 2016
From: Edward Silva, Village Manager Re: Purchase of a Bucket
Truck

A RESOLUTION OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, RELATING TO PUBLIC SERVICES FLEET OPERATIONAL EQUIPMENT; AUTHORIZING THE VILLAGE MANAGER TO PIGGYBACK ONTO THE CITY OF KISSIMMEE, FLORIDA BID NUMBER BA2016-006; AND FURTHER AUTHORIZING THE VILLAGE MANAGER TO ISSUE A PURCHASE ORDER FOR THE PURCHASE OF A 2016 ALTEC LR7-60 BUCKET TRUCK FROM ALTEC INDUSTRIES, INC. IN THE AMOUNT OF \$143,560; AND PROVIDING FOR AN EFFECTIVE DATE.

BACKGROUND AND ANALYSIS:

The Village of Palmetto Bay continues its efforts to improve and evolve our urban forestry program. Since the Village is identified as a Tree City USA and Growth City, it is important for the Village to seek supplementary resources for the enhancement and progression of our urban forestry program. The Village's urban forestry program is a major asset to all inhabitants currently residing in the Village. The program is dedicated to planting and maintaining trees in the municipal right way and Village Parks on a daily basis. Our streets and parks are lined with trees that create a peaceful and aesthetically pleasing environment. It is the goal of the Village's urban forestry program to continue this tradition.

On November 2, 2015, the Village applied for the second Urban Forestry Grant and received funding in the amount of \$20,000 with a 1:1 match to fund the purchase of a bucket truck. The purchase of the bucket truck will provide a more efficient and cost effective means to manage structural deficiencies to existing trees and maintain the proper growth habit on newly planted trees. Today, there is little maintenance of large tree canopy in the Village. Contractors are contacted on an as needed basis and in the event of an emergency. The purchase of the bucket truck will afford the Village with internal resources to sustain, protect, and enhance the urban forestry in the Village of Palmetto Bay without the need of contacting Contractors on an on-going basis.

In an effort to comply with the requirements of the received Forestry Grant, Village administration requests to piggyback onto the City of Kissimmee Bid Number BA2016-006 for the purchase of a 2016 Altec LR7-60 bucket truck (copy of the Kissimmee bid documents are attached as Attachment A). In accordance with the Village's procurement policy, the Village may piggyback onto an existing contract from another government agency when a competitive bid process has been followed. The City of Kissimmee solicited Bid Number BA2016-006 and received two proposals. The lowest and most responsive bidder was Altec Industries, Inc.

The Public Services Department reached out to Altec Industries, Inc. and received authorization to piggyback onto the existing Contract between the City of Kissimmee and Altec Industries Inc. The Village desires to piggyback this contract to insure the Village obtains the best price possible for the bucket truck while complying with the Village's purchasing requirements.

FISCAL /BUDGETARY IMPACT:

Funding is available and budgeted for this item under "Special Revenue Fund-CITT Transportation" in an amount not to exceed \$143,560 (\$20,000 will be reimbursed from the Urban Community Forestry Grant) for fiscal year 2015-16.

Funding for this purchase is provided in the 2015-2016 Capital Improvement Budget.

RECOMMENDATION:

It is recommended that the Village Council approve the Resolution authorizing the Village Manager to purchase a 2016 Altec Model LR7-60 bucket truck for the purposes of:

- maintaining the Village's shade tree responsibilities;
- providing emergency response capabilities for storm related emergencies;
- allowing aerial access for routine tree trimming and removal;
- elevated access when required.

Attachments:

- (A) City of Kissimmee bid documents

Manager's Report
for
Purchase of a Bucket Truck

ATTACHMENT A

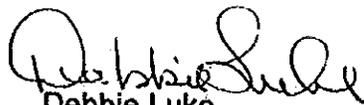
*** INVITATION TO BID ***

ATTACHMENT A

- I. The CITY OF KISSIMMEE is seeking **SEALED BIDS** on the following:
Bid Number **BA2016-006 Bucket Truck**
- II. All bids must be submitted in a **SEALED** envelope and plainly marked with the bid number on the exterior of the bid envelope, one (1) original, one (1) copy and one (1) electronic copy on CD or Flash Drive.
- III. To be considered bids **MUST** be delivered OR mailed to:
**City of Kissimmee
Finance Department 4th Floor
Attn: Purchasing Division
101 Church Street
Kissimmee, FL 34741**

And time stamped on or before 2:00PM December 29, 2015.

- IV. All bids shall be opened and read publicly in the City of Kissimmee Finance Department 4th Floor, Allendale Conference Room, 101 Church Street, Kissimmee, Florida at 3:00PM December 29, 2015.
- V. All bids must be according to specifications and conditions, and on the forms provided herein.
- VI. The Bidder's name and address shall be clearly shown on the exterior of the Sealed Envelope.
- VII. The City of Kissimmee reserves the right to accept and/or reject any or all bids, with or without cause, to waive technicalities or to accept the bid which, in its judgment, best serves the interest of the City of Kissimmee. Persons are advised that, if they decide to appeal any decision made concerning the award of this Bid, they will need a record of the proceedings, and for such purpose, they may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be made. Bid results other than the apparent low bidder will not be provided in response to telephone inquiries. Bidders desiring a copy of the Bid Abstract should include such request with a self addressed stamped envelope in their bid.


Debbie Luke
Purchasing Coordinator

General Requirements:

1.1 BID PREPARATION

Submission of a bid in response to this solicitation shall evidence the bidders acknowledgement that he is cognizant of all the conditions and specifications contained herein and that any offer made is in accordance with the contained specifications and conditions unless, specifically identified and explained as exceptions on the bids schedule. Each bidder is responsible for the completeness and accuracy of their bid. Bids must show manual signatures by an individual authorized to offer such obligations, and shall contain evidence of that person's authority to make such offers. Unsigned bids will be rejected. Stamped or otherwise reproduced signatures are not acceptable. Erasures or other changes must be initialed by the person signing the bid. Bidders should include all descriptive literature specifications, or catalogs or cuts necessary to specifically identify and describe the item(s) being offered. Failure to do so may result in the bid being declared non-responsive.

1.2 SUBMISSION OF BIDS

All bids shall be submitted in a sealed envelope on the forms included with this solicitation with the bidders name and address and bid number plainly marked on the exterior of the envelope. Timely submission of a bid is important. Official receipt is acknowledged using an atomic date/time stamp interfaced with the U.S. Government's National Institute of Standards and Technology (NIST) which is the official time keeper for the U.S. Facsimile or telegraphed bids will not be accepted.

1.3 PRICING

The unit price for each item being bid will be shown on the Bid Schedule and will include all costs for or associated with the item. A total for each line item will be entered on the Bid Schedule. In case of a discrepancy between unit price and extended price, the unit price shown shall prevail.

1.4 DELIVERY

Exact delivery times frames or dates must be shown on the bid, such as, "(x) days after receipt of order". Number of days for delivery shall be presumed to include all weekends or holidays in the period. All offers shall be FOB Destination and shall include inside delivery to the delivery point specified.

1.5 DEFAULT

Should the successful bidder for any award made as a result of this solicitation fail to deliver a product in accordance with the specifications contained herein and within the time frame promised, the City of Kissimmee reserves the right to cancel the contract for default and to award this contract to the next most qualified offer. The bidder in default may be held liable for any added cost to the City of Kissimmee incurred as a result of such action.

1.6 LATE BIDS AND WITHDRAWAL OF OFFERS

No bid will be accepted after the published deadline for accepting bids in response to this solicitation. Bids may be withdrawn at any time prior to the official time set for the bid opening. No modification or withdrawal of any offer received will be allowed after the time and date set for the official bid opening.

1.7 DISCOUNTS

Bidders may offer cash discounts for prompt payment, however, any such discount offered will not be considered as a factor in determining the lowest bid offered. Any other discounts should be reflected in the unit price bid.

1.8 BID EVALUATION AND AWARD

All bids received will be evaluated based on one or more of the following factor: price; quality of product offered; compliance with specifications; delivery; reputation of the bidder; previous contract'

proximity of parts and service; compatibility with similar, existing products; and any other factors detailed in the specifications. Award will be made to the lowest responsive and responsible bidder complying with the provisions of the invitation to Bid, provided that such award is in the best interests of the City of Kissimmee.

The City of Kissimmee reserves the right to accept and /or reject any or all bids in whole or in part with or without cause; to waive technicalities; to make multiple awards on a line item basis; and accept the bid which in its judgment, best services the interest of the City of Kissimmee.

Bidders are cautioned that no communication with any City of Kissimmee employees involved in the evaluation process is authorized during the bid evaluation process unless such communication is originated by the City of Kissimmee for the purpose of clarifying the bid or proposal. Questions regarding the status of any bid or proposal should be directed to the Purchasing Agent. Bid awards will be posted in the Purchasing Office after Commission Approval. Vendors are responsible for following up on the status of any bid. The City of Kissimmee will only notify successful vendor(s).

1.9 BILLING AND PAYMENT

The City of Kissimmee will pay all proper invoices submitted for supplies and/or services within 30 calendar days. To be considered a proper invoice it must be submitted in 2 copies to the City of Kissimmee Accounting Department, 101 Church Street Kissimmee, FL 34741, show the Vendor Taxpayer Identification Number Attachment B, the purchase order number and be based on proper delivery installation or provision of goods or services to and accepted by The City of Kissimmee. The payment cycle will not start until all the above requirements are met.

1.10 SAMPLES

The City of Kissimmee may, at its discretion, require submission of samples for inspection and testing. When specifications require such submissions, all costs for such samples, including postage, will be the responsibility of the bidder. Samples that are not consumed in the evaluation process or determined necessary for comparison with future deliveries may be returned at the bidders request and at the bidder's expense. The City of Kissimmee will not be held liable for any sample provided.

1.11 SILENCE OF SPECIFICATIONS

The silence of these specifications regarding exact details of any product or service required shall be regarded as meaning that only the best commercial practices will prevail and that only materials of first quality and correct type, size, or design are to be used. All workmanship will be first quality. Unless otherwise specified all products provided as a result of this solicitation will be new, unused, the latest model in production, and in compliance with the enclosed specifications.

1.12 USE OF BRAND NAMES

Unless otherwise stated, the use of brand names in specifications is not intended to restrict any offer. Brand names are only used to illustrate the type and quality of product acceptable for this solicitation and to provide a simplified specification. Vendors should feel free to propose any equal item provided that all exceptions to these specifications are clearly identified and explained and definitive specifications for the item being proposed including product literature, cuts or samples are included with the bid. The City of Kissimmee reserves the sole right of final determination of product equivalency.

1.13 WARRANTY

All warranties for products or services provided under any contract resulting from this solicitation will meet or exceed that warranty offered the providers most favored customer and in no instance will be less than unlimited twelve month non-prorated warranty. If individual specifications contained herein require a warranty in conflict with this provision, the warranty provisions of the individual specification shall prevail.

1.14 ADDENDUMS

In the event modifying addenda to the basic solicitation are issued the City of Kissimmee will attempt to provide such addenda to all vendors who have been furnished bid packages. However it shall be the bidder's responsibility to verify with the Purchasing Office before the bid is submitted whether or not addenda have been issued and to obtain such addenda for submission with the bid. Receipt of any addenda issued must be acknowledged on the bid schedule.

1.15 BIDDER'S CERTIFICATION

By signature on this bid, bidder certifies or in the case of a joint bid each party certifies that:

- A. He has not given, offered nor intends to give at any time economic opportunity, future employment, favor or gratuity in any kind to any employee of the City of Kissimmee in connection with this bid.
- B. That the bidder has not divulged or discussed his offer with other bidders.
- C. Prices offered have been determined independently without collusion with other bidders for the purpose of restricting competition.
- D. No attempt has been made to induce any potential bidder to submit or decline to submit an offer in response to this solicitation.

1.16 "NO BID" RESPONSE

Vendors electing to not submit bids in response to this solicitation should complete the attached "Notice to Bidders" form. Failure to return the form may result in your omission from future bid lists.

1.17 CFPC

The City of Kissimmee participates in a Central Florida Purchasing Cooperative (CFPC). All bidders awarded contracts from this bid are encouraged to permit other active members of CFPC to participate in the contract under the same prices, terms, and conditions except that allowances may be made for differences in delivery costs.

1.18 COMPLIANCE WITH THE JESSICA LUNSFORD ACT

If applicable, compliance with the Jessica Lunsford Act will be required by Contractor.

1.19 PROTEST

Any protest must be made within three (3) days following posting of the bid award. Protest procedures are available from the City of Kissimmee Finance Department 4th Floor, Attn: Purchasing Division, 101 Church Street, Kissimmee, FL 34741.

Notice of decision or intended decision concerning a bid solicitation or award may be given by posting the bid tabulation or recommended award at the location where the bids were opened or posted electronically on the City's website www.kissimmee.org. Failure to file a protest within the deadlines prescribed shall constitute a waiver of protest proceedings.

2.0 SPECIAL PROVISIONS:

2.1 PUBLIC ENTITY CRIMES: "A person or affiliate who has been placed on the convicted vendor list following a conviction for a public entity crime may not submit a bid on a contract to provide any goods or services to a public entity, may not submit a bid on a contract with a public entity for the construction or repair of a public building or public work, may not submit bids on leases of real property to a public entity, may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity, and may not transact business with any public entity in excess of the threshold amount provided in Section 287.017, for CATEGORY TWO for a period of 36 months from the date of being placed on the convicted vendor list".

2.2 **CLARIFICATION OF REQUIREMENTS:** Questions regarding clarification or interpretation of the technical specifications and/or non-technical nature regarding this solicitation must be addressed **IN WRITING** to Debbie Luke, Purchasing Coordinator at 101 Church Street, Kissimmee, Florida 34741 **OR BY EMAIL** to dluke@kissimmee.org not less than seven (7) days prior to the bid opening date.

However, unless modified by a written addendum issued by the Purchasing Agent, the specifications and conditions contained herein stand as stated. Verbal communications are neither authoritative or binding. Any verbal interpretation in conflict with these specifications as written should immediately be directed in writing to the Purchasing Agent for the City of Kissimmee. Any interpretation provided to any vendor in response to inquiries regarding this solicitation which may affect the outcome of this bid will be furnished in writing to all vendors who have received bid packages.

2.3 This bid contains pages 1 - 16. Please contact the Purchasing Office at 407-518-2214 if you are missing any pages.

2.4 **ALTERNATE BIDS WILL NOT BE ACCEPTED:**

If two bids are received from a company one bid will be returned unopened. If two different bids are included in a single envelope, both will be rejected at the bid opening.

2.5 No minor children are permitted to accompany bidders during pre-bid conferences, bid opening or site tour.

2.6 **The City of Kissimmee has a Local Vendor Preference Policy:** When written bids, responses to request for proposals or quotations are received by the City as part of the competitive sealed bid process, and the lowest responsible price is offered by an individual or entity that is not an Osceola County person, firm and/or corporation and the next lowest responsible bidder is an Osceola County person, firm and/or corporation, the Osceola County individual or entity will be given an opportunity to match the lowest price offered.

If an offer is made to match the lowest price and the Osceola County individual or entity is otherwise fully qualified and meets all City requirements, the bid shall be awarded to the Osceola County individual or entity at the lowest price.

In order to receive the local vendor preference provided herein, the Osceola County individual or entity that qualifies as the next lowest price bidder hereunder, must unconditionally agree in writing to match the lowest price bid and deliver to the City designated representative by 8:30 a.m. on the third regular business day after notification of opportunity to match bid. Eligibility form is Attachment A.

2.7 A link to this website is available through the City's Web Page <http://www.kissimmee.org>, under the Finance Department, Purchasing. Notice of Award, Bids currently available, and Tabulation sheets are available Online. Bidders, who do not have Internet access, may request a copy of the tabulation by enclosing a stamped, self-addressed envelope with the Bid response.

2.8 **INDEMNITY:** The Contractor will indemnify and hold harmless the City of Kissimmee from and against all claims, damage loss, and expenses arising out of, or resulting from, the performance of their operations under this contract.

The Contractor shall be responsible for initiating, maintaining, and supervising all safety precautions and programs in connection with the service.

The Contractor shall take all reasonable precautions for the safety of, and shall provide all reasonable protection to prevent damage, injury or loss to:

- All employees on the job and all other persons who may be affected thereby.
- All the work, materials, and equipment, whether in storage on or off the site, under the care, custody, or control of the Contractor; and
- Other property at the site including trees, shrubs, lawns, walks, pavements, and roadways.

The Contractor shall comply with all applicable laws, ordinances, rules, regulations, and lawful order of any public authority bearing on the safety of persons or property or their protection from damage, injury, or loss.

In any emergency affecting the safety of persons or property, the Contractor shall act, at his discretion, to prevent threatened damage, injury or loss.

2.9 The City acknowledges manufacturing standard units may differ from the stated specifications. Bidders should bid the standard production unit that **meets or exceeds these specifications.**

3.0 **GENERAL REQUIREMENT:**

ALTEC Model LR7-60 Articulating Overcenter Aerial Device with an insulating lower boom, insulating upper boom and the Altec ISO-Grip insulating system at the boom tip installed behind the cab to include the following features or **Equivalent**. The City reserves the sole right to determine if a unit bid meets this requirement.

- A. Ground to Bottom of Platform Height: 60.3 feet (18.4 meters).
- B. Working Height: 65.3 feet (19.9 meters).
- C. Maximum reach to edge of platform with Upper Boom Non-overcenter (working position): 44.8 feet (13.6 meters) at platform height of 28.6 feet (8.7 meters)
- D. Maximum reach to edge of platform with Upper Boom Overcenter: 48.4 feet (14.8 meters) at platform height of 9.8 feet (3.0 meters)
- E. Continuous rotation.
- F. Lower Boom Articulation: 0 to 125 degrees.
- G. Lower Boom Insulator provides 15 inches (38.1 centimeters) of isolation.
- H. Upper Boom Articulation: 0 to 270 degrees.
- I. Platform capacity: 400 lbs (181.44 kilograms)
- J. Platform leveling: achieved by a single leveling chain and 3/4" fiberglass rods in the upper and lower booms. This lifetime system is very low maintenance.
- K. Hydraulic system: Open center (full pressure), maximum flow of 6.0 to 6.5 gpm (22.7 to 24.6 lpm), maximum operating pressure of 3,000 psi.
- L. Side-by-Side Boom Stow offers low travel height and easy platform access.
- M. Maintenance Free Elbow: nitrated to prevent rust, increase hardness and eliminates the need for grease at the elbow.
- N. Altec Patented walking link system features uniform speed, smooth and continuous articulation and low maintenance operation.

- O. Unit is painted with a powder coat paint process which provides a finish-painted surface that is highly resistant to chipping, scratching, abrasion and corrosion. Paint is electrostatically applied to the inside as well as outside of fabricated parts then high temperature cured prior to assembly ensuring maximum coverage and protection.
 - P. Unit meets or exceeds ANSI 92.2 standards.
 - Q. Small Boom Tip Profile
1. Manual Upper Boom Stow Securing System with support cradle and tie down strap.
 2. Pedestal
 3. Reservoir, 30 Gallon
 4. Sight Gauge for Hydraulic Reservoir, Remote Mounted
 5. Single, One (1) Man, Fiberglass Platform; fixed side mounted. 24 x 24 x 39 inches.

Altec Patented ISO-Grip Insulating, Proportional Speed, Upper Control Handle - with safety interlock and interlock guard. Located on the side of the platform nearest the upper boom, mounted on the shaft. Forward/back operates lower boom down/up, tiller operates rotation CW/CCW, and up/down operates upper boom up/down.
 6. One (1) Platform Step - located on the side of the platform nearest the elbow in the stowed position
 7. Platform Cover - Soft vinyl 24 x 24 inch (610 x 610 mm)
 8. Platform Liner 50 kV - 24 x 24 x 39 inches (610 x 610 x 991 mm)
 9. Platform Floor Liner (Scuff Pad), 24 x 24 inches (610 x 610 mm)
 10. Hydraulic Tool Circuit at Platform: Two (2) sets of tool couplers for open center tools, located on the side of the platform nearest the elbow in the stowed position. Tool system relief pressure set at 2,250 psi.
 11. Tool Circuit System Relief Pressure To Be Set To 2250 PSI
 12. Primary A-Frame Outriggers with 5-degree swivel shoe. For installation on a 36 to 40 inch chassis frame height.
 - A. Maximum Spread: 140 inches to the outer edge of shoes
 - B. Ground Penetration: 7 to 11 inches depending on chassis frame height
 - C. Outrigger/Unit Selector Valve
 - D. Outrigger Control Valves: located on the outrigger legs
 - E. Outrigger Motion Alarms

- F. Outrigger Interlocks: will not allow the unit to be operated until the outriggers have been at least partially deployed
- 13. Hydraulic Outrigger Control Valves
- 14. Insulating Aerial Device, ANSI Category C, 46kV and Below
- 15. Fall Protection System to include one body harness and decelerating type lanyard. Harness has adjustable slide buckle on shoulder straps, Velcro chest strap, interlocking buckles on leg straps and nylon web loop fall arrest attachment on back. Lanyard has built in shock absorber that allows 28 inches (711 mm) of automatic adjustability.
- 16. Bolt On Grab Handle for Turntable
- 17. Altec Aerial Device Powder Painted White

3.1 Unit & Hydraulic Acc.

- 1. HVI-22 Hydraulic Oil (Standard).
- 2. Standard Pump For PTO
- 3. Hot shift PTO for automatic transmission
- 4. Standard PTO/Transmission Functionality for Automatic Transmissions -
If chassis is in gear, and PTO switch is activated, PTO will not engage. Chassis will remain in gear. Once the chassis is shifted back into gear the PTO will disengage. For some truck configurations the PTO switch must be turned off to allow the transmission to shift into gear.

3.2 Body

Altec Chip Dump Body 14.5 cubic yard capacity, 96 inches wide x 60 inches high x 132 inches long (2438 x 1524 x 3353 mm) with ladder box on curb side of body and single piece tailgate.

- A. Structural Channel stringers and floor channel.
- B. 12 gauge minimum floor plate.
- C. 14 gauge minimum sides and front with full length die-formed reinforcing ribs.
- D. 14 gauge roof.
- E. Rear top and sides of body reinforced for lower boom support.
- F. 26-1/2 inches (673 mm) high tailgate, hinged curb side with provision to hold open for dumping.
- G. 12 gauge minimum rear under body skirt panel.
- H. Class "C" Hydraulic hoist, installed, with 45 degree dump angle and body prop.
- I. LED lighting package, security-mounted, with wiring harness in automotive type loom.
- J. Two (2) LED strobes mounted in the upper rear corners of the dump body.
- K. Curb side built-in ladder compartment, 12 inches wide x 25 inches high (305 x 635 mm) with rear roller and internal security chain.

- L. Pole pruner compartment, 11 inches high (279.4 mm), above ladder compartment with dual shelves and rear locking door. Upper section of rear door has a notch
- M. Interior of chip body finished with scratch and corrosion resistant liner
- N. Underside of chip body undercoated (except stringer channels).
- O. Painted White

3.3 Altec T-66 Thru Box with curbside and streetside compartments containing the following:

- A. Streetside: Single compartment (66 inches long x 50 inches high x 26.5 inches deep) with two (2) barn-style doors and one (1) vertical door. Two (2) full width shelves fixed at 11 inches and 25 inches from top. Rubber matting (0.125 inch thick) in bottom on left side for chainsaw storage. Right side has access to horizontal thru compartment extending to curbside.
- B. Curbside: Single compartment (41 inches long x 50 inches high x 26.5 inches deep) with two (2) barn-style doors. Left side has two (2) full width shelves fixed at 11 inches and 25 inches from top. Right side has six (6) material hooks (3-0-3). Platform mounted behind compartment 12 inches high x 25 inches wide x 26.5 inches deep. Horizontal thru compartment (6 inches high) recessed 12 inches, open to streetside with vertical partitions spaced 10 inches, 6 inches and 9 inches wide with drop-down door. Access step to T-box compartment top.
- C. Standard features: Bolt-on rotary slam door locks. Gas shock door holders. Door locks are single point with locking cylinders. Finish paint interior compartments the same as exterior. Integrated locking system installed.
- D. Painted White

3.4 Body and Chassis Accessories

Cab Guard, 140" L, 12 GA Sheet Metal With Non-Skid Surface and Expanded Metal Section At Front, Black Gator Hyde Coating

- A. Cab Guard Mounting Kit
 - B. Front Supports For Cab Guard
1. ICC (Underride Protection) Bumper Installed At Rear
 2. T-100 Style Pintle Hitch (30,000 LB)
 3. Set of Safety Chain Loops, Fixed Mounting (Forestry Applications)
 4. Cab Guard Access Stirrup Step(s) With Grab Handle At Curbside Rear Of Cab Guard
 5. Rigid Access Step Under Through Box Side Access Platform
 6. Platform Rest, Rigid with Rubber Tube
 7. Wood Outrigger Pad, 19.5" x 19.5" x 2.25", With Fluorescent Orange Steel Collar Around The Outer Edges And Chain Handle.

8. Outrigger Pad Holder, 20" L x 20" W x 3.5" H, Fits 19.5" x 19.5" x 2.25" And Smaller Pads, Bolt-On, Bottom Washout Holes, 3/4" Lip Retainer
9. Mud Flaps With Altec Logo (Pair)
10. Wheel Chocks, Rubber with Metal Hairpin Style Handle, 9.75" L X 7.75" W X 5.00" H (Pair)
11. Wheel Chock Holders (Pair), For Installation Under Flatbed Or Dump Body
12. Small Grab Handle Installed On Front Of Dump Body At Through Box Side Access Platform
13. Grab Handle Installed On Top Of Curbside Rear Through Box Compartment
14. Slope Indicator Assembly For Machine With Outriggers
15. Cone Holder, Horizontal Style with Vertical Pivot (Un-folds Upwards), For Mounting On Front Bumper (Holds up to four 15"x15" large cones)
16. Driveaway Safety Kit
17. Vinyl manual pouch for storage of all operator and parts manuals

3.5 Electrical Accessories

1. Strobe Lights To Be Wired Battery Hot
2. Lights And Reflectors Per FMVSS 108 (Complete LED), With Security Mounted Lights
3. 4-Corner Strobe Lighting, Amber LED
 - A. Two (2) Round Security Mounted Lights in Front Corners of Cab Guard
 - B. Two (2) Round Security Mounted Lights at Rear
4. Dual Tone Back-Up With Outrigger Motion Alarm
5. 6-Way Trailer Receptacle (Pin Type) Installed At Rear
6. Electric Trailer Brake Controller (Tekonsha Voyager #9030)
7. Install Outrigger Interlock System
8. Altec Modular Panel System (AMPS) - Includes Mounting Panel and Accessory Switches
9. PTO Indicator Light Installed In Cab

3.6 Finishing Details

1. Powder Coat Unit Altec White
2. Finish Paint Body Accessories Above Body Floor Altec White
3. Altec Standard; Components mounted below frame rail shall be coated black by Altec. i.e. step bumpers, steps, frame extension, pintle hook mount, dock bumper mounts, D-rings, receiver tubes, accessory mounts, light brackets, under-ride protection, etc. Components mounted to under side of body shall be coated black by Altec. i.e. Wheel chock holders, mud flap brackets, pad carriers, boxes, lighting brackets, steps, and ladders.
4. Vehicle Height Placard, Installed In Cab
5. Body Compartment Interiors May Remain Primed
6. Apply Non-Skid Coating to all walking surfaces
7. English Safety And Instructional Decals
8. Placard, HVI-22 Hydraulic Oil
9. Dielectric test unit according to ANSI requirements.
10. Stability test unit according to ANSI requirements.
11. Focus Factory Build
12. Delivery Of Completed Unit
13. Inbound Freight
14. AR04 WD FL AL3 AB HS - Altec Reserve Spec AR04, LR7-60, Altec White, Freightliner M2 4x2, Diesel, Allison RDS-3500, Air Brakes, Hot Shift PTO

3.7 Chassis

1. Altec Supplied Chassis
2. Altec Stock Chassis
 - A. 2016 Model Year
 - B. Freightliner M2-106
 - C. Regular Cab
 - D. 4x2 Drivetrain
 - E. Chassis Color - White
 - F. Cummins ISB Engine
 - G. 240 HP Engine Rating
 - H. Allison 3500 RDS Automatic Transmission
 - I. Air Brakes

- J. Clear Cab to Axle Length - 139 inches
Actual Cab to Axle Length - 142 inches
- K. 33,000 LBS Gross Vehicle Weight Rating (GVWR)
- L. 13,220 LBS Front Axle Weight Rating (FAWR)
- M. 21,000 LBS Rear Axle Weight Rating (RAWR)
- N. 016-1C3 - Freightliner Horizontal Exhaust (Right-Horizontal-Behind Cab-Horizontal)
- O. No Prewire Chassis
- P. No Idle Engine Shut-Down Required
- Q. Air Conditioning
- R. AM/FM Radio

3.8 Standard Warranty: One (1) year parts warranty, one (1) year labor warranty, ninety (90) days warranty for travel charges, limited lifetime structural warranty

**** THIS SCHEDULE OF OFFERS SHOULD BE THE FIRST PAGE
SUBMITTED WITH YOUR BID ****
Bid BA2016-006

I/we, the undersigned, hereby declare that I/we have reviewed the bid documents and with full knowledge and understanding of all specifications and conditions contained therein do submit, (in duplicate), our bid as follows with full understanding that the bid package in its entirety is made a part of any agreement, contract or order between the City of Kissimmee and the successful bidder.

<u>ITEM NO.</u>	<u>DESCRIPTION</u>	<u>QTY</u>	<u>COST</u>
1	ALTEC Model LR7-60 or Equivalent	1	\$ _____

Delivery Time: _____ MFG/MODEL _____

DELIVERY TIME (F.O.B. DESTINATION)
ACKNOWLEDGMENT OF ADDENDA NO.(S) _____ (IF APPLICABLE)

(Signature)

ALL PRICES QUOTED ARE GOOD FOR A PERIOD OF 90 DAYS.

_____ We do not take exception to Specifications.

(initial)

_____ We take exception to Specifications as follows:

(initial)

(attach additional sheets, if necessary)

COMPANY NAME _____

COMPANY ADDRESS _____

NOTE:

OFFERS NOT RECEIVED IN DUPLICATE MAY BE REJECTED.
VENDORS ARE RESPONSIBLE FOR DELIVERY OF THEIR BID TO THE ADDRESS
INDICATED ON THE BID COVER SHEET PRIOR TO THE DATE AND TIME
SHOWN.
BIDS NOT SO DELIVERED MAY BE REJECTED.

BY: _____
(signature)

DATE: _____

(typed name/title of signer)

EMAIL: _____

TELEPHONE NO.: () _____

FAX NO.: () _____

NOTICE

BA2016-006

If for some reason you are not participating in this solicitation, PLEASE complete the following and return to:

City of Kissimmee
Finance Department 4th Floor
Attn: Purchasing Division
101 Church Street
Kissimmee, FL 34741

DO NOT return the solicitation package. Failure to respond may result in removal of your firm from our current vendor file.

Company Name: _____

Address: _____

Phone Number: () _____

Fax Number: () _____

Continue on Vendor List: _____ Yes _____ No
___ Large Business ___ Small Business ___ Minority Owned

Reason for no response to the solicitation:

_____ Cannot supply at this time

_____ Suitable, but engaged in other work

_____ Quantity too small

_____ Cannot meet required minimum

_____ Opening date does not allow sufficient time to complete

_____ Equivalent not presently available

_____ Other reasons or remarks: _____

Signature

IDENTICAL TIE BIDS

Preference shall be given to businesses with drug-free workplace programs. Whenever two or more bids, which are equal with respect to price, quality and service are received by the state or by any political subdivision for the procurement of commodities or contractual services, a bid received from a business that certifies that it has implemented a drug-free workplace program shall be given preference in the award process. Established procedures for processing tie bids will be followed if none of the tied vendors have a drug-free workplace program. In order to have a drug-free workplace program, a business shall:

- 1) Publish a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession or use of a controlled substance is prohibited in the workplace and specifying the actions that will be taken against employees for violations of such prohibition.
- 2) Inform employees about the dangers of drug abuse in the workplace, the business's policy of maintaining a drug-free workplace, any available drug counseling, rehabilitation, and employee assistance programs and the penalties that may be imposed upon employees for drug abuse violations.
- 3) Give each employee engaged in providing the commodities or contractual services that are under bid a copy of the statement specified in subsection (1).
- 4) In the statement specified in subsection (1), notify the employees that, as a condition of working on the commodities or contractual services that are under bid, the employee will abide by the terms of the statement and will notify the employer of any conviction of, or plea of guilty or nolo contendere to, any violation of chapter 893 or of any controlled substance law of the United States or any state for a violation occurring in the workplace no later than 5 days after such conviction.
- 5) Impose a sanction on or require the satisfactory participation in a drug abuse assistance or rehabilitation program, if such is available in the employee's community by any employee who is so convicted.
- 6) Make a good faith effort to continue to maintain a drug-free workplace through implementation of this section.

As the person authorized to sign the statement, I certify that this firm complies fully with the above requirements.

Vendor's Signature

**BID TABULATION SHEET
INVITATION/BID# RFP2016-002**

City of Kissimmee

**OPENING DATE: 12/29/15
TIME: 3:00 PM**

REQ. DEPARTMENT: Dennis &

DATE/ TIME	VENDOR NAME CITY AND STATE:	Item 1 Altec Model or Equivalent		COMMENT
12/21/15 8:24am	Altec Industries Inc Creedmoor, NC	\$143,560		Altec LR7
12/21/15 8:25am	Ring Power Corporation Orlando, FL	\$152,048		Freightline

Notice of decision or intended decision concerning a bid solicitation or award may be given by post or recommended award at the location where the bids were opened or posted electronically on the www.kissimmee.org. Failure to file a protest within the deadlines prescribed shall constitute a waive proceedings.



**CITY OF KISSIMMEE
PURCHASING DEPARTMENT**

PURCHASING DIVISION, 4TH FLOOR
101 CHURCH STREET
KISSIMMEE, FL 34741

**PURCHASE ORDER
PAGE NO. 1 of 1**

No. 16-000787

THIS NUMBER MUST APPEAR ON ALL
INVOICES, PACKAGES, SHIPPING
PAPERS AND CORRESPONDENCE

DATE OF ORDER: 02/08/2016

VENDOR: ALTEC INDUSTRIES, INC.
210 INVERNESS CENTER DRIVE
BIRMINGHAM, AL 35242

SHIP TO: CENTRAL SERVICE - VEHICLE PURCHASE
100 N. ALASKA AVE
KISSIMMEE, FL 34741

VENDOR NO	SHIP VIA	F.O.B.	TERMS	REQUESTED BY	
148688	BESTWAY	SHIPPING	NET30	Thomas Pouncy	
REQUIRED DATE	ACCOUNT NO	REQUISITION NO	ORDER CONFIRMED / DISCUSSED WITH		
02/04/2016		R16-000843			
LINE NO.	QUANTITY	UOM	ITEM NO. & DESCRIPTION	UNIT COST	EXTENSION
1	1.00	EA	2016 ALTEC MODEL LR7-60 ARTICULATING OVERCENTER AERIAL DEVICE WITH AN INSULATING LOWER BOOM INSULATING UPPER BOOM AND THE ALTEC ISO-GRIP INSULATING SYSTEM AT THE BOOM TIP INSTALLED BEHIND THE CAB TO INCLUDE THE FOLLOWING FEATURES AS PER BID BA2016-006 QUOTE 268889-2 UNIT COST 142460 DELIVERY COST 1100 THIS INCLUDES A STANDARD ALTEC WARRANTY ONE YEAR PARTS WARRANTY ONE YEAR LABOR WARRANTY NINETY DAYS FOR TRAVEL CHARGES LIMITED AND LIFETIME STRUCTURAL WARRANTY. 1105-45-4530-541-5006494 Project #: ST1613	\$143,560.00	\$143,560.00
TOTAL					\$ 143,560.00

PLEASE SEND INVOICES TO: CITY OF KISSIMMEE CENTRAL SERVICES, 100 N. ALASKA AVE KISSIMMEE, FL, 34741
NOTES: The unit MUST be delivered to 100 N. Alaska Ave., Kissimmee, FL between the hours of 8:00 AM - 3:30 PM., Monday through Friday. Notify the City of Kissimmee 48 hours prior to delivery at (407)518-2524 Central Services Fleet.
Vehicle(s)/Equipment MUST be accompanied by all applicable paperwork:
- Invoice
- Application for title and registration, form 40 completed and signed by the dealer.
- ALL TAG AND TITLE WORK MUST BE ADDRESSED TO THE BELOW ADDRESS:
100 N. Alaska Ave, Kissimmee, FL 34741
- Manufacturer's statement of origin (MSO)
- Vehicle delivery inspection form
- Owner's manual and warranty certificate
- Two (2) complete sets of keys
- Title applications fee (if applicable)
(Check made Payable to: City of Kissimmee)
- Form DR41A (Tax Exempt Form)

TAX EXEMPTION NO. 85-8012621610C-8 PURCHASE ORDER TERMS AND CONDITIONS: <http://www.kissimmee.org/po-terms>

SUBMIT ALL CLAIMS FOR PAYMENTS TO:
CITY OF KISSIMMEE
PURCHASING DIVISION, 4TH FLOOR
101 CHURCH STREET
KISSIMMEE, FL 34741

By: *Thomas Pouncy*

PURCHASE ORDER NUMBER MUST APPEAR ON YOUR INVOICE



**CITY OF KISSIMMEE
PURCHASING DEPARTMENT**
PURCHASING DIVISION, 4TH FLOOR
101 CHURCH STREET
KISSIMMEE, FL 34741

**PURCHASE ORDER
PAGE NO. 2 of 1**

No. 16-000787

THIS NUMBER MUST APPEAR ON ALL
INVOICES, PACKAGES, SHIPPING
PAPERS AND CORRESPONDENCE

DATE OF ORDER: 02/08/2016

VENDOR: ALTEC INDUSTRIES, INC.
210 INVERNESS CENTER DRIVE
BIRMINGHAM, AL 35242

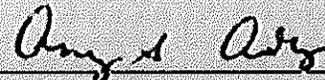
SHIP TO: CENTRAL SERVICE - VEHICLE PURCHASE
100 N. ALASKA AVE
KISSIMMEE, FL 34741

VENDOR NO.	SHIP VIA	F.O.B.	TERMS	REQUESTED BY	
148688	BESTWAY	SHIPPING	NET30	Thomas Pouncy	
REQUIRED DATE	ACCOUNT NO.	REQUISITION NO.	ORDER CONFIRMED / DISCUSSED WITH		
02/04/2016		R16-000843			
LINE NO.	QUANTITY	UOM	ITEM NO. & DESCRIPTION	UNIT COST	EXTENSION
			- Include Odometer Disclosure Form NOTE: IF FOR ANY REASON ANY OF THE ABOVE REQUIRED ITEMS ARE NOT DELIVERED WITH VEHICLE, IT WILL NOT BE ACCEPTED.		

TAX EXEMPTION NO. 85-8012621610C-8

PURCHASE ORDER TERMS AND CONDITIONS: <http://www.kissimmee.org/po-terms>

SUBMIT ALL CLAIMS FOR PAYMENTS TO:
CITY OF KISSIMMEE
PURCHASING DIVISION, 4TH FLOOR
101 CHURCH STREET
KISSIMMEE, FL 34741

By: 

PURCHASE ORDER NUMBER MUST APPEAR ON YOUR INVOICE

Corrice Patterson

From: Danny Casals
Sent: Thursday, February 11, 2016 5:00 PM
To: Corrice Patterson
Subject: FW: Information concerning bucket truck purchase

FYI

From: Jenny.Carlson@altec.com [<mailto:Jenny.Carlson@altec.com>]
Sent: Thursday, February 11, 2016 4:29 PM
To: Danny Casals
Subject: Re: Information concerning bucket truck purchase

Yes. And we have one completing in June. I reserved for you.

Jenny Carlson
Account Manager
Altec Industries
2570 Old Okeechobee Rd
West Palm Beach, Fl 33409
561-537-0347

On Feb 11, 2016, at 3:20 PM, Danny Casals <dcasals@palmettobay-fl.gov> wrote:

Good afternoon Jenny,

Can you honor Palmetto Bay the same pricing as attached?

Danny Casals
Field Operations Supervisor
Public Works Department
dcasals@palmettobay-fl.gov
office# 305 969-5011
fax# 305 969 -5091

<BA2016-006 Bucket Truck.pdf>
<abstract form.BA2016-006 Bucket Truck.pdf>
<STS PO#16-000787 ALTEC.pdf>

This message (including any attachments) contains confidential information intended for a specific individual and purpose, and is protected by law. If you are not the intended recipient, you should delete this message. Any disclosure, copying, or distribution of this



December 18, 2015
Our 86th Year

Ship To:
CITY OF KISSIMMEE

Bill To:
CITY OF KISSIMMEE

Attn:
Phone:
Email:

Altec Quotation Number: 268889 - 2
Account Manager: CHUCK MARTIN
Technical Sales & Support: MADISON FOSTER

<u>Item</u>	<u>Description</u>	<u>Qty</u>
	<u>Unit</u>	
1.	ALTEC Model LR7-60 Articulating Overcenter Aerial Device with an insulating lower boom, insulating upper boom and the Altec ISO-Grip insulating system at the boom tip installed behind the cab to include the following features: <ul style="list-style-type: none"> A. Ground to Bottom of Platform Height: 60.3 feet (18.4 meters). B. Working Height: 65.3 feet (19.9 meters). C. Maximum reach to edge of platform with Upper Boom Non- overcenter (working position): 44.8 feet (13.6 meters) at platform height of 28.6 feet (8.7 meters) D. Maximum reach to edge of platform with Upper Boom Overcenter: 48.4 feet (14.8 meters) at platform height of 9.8 feet (3.0 meters) E. Continuous rotation. F. Lower Boom Articulation: 0 to 125 degrees. G. Lower Boom Insulator provides 15 inches (38.1 centimeters) of isolation. H. Upper Boom Articulation: 0 to 270 degrees. I. Platform capacity: 400 lbs (181.44 kilograms) J. Platform leveling: achieved by a single leveling chain and 3/4" fiberglass rods in the upper and lower booms. This lifetime system is very low maintenance. K. Hydraulic system: Open center (full pressure), maximum flow of 6.0 to 6.5 gpm (22.7 to 24.6 lpm), maximum operating pressure of 3,000 psi. L. Side-by-Side Boom Stow offers low travel height and easy platform access. M. Maintenance Free Elbow: nitrided to prevent rust, increase hardness and eliminates the need for grease at the elbow. N. Small Boom Tip Profile. O. Altec Patented walking link system features uniform speed, smooth and continuous articulation and low maintenance operation. P. Unit is painted with a powder coat paint process which provides a finish-painted surface that is highly resistant to chipping, scratching, abrasion and corrosion. Paint is electrostatically applied to the inside as well as outside of fabricated parts then high temperature cured prior to assembly ensuring maximum coverage and protection. Q. Unit meets or exceeds ANSI 92.2 standards. 	1

We Wish To Thank You For Giving Us The Pleasure
And Opportunity of Serving You

<u>Item</u>	<u>Description</u>	<u>Qty</u>
2.	Manual Upper Boom Stow Securing System with support cradle and tie down strap.	1
3.	Pedestal	1
4.	Reservoir, 30 Gallon	1
5.	Sight Gauge for Hydraulic Reservoir, Remote Mounted	1
6.	Single, One (1) Man, Fiberglass Platform; fixed side mounted. 24 x 24 x 39 inches.	1
	Altec Patented ISO-Grip Insulating, Proportional Speed, Upper Control Handle - with safety interlock and interlock guard. Located on the side of the platform nearest the upper boom, mounted on the shaft. Forward/back operates lower boom down/up, tiller operates rotation CW/CCW, and up/down operates upper boom up/down.	
7.	One (1) Platform Step - located on the side of the platform nearest the elbow in the stowed position	1
8.	Platform Cover - Soft vinyl 24 x 24 inch (610 x 610 mm)	1
9.	Platform Liner 50 kV - 24 x 24 x 39 inches (610 x 610 x 991 mm)	1
10.	Platform Floor Liner (Scuff Pad), 24 x 24 inches (610 x 610 mm)	1
11.	Hydraulic Tool Circuit at Platform: Two (2) sets of tool couplers for open center tools, located on the side of the platform nearest the elbow in the stowed position. Tool system relief pressure set at 2,250 psi.	1
12.	Tool Circuit System Relief Pressure To Be Set To 2250 PSI	1
13.	Primary A-Frame Outriggers with 5-degree swivel shoe. For installation on a 36 to 40 inch chassis frame height.	1
	<ul style="list-style-type: none"> A. Maximum Spread: 140 inches to the outer edge of shoes B. Ground Penetration: 7 to 11 inches depending on chassis frame height C. Outrigger/Unit Selector Valve D. Outrigger Control Valves: located on the outrigger legs E. Outrigger Motion Alarms F. Outrigger Interlocks: will not allow the unit to be operated until the outriggers have been at least partially deployed 	
14.	Hydraulic Outrigger Control Valves	1
15.	Insulating Aerial Device, ANSI Category C, 46kV and Below	1
16.	Fall Protection System to include one body harness and decelerating type lanyard. Harness has adjustable slide buckle on shoulder straps, Velcro chest strap, interlocking	1

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And Opportunity of Serving You

<u>Item</u>	<u>Description</u>	<u>Qty</u>
	buckles on leg straps and nylon web loop fall arrest attachment on back. Lanyard has built in shock absorber that allows 28 inches (711 mm) of automatic adjustability	
17.	Bolt On Grab Handle for Turntable	1
18.	Altec Aerial Device Powder Painted White	1

Unit & Hydraulic Acc.

19.	HVI-22 Hydraulic Oil (Standard).	35
20.	Standard Pump For PTO	1
21.	Hot shift PTO for automatic transmission	1
22.	Standard PTO/Transmission Functionality for Automatic Transmissions - If chassis is in gear, and PTO switch is activated, PTO will not engage. Chassis will remain in gear. Once the chassis is shifted back into gear the PTO will disengage. For some truck configurations the PTO switch must be turned off to allow the transmission to shift into gear.	1

Body

23.	Altec Chip Dump Body 14.5 cubic yard capacity, 96 inches wide x 60 inches high x 132 inches long (2438 x 1524 x 3353 mm) with ladder box on curb side of body and single piece tailgate	1
A.	Structural Channel stringers and floor channel.	
B.	12 gauge minimum floor plate.	
C.	14 gauge minimum sides and front with full length die-formed reinforcing ribs.	
D.	14 gauge roof.	
E.	Rear top and sides of body reinforced for lower boom support.	
F.	26-1/2 inches (673 mm) high tailgate, hinged curb side with provision to hold open for dumping.	
G.	12 gauge minimum rear under body skirt panel.	
H.	Class "C" Hydraulic hoist, installed, with 45 degree dump angle and body prop.	
I.	LED lighting package, security-mounted, with wiring harness in automotive type loom.	
J.	Two(2) LED strobes mounted in the upper rear corners of the dump body.	
K.	Curb side built-in ladder compartment, 12 inches wide x 25 inches high (305 x 635 mm) with rear roller and internal security chain.	
L.	Pole pruner compartment, 11 inches high (279.4 mm), above ladder compartment with dual shelves and rear locking door. Upper section of rear door has a notch	
M.	Interior of chip body finished with scratch and corrosion resistant liner	
N.	Underside of chip body undercoated (except stringer channels).	

We Wish To Thank You For Giving Us The Pleasure
And Opportunity of Serving You

UTILITY EQUIPMENT AND BODIES SINCE 1929

<u>Item</u>	<u>Description</u>	<u>Qty</u>
	O. Painted White	
24.	Altec T-66 Thru Box with curbside and streetside compartments containing the following:	1
	A. Streetside: Single compartment (66 inches long x 50 inches high x 26.5 inches deep) with two (2) barn-style doors and one (1) vertical door. Two (2) full width shelves fixed at 11 inches and 25 inches from top. Rubber matting (0.125 inch thick) in bottom on left side for chainsaw storage. Right side has access to horizontal thru compartment extending to curbside.	
	B. Curbside: Single compartment (41 inches long x 50 inches high x 26.5 inches deep) with two (2) barn-style doors. Left side has two (2) full width shelves fixed at 11 inches and 25 inches from top. Right side has six (6) material hooks (3-0-3). Platform mounted behind compartment 12 inches high x 25 inches wide x 26.5 inches deep. Horizontal thru compartment (6 inches high) recessed 12 inches, open to streetside with vertical partitions spaced 10 inches, 6 inches and 9 inches wide with drop-down door. Access step to T-box compartment top.	
	C. Standard features: Bolt-on rotary slam door locks. Gas shock door holders. Door locks are single point with locking cylinders. Finish paint interior compartments the same as exterior. Integrated locking system installed.	
	D. Painted White	

Body and Chassis Accessories

25.	Cab Guard, 140" L, 12 GA Sheet Metal With Non-Skid Surface And Expanded Metal Section At Front, Black Gator Hyde Coating	1
	A. Cab Guard Mounting Kit	
	B. Front Supports For Cab Guard	
26.	ICC (Underride Protection) Bumper Installed At Rear	1
27.	T-100 Style Pintle Hitch (30,000 LB)	1
28.	Set of Safety Chain Loops, Fixed Mounting (Forestry Applications)	1
29.	Cab Guard Access Stirrup Step(s) With Grab Handle At Curbside Rear Of Cab Guard	1
30.	Rigid Access Step Under Through Box Side Access Platform	1
31.	Platform Rest, Rigid with Rubber Tube	1
32.	Wood Outrigger Pad, 19.5" x 19.5" x 2.25", With Fluorescent Orange Steel Collar Around The Outer Edges And Chain Handle	2
33.	Outrigger Pad Holder, 20" L x 20" W x 3.5" H, Fits 19.5" x 19.5" x 2.25" And Smaller Pads, Bolt-On, Bottom Washout Holes, 3/4" Lip Retainer	2

We Wish To Thank You For Giving Us The Pleasure
And Opportunity of Serving You



<u>Item</u>	<u>Description</u>	<u>Qty</u>
34.	Mud Flaps With Altec-Logo (Pair)	1
35.	Wheel Chocks, Rubber with Metal Hairpin Style Handle, 9.75" L X 7.75" W X 5.00" H (Pair)	1
36.	Wheel Chock Holders (Pair), For Installation Under Flatbed Or Dump Body	1
37.	Small Grab Handle Installed On Front Of Dump Body At Through Box Side Access Platform	1
38.	Grab Handle Installed On Top Of Curbside Rear Through Box Compartment	1
39.	Slope Indicator Assembly For Machine With Outriggers	1
40.	Cone Holder, Horizontal Style with Vertical Pivot (Un-folds Upwards), For Mounting On Front Bumper (Holds up to four 15"x15" large cones)	1
41.	Driveaway Safety Kit	1
42.	Vinyl manual pouch for storage of all operator and parts manuals	1
<u>Electrical Accessories</u>		
43.	Strobe Lights To Be Wired Battery Hot	1
44.	Lights And Reflectors Per FMVSS 108 (Complete LED), With Security Mounted Lights	1
45.	4-Corner Strobe Lighting, Amber LED	1
	A. Two (2) Round Security Mounted Lights in Front Corners of Cab Guard	
	B. Two (2) Round Security Mounted Lights at Rear	
46.	Dual Tone Back-Up With Outrigger Motion Alarm	1
47.	6-Way Trailer Receptacle (Pin Type) Installed At Rear	1
48.	Electric Trailer Brake Controller (Tekonsha Voyager #9030)	1
49.	Install Outrigger Interlock System	1
50.	Altec Modular Panel System (AMPS) - Includes Mounting Panel and Accessory Switches	1
51.	PTO Indicator Light Installed In Cab	1

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UTILITY EQUIPMENT AND BODIES SINCE 1929

<u>Item</u>	<u>Description</u>	<u>Qty</u>
<u>Finishing Details</u>		
52.	Powder Coat Unit Altec White	1
53.	Finish Paint Body Accessories Above Body Floor Altec White	1
54.	Altec Standard; Components mounted below frame rail shall be coated black by Altec. i.e. step bumpers, steps, frame extension, pintle hook mount, dock bumper mounts, D-rings, receiver tubes, accessory mounts, light brackets, under-ride protection, etc. Components mounted to under side of body shall be coated black by Altec. i.e. Wheel chock holders, mud flap brackets, pad carriers, boxes, lighting brackets, steps, and ladders.	1
55.	Vehicle Height Placard, Installed In Cab	1
56.	Body Compartment Interiors May Remain Primed	1
57.	Apply Non-Skid Coating to all walking surfaces	1
58.	English Safety And Instructional Decals	1
59.	Placard, HVI-22 Hydraulic Oil	1
60.	Dielectric test unit according to ANSI requirements.	1
61.	Stability test unit according to ANSI requirements.	1
62.	Focus Factory Build	1
63.	Delivery Of Completed Unit	1
64.	Inbound Freight	1
65.	AR04 WD FL AL3 AB HS - Altec Reserve Spec AR04, LR7-60, Altec White, Freightliner M2 4x2, Diesel, Allison RDS-3500, Air Brakes, Hot Shift PTO	1

Chassis

66.	Altec Supplied Chassis	1
67.	Altec Stock Chassis	1

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And Opportunity of Serving You

UTILITY EQUIPMENT AND BODIES SINCE 1929



<u>Item</u>	<u>Description</u>	<u>Qty</u>
A.	2016 Model Year	
B.	Freightliner M2-106	
C.	Regular Cab	
D.	4x2 Drivetrain	
E.	Chassis Color - White	
F.	Cummins ISB Engine	
G.	240 HP Engine Rating	
H.	Allison 3500 RDS Automatic Transmission	
I.	Air Brakes	
J.	Clear Cab to Axle Length - 139 inches Actual Cab to Axle Length - 142 inches	
K.	33,000 LBS Gross Vehicle Weight Rating (GVWR)	
L.	13,220 LBS Front Axle Weight Rating (FAWR)	
M.	21,000 LBS Rear Axle Weight Rating (RAWR)	
N.	016-1C3 - Freightliner Horizontal Exhaust (Right-Horizontal-Behind Cab-Horizontal)	
O.	No Prewire Chassis	
P.	No Idle Engine Shut-Down Required	
Q.	Air Conditioning	
R.	AM/FM Radio	

Additional Pricing

68.	Standard Altec Warranty: One (1) year parts warranty, one (1) year labor warranty, ninety (90) days warranty for travel charges, limited lifetime structural warranty	1
-----	---	---

Miscellaneous

69.	Stock Unit	1
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Subtotal: \$142,460
 Delivery: \$1,100
 Total: \$143,560

Altec Industries, Inc.

BY _____

Notes:

We Wish To Thank You For Giving Us The Pleasure
And Opportunity of Serving You

UTILITY EQUIPMENT AND BODIES SINCE 1929

PROPOSED
RESOLUTION

1 RESOLUTION NO. _____
2

3 A RESOLUTION OF THE MAYOR AND VILLAGE COUNCIL OF
4 THE VILLAGE OF PALMETTO BAY, FLORIDA, RELATING TO
5 PUBLIC SERVICES FLEET OPERATIONAL EQUIPMENT;
6 AUTHORIZING THE VILLAGE MANAGER TO PIGGYBACK ONTO
7 THE CITY OF KISSIMMEE, FLORIDA BID NUMBER BA2016-006;
8 AND FURTHER AUTHORIZING THE VILLAGE MANAGER TO
9 ISSUE A PURCHASE ORDER FOR THE PURCHASE OF A 2016
10 ALTEC LR7-60 BUCKET TRUCK FROM ALTEC INDUSTRIES, INC.
11 IN THE AMOUNT OF \$143,560; AND PROVIDING FOR AN
12 EFFECTIVE DATE.
13

14
15 WHEREAS, the Village of Palmetto Bay continues its efforts to improve and evolve our
16 urban forestry program; and
17

18 WHEREAS, the Village of Palmetto Bay applied for, received and executed its second
19 Urban Community Forestry Grant on November 2, 2015 for funding in the amount of \$20,000
20 with a 1:1 match to fund the purchase of a bucket truck; and
21

22 WHEREAS, the purchase of a bucket truck will provide a more efficient and cost
23 effective means to manage structural deficiencies to existing trees and maintain the proper
24 growth habit on newly planted trees; and
25

26 WHEREAS, today there is little to no maintenance of large tree canopy in the Village
27 of Palmetto Bay; and
28

29 WHEREAS, Contractors are hired on an as needed basis and in the event of an
30 emergency; and
31

32 WHEREAS, the purchase of the bucket truck will afford the Village with internal
33 resources to sustain, protect, and enhance the Village's Urban Forestry Program; and
34

35 WHEREAS, in an effort to comply with the requirements of the received Urban
36 Forestry Grant and improve internal resources, the Village desires to piggyback onto the City of
37 Kissimmee Bid Number BA2016-006 for the purchase of a 2016 LR7-60 bucket truck from
38 Altec Industries, Inc.; and
39

40 WHEREAS, in accordance with the Village's procurement policy, the Village may
41 piggyback onto an existing contract from another government agency when a competitive bid
42 process has been followed; and
43

44 WHEREAS, the Public Services Department contacted, Altec Industries, Inc. and
45 received authorization to piggyback onto the existing Contract between the City of Kissimmee
46 and Altec Industries Inc. for an amount not to exceed \$143,560; and
47

1 **WHEREAS**, Altec Industries, Inc. has agreed to provide the necessary services and
2 resources to the Village utilizing the same pricing, terms and conditions as set forth in the
3 agreement with the City of Kissimmee; and
4

5 **WHEREAS**, the purchase of a bucket truck to the Public Services inventory will afford
6 the Village with internal resources to sustain, protect, and enhance the urban forestry in the
7 Village of Palmetto Bay; and
8

9 **WHEREAS**, funding for the purchase of the bucket truck is available and budgeted
10 under Special Revenue Fund – CITT in an amount not to exceed \$143,560 (\$20,000 will be
11 reimbursed from the Urban Forestry Grant); and
12

13 **WHEREAS**, it is recommended that the Village Council approve this Resolution
14 authorizing the Village Manager to purchase a 2016 Altec Model LR7-60 bucket truck for an
15 amount not to exceed \$143,560.
16

17 **NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND VILLAGE**
18 **COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, AS FOLLOWS:**
19

20 **Section 1.** The Village Manager is authorized to piggyback onto the contract
21 between the City of Kissimmee and Altec Industries Inc. Contract No. 16-000787, dated
22 February 8, 2016 for the purchase a 2016 Altec Model LR7-60 bucket truck for fiscal year 2015-
23 16 an in amount not to exceed \$143,560.
24

25 **Section 2.** The Village Manager is authorized to issue a purchase order for the purchase
26 of a 2016 Altec Model LR-7 bucket truck an in amount not to exceed \$143,560.
27

28 **Section 3.** This Resolution shall take effect immediately upon adoption by the Village
29 Council.
30

31 PASSED AND ADOPTED this _____ day of March, 2016.
32

33 Attest:
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37

38 _____
39 Meighan J. Alexander
40 Village Clerk
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Eugene Flinn
Mayor

1 APPROVED AS TO FORM AND LEGAL SUFFICIENCY FOR THE USE
2 AND RELIANCE OF THE VILLAGE OF PALMETTO BAY, FLORIDA ONLY:
3
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5
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7 _____
8 Dexter W. Lehtinen
9 Village Attorney
10
11

12 FINAL VOTE AT ADOPTION:

13 Council Member Karyn Cunningham _____
14

15 Council Member Tim Schaffer _____
16

17 Council Member Larissa Siegel Lara _____
18

19 Vice-Mayor John DuBois _____
20

21 Mayor Eugene Flinn _____
22
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24



To: Honorable Mayor and Village Council Date: March 7, 2016
 From: Edward Silva, Village Manager Re: Village Seal/Logo

A RESOLUTION OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, RELATING TO THE VILLAGE OF PALMETTO BAY SEAL AND LOGO; DESIGNATING THE VILLAGE MANAGER TO ACT AS THE VILLAGE COUNCIL DESIGNEE FOR THE PURPOSE OF AUTHORIZING THE USE OF THE VILLAGE SEAL (OFTEN REFERRED TO AS "LOGO") IN SIGNAGE AND/OR MARKETING MATERIALS TO PROMOTE VILLAGE-SPONSORED EVENTS; REQUIRING THE VILLAGE MANAGER TO PROVIDE AN UPDATED LIST OF VILLAGE-SPONSORED EVENTS TO THE VILLAGE COUNCIL; AND PROVIDING FOR AN EFFECTIVE DATE.

BACKGROUND AND ANALYSIS:

The Village of Palmetto Bay is committed to engaging its residents and bringing people together through the implementation of a robust special events program. This is accomplished, in part, by partnering with other organizations through sponsorship opportunities to bring other events and programs to our residents and further enrich our communities. Typically, these events require the distribution of marketing materials and signage for promotional purposes and often include the seal (often referred to as the "logo" but officially identified as the "seal") of the sponsors to recognize their contributions, which may be in the form of in-kind services or monetary donations. In such cases, Chapter 2, Article 1, Section 2.1(d) of the Village's Code of Ordinances requires written authority of the Council or its designee for the use of the Village seal. Securing written Council approval is not always practicable due to the limited number of Council meetings and the time sensitive nature of the events. The attached Resolution designates the Village Manager as the Council's designee to approve the use of the logo for Village-sponsored events, in accordance with the Village ordinance. The Resolution also requires the Village Manager to provide an updated list of the Village-sponsored events to the Village Council as often as necessary to ensure the accuracy of the information provided.

FISCAL/BUDGETARY IMPACT:

None.

RECOMMENDATION:

Approval is recommended.

1
2
3 RESOLUTION NO. _____
4

5 A RESOLUTION OF THE MAYOR AND VILLAGE COUNCIL OF
6 THE VILLAGE OF PALMETTO BAY, FLORIDA, RELATING TO
7 THE VILLAGE OF PALMETTO BAY SEAL AND LOGO;
8 DESIGNATING THE VILLAGE MANAGER TO ACT AS THE
9 VILLAGE COUNCIL DESIGNEE FOR THE PURPOSE OF
10 AUTHORIZING THE USE OF THE VILLAGE SEAL (OFTEN
11 REFERRED TO AS "LOGO") IN SIGNAGE AND/OR
12 MARKETING MATERIALS TO PROMOTE VILLAGE-
13 SPONSORED EVENTS; REQUIRING THE VILLAGE MANAGER
14 TO PROVIDE AN UPDATED LIST OF VILLAGE-SPONSORED
15 EVENTS TO THE VILLAGE COUNCIL; AND PROVIDING FOR
16 AN EFFECTIVE DATE.
17

18
19 WHEREAS, in addition to community events and programs organized by Village staff,
20 Palmetto Bay also sponsors community events and programs that are organized by other
21 entities, but serve a positive purpose for the Village residents; and
22

23 WHEREAS, to promote said events and programs, marketing materials and signage are
24 often prepared, and the Village, as a sponsor, desires to include its seal (often referred to as
25 "logo" but officially identified as the "seal") therein; and
26

27 WHEREAS, Chapter 2, Article 1, Section 2.1(d) of the Village's Code of Ordinances
28 requires written authority of the Council or its designee for the use of the Village seal; and
29

30 WHEREAS, the proposed Resolution designates the Village Manager as the Council's
31 designee in accordance with the requirements of Chapter 2, Article 1, Section 2.1(d) of the Code
32 of Ordinances.
33

34 NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND VILLAGE
35 COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, AS FOLLOWS:
36

37 Section 1. The Village Manager is hereby designated as the Council's designee for
38 the purpose of authorizing the use of the Village seal on signage and marketing materials for
39 Village-sponsored community events and programs.
40

41 Section 2. The Village Manager shall provide an updated list of Village-sponsored
42 events to the Village Council, as often as the Manager determines to be appropriate or
43 necessary.
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Section 3. This Resolution shall retroactively take effect on October 1, 2015.

PASSED and ADOPTED this ____ day of March, 2016.

Attest: _____
Meighan Alexander
Village Clerk
Eugene Flinn
Mayor

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

Dexter W. Lehtinen
Village Attorney

FINAL VOTE AT ADOPTION:

Council Member Karyn Cunningham	_____
Council Member Tim Schaffer	_____
Council Member Larissa Siegel Lara	_____
Vice-Mayor John DuBois	_____
Mayor Eugene Flinn	_____



To: Honorable Mayor and Village Council Date: March 7, 2016
From: Edward Silva, Village Manager Re: Village Seal/Logo- Alternate

A RESOLUTION OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, RELATING TO THE VILLAGE OF PALMETTO BAY SEAL AND LOGO; AUTHORIZING THE VILLAGE MANAGER TO USE THE VILLAGE SEAL (OFTEN REFERRED TO AS "LOGO") IN SIGNAGE AND/OR MARKETING MATERIALS FOR THE VILLAGE-SPONSORED EVENTS LISTED ON EXHIBIT A; AND PROVIDING FOR AN EFFECTIVE DATE.

BACKGROUND AND ANALYSIS:

The Village of Palmetto Bay is committed to engaging its residents and bringing people together through the implementation of a robust special events program. This is accomplished, in part, by partnering with other organizations through sponsorship opportunities to bring other events and programs to our residents and further enrich our communities. Typically, these events require the distribution of marketing materials and signage for promotional purposes and often include the seal (often referred to as the "logo" but officially identified as the "seal") of the sponsors to recognize their contributions, which may be in the form of in-kind services or monetary donations. In such cases, Chapter 2, Article 1, Section 2.1(d) of the Village's Code of Ordinances requires written authority of the Council or its designee for the use of the Village seal other than use by the Village or its governmental entities in their official capacities under Section 2.1(e). There are currently a number of planned events that the Village is sponsoring and the attached Resolution allows the Village Manager as the Council's designee to approve the use of the seal for those events listed on Exhibit A (some of which are fully Village conducted, for which the exception in Section 2.1(e) would apply). Any event that is not part of the attached list would require written Council approval for the use of the seal in accordance with the Village ordinance.

FISCAL/BUDGETARY IMPACT:

None.

RECOMMENDATION

Approval is recommended.

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

Dexter W. Lehtinen
Village Attorney

FINAL VOTE AT ADOPTION:

Council Member Katryn Cunningham	_____
Council Member Tim Schaffer	_____
Council Member Larissa Siegel Lara	_____
Vice-Mayor John DuBois	_____
Mayor Eugene Flinn	_____

Exhibit A**FY 2015-16 List of Village-Sponsored Events & Programs**

5K Twilight Color Run
Aging & Eating
Art of Aging Seminar
Avoiding the Fall Seminar
Bike to Work Day Event
Bird Walk
Bird Watching Workshop - BFF- Beak, Feet & Feathers
Biscayne Bay Cruise
Bridal Expo
Concert Under the Stars
Coral Reef Senior High Spring Art Showcase
Date Night Series- All
DARE Art in the Park Festival
Dinner Theater Series
Drive-In Movie Night Series
Earth Week Series of Events
Everglades Adventure-Trip & Tour
Floatsome-Nature Postings
Florida Rock Stars
Kayak Adventure Series
Medicare 101
Music at Thalatta
Nature Photography
Open Mic
Paddle Adventure
Palmetto Bay Comedy Festival
Palmetto Bay's DramaPalooza
Perrine Elementary Art Show
Photogenic Nature Workshop
Pineland Clean-Up
Redland Farm Tour-Trip & Tour
Relay for Life
Responsible Gardening Workshops
Samantha's Purpose 5K Run-Bows & Ties
Scout Badge Program
Shakespeare in the Park Series
Slamfest Softball Tournament
The Living Classroom
WHEELS – Bike-Train Event to South Miami
Village of Palmetto Bay Ghost Tour
Yoga by the Bay

STAFF REPORT

VILLAGE CENTER TRANSFER OF DEVELOPMENT RIGHTS

VPB-16-005



To: Honorable Mayor and Village Council

Date: March 7, 2016

From: Edward Silva, Village Manager

Re: TDR Request
Village Center

A RESOLUTION OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, PURSUANT TO SECTION 30-30.15, ENTITLED TRANSFER OF DEVELOPMENT RIGHTS (TDR); TRANSFERRING 85 RESIDENTIAL UNITS FROM 17901 OLD CUTLER ROAD, AS MORE PARTICULARLY DESCRIBED AT ATTACHMENT A; TO 17777 OLD CUTLER ROAD, AS MORE PARTICULARLY DESCRIBED AT ATTACHMENT B; AND ACCEPTING BY THE VILLAGE, AS A CONDITION THEREOF, THE OWNERSHIP OF PARCELS OF APPROXIMATELY 40± ACRES, AS MORE PARTICULARLY DESCRIBED AT ATTACHMENT C, FOR PUBLIC FACILITIES, PARKS, AND CONSERVATION PURPOSES; AND PROVIDING FOR AN EFFECTIVE DATE.

BACKGROUND

The specific lands subject to this particular zoning request are those located on the property commonly referred to as the "Village Center". Located along the east side of Old Cutler Road between SW 184 Street and the Palmetto Bay Public Library, it is made up of two separate properties of record. The applicant and owner of the lands is proposing to transfer the development rights of 85 residential units from the front 22± acres of land (Attachment A of the Resolution), generally those portions of the property presently zoned I, Interim District, to that portion of the property (Attachment B of the Resolution) that is zone Village Mixed Use (VMU). As part of the application, the owner has offered to transfer title to the Village the front 22± acres of land, together with other contiguous lands, totaling approximately 40± acres (Attachment C of the Resolution), for the propose of expanded parks open space, preservation of environmentally sensitive areas, and an area to locate a future fire rescue facility to serve the southeastern areas of the Village.

On January 11, 2016 the applicant requested a zoning determination letter to identify potential development rights for the front 22± acres of land adjacent to Old Cutler Road. Staff responded on January 26, 2016 identifying 85 residential units. The letter (Exhibit 1) provides a detail description of how the determination was made. It is those 85 units that the applicant is now requesting to transfer to the property zoned VMU.

PROCEDURE

This request coincides with two companion ordinances. The first ordinance is an amendment to the VMU zoning provisions and the second is an amendment to the Village's Comprehensive Plan as it relates to the VMU land use designation. The proposed amendments allow for all of the permitted residential units within the VMU district to be developed as multifamily, and provides for consistency of building heights of 85 feet. Those two items are sponsored by the Village of Palmetto Bay and their reports and ordinances provided under separate cover.

For the purpose of providing greater clarity of intent, this TDR request is being brought forward in concert with the first readings of the two proposed companion ordinances. However, it is staff's desire that Council take no action on the TDR request until the two proposed ordinances are brought back for consideration at second reading. At that time, The TDR request will be heard for final consideration followed by the two companion ordinances.

As a procedural matter, an amendment to the Comprehensive Plan on lands over 10 acres in size that modify the list of permitted uses is subject to the State of Florida's Expedited Large Scale Amendment Review procedures. The companion Comprehensive Plan amendment item involves a use modification (Senior Only Residential to Multifamily Residential that may include Senior Living). As such, the item must be transmitted to the State of Florida's Department of Economic Opportunity (DEO) for their review. Once complete, the item will return for second reading. It is staff's recommendation that the two companion ordinances only be approved pursuant to the conditions of those items therein, and only be considered after to the Council's decision to grant/deny this TDR application request.

Should the TDR request be granted, it may be necessary to plat the lands involved in order to properly execute the transfer of ownership and development rights. As such, upon enactment it shall become incumbent upon the applicant to prepare and submit surveys of the lands generally identified in Attachments A, B, and C of the Resolution, and submit for platting as may be required by Chapter 28 of Miami-Dade County's Code of Ordinances, and/or record any other legal instrument deemed necessary to ensure clear title.

GENERAL INFORMATION

Sender Lot Size:	22± net acres more or less.
Receiver Lot Size:	40± acres, more or less.
Land Dedicated Area:	40± acres, more or less.
Folio Numbers:	33-5035-013-0010 and 33-5035-013-0020

<u>PROPERTY</u>	<u>ZONING</u>	<u>LAND USE</u>
Sender Site:	I- Interim	PR – Parks and Recreation
Receiver Site:	VMU – Village Mixed Use	VMU – Village Mixed Use

Surrounding Properties

NORTH:	E-2; 5 Acre Estate SFR	Estate Density Res. (2.5 du/acre)
SOUTH:	Town of Cutler Bay	Town of Cutler Bay
EAST:	Biscayne Bay	Biscayne Bay
WEST:	E-1 – 1 Acre Estate SFR	Estate Density Res. (2.5 du/acre)

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.

ANALYSIS

The following is a review of the request pursuant to the Village's Transfer of Development Rights criteria found at Section 30-30.15(f) of the Land Development Code. The Background Section of this report is hereby incorporated by reference into this analysis.

Criteria 1: That the property(s) subject to the transfer of development right is eligible pursuant to section 30-30.15(c).

Analysis: The sender site is zoned I, Interim district and the receiver site property is zoned VMU, Village Mixed Use district. Section 30-30.15(c) permits I zoned properties to be sender sites and VMU zoned properties to be receiver sites.

Finding: Consistent.

Criteria 2: That the transfer of development right is consistent with the goals, objectives and policies of the Village's Comprehensive Plan.

Analysis: In reviewing the Village's Comprehensive Plan, the following Goals, Objectives, and Policies (GOP) below were identified as relating to the TDR request. Each GOP is provided with a brief analysis. The finding of those analyses is provided at the end of this criterion.

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 TDRs request is reflective of multiple goals, objective and policies (GOP) of the Villages Comprehensive Plan. Those GOPs aim to steer development towards areas that have available infrastructure, create opportunities to acquire park lands and preserve conservation areas. The request, if approved also makes available approximately 1.5 acres of land for a future fire rescue facility on the southeast side of the Village.

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: The TDR request does not increase densities within the area above that which may already be grantable by way of a site plan request. The request removes the potential of private development from a 22± acre parcel that presently serves as a visual barrier of the mixed use zoning on its east side, to the low residential density on its west side. That 22± acre property, together with other lands (approximately 40± acres in total) will then be voluntarily deeded to the Village for parks and open space, environmental conservation, and the siting of a much needed fire rescue facility to serve the southeastern area of the Village.

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

Analysis: See Background Section and Policy 1.1.8. The TDR application is offered by the applicant in tandem with their voluntary desire to deed approximately 40± acres of land to the Village for the purpose of parks and open space, environmental conservation, and the location of a much need fire rescue facility in the southeastern areas of the Village.

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

Analysis: See Background section and Policy 1.1.8., Policy 1.5.4., Policy 6.5.1., and Policy 7.1.3. In acquiring these lands as part of the TDR request, the Village will be able to work toward ensuring the existing mature vegetation and distinctive trees are retained.

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 UIA¹ 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

¹ 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.

(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 TDR request does not increase densities within the area above that which may already be grantable by way of a site plan request. Compliance with level of service requirements will be reviewed and evaluated at time of site plan application request.

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

Analysis: The TDR request does not increase densities within the area above that which may already be grantable by way of a site plan request. Compliance with level of service requirements will be reviewed and evaluated at time of site plan application request.

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: The TDR request does not increase densities within the area above that which may already be grantable by way of a site plan request. Compliance with level of service requirements will be reviewed and evaluated at time of site plan application request.

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 receiver property is served by a sanitary sewer gravity line.

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: The TDR request does not increase densities within the area above that which may already be grantable by way of a site plan request. Compliance with level of service requirements will be reviewed and evaluated at time of site plan application request.

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 TDR request does not increase densities within the area above that which may already be grantable by way of a site plan request. Compliance with level of service requirements will be reviewed and evaluated at time of site plan application request.

Policy 5.1.1 The Village will limit the specific and cumulative impacts of development and redevelopment upon identified wetlands, water quality, water quantity, wildlife habitat, and living marine resources through the development review process.

Analysis: See Background Section, and Policy 1.1.8. The sender site (the 22± acres of land) and the adjoining areas being offered by the applicant includes lands that have pine rock-lands and wet lands. The TDR together with the transfer of ownership of said lands to the Village works to ensure the continued preservation of those environmental assets.

Goal 6 Protect and enhance the environmental resources of Palmetto Bay to ensure continued resource availability and environmental quality through prudent management, public education, appropriate regulations and

enforcement and active partnerships with governmental and environmental entities.

Analysis: See Background Section, and Policy 1.1.8., Policy 1.5.4., and Policy 5.1.1.

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 Background section and Policy 1.1.8., Policy 1.5.4., Policy 6.5.1., and Policy 7.1.3. In acquiring these lands as part of the TDR request, the Village will be able to work toward ensuring the natural systems are retained.

Policy 6.5.1 Manage environmentally sensitive natural systems in the Village, including, but not limited to, water resources, wetlands, and native habitats of flora and fauna through prudent land use planning and land development regulations.

Analysis: See Background Section, and Policy 1.1.8., Policy 1.5.4., and Policy 5.1.1. In acquiring these lands as part of the TDR application, the Village will be able to work towards the preservation of the environmental assets that exist on the newly protected lands.

Objective 6.7 Protection of Plants and Wildlife. Continue to ensure that wildlife and plant species listed as endangered threatened or of special concern that inhabit the environments in Palmetto Bay are protected and enhanced where possible.

Analysis: See Background Section, and Policy 1.1.8., Policy 1.5.4., Policy 5.1.1 and Policy 6.5.1.

Objective 6.11 Conservation Expansion. Continually seek public acquisition of additional areas for nature preserves and passive open spaces to expand the opportunities for conservation and increase public appreciation of natural habitats within the community.

Analysis: See Background Section, and Policy 1.1.8., Policy 1.5.4., Policy 5.1.1 and Policy 6.5.1.

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: The TDR request does not increase densities within the area above that which may already be grantable by way of a site plan request. Current park lands well exceed required levels of service.

Policy 7.1.3 Maintain a balance of active parks, passive parks, and natural areas to meet the needs and expectations of Village residents, and seek future opportunities to increase the number of pocket parks and other urban open spaces distributed throughout the Village.

Analysis: See Background Section, and Policy 1.1.8., Policy 1.5.4., Policy 5.1.1 and Policy 6.5.1. Approval of the request in tandem with acquisition of the lands in question will result in an expansion of the Village's park system.

Objective 7.4 Park Land Acquisition
Continue to explore opportunities to acquire land necessary for maintaining and enhancing the parks and recreation level-of-service (LOS) standards, strategically located in order to maximize accessibility to residents served.

Analysis: See Background Section, and Policy 1.1.8., Policy 1.5.4., Policy 5.1.1, Policy 6.5.1., and Policy 7.1.3.

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: The TDR request does not increase densities within the area above that which may already be grantable by way of a site plan request. Compliance with level of service requirements will be reviewed and evaluated at time of site plan application request.

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 TDR request does not increase densities within the area above that which may already be grantable by way of a site plan request. Compliance with level of service requirements will be reviewed and evaluated at time of site plan application request.

Finding: Conditionally consistent provided ownership of the lands in Attachment C of the Resolution are transferred to the Village.

Criteria 3: That the transfer of development rights preserves environmentally sensitive lands, increases available park land, facilitates appropriate redevelopment and revitalization, facilitates economic development, or results in providing for affordable housing.

Analysis: See Background section and Criteria 2. The TDR in tandem with the transfer of ownership of the lands in question will result in the expansion of park space, environmental conservation, and an area to accommodate a future fire rescue facility.

Finding: Conditionally consistent provided ownership of the lands in Attachment C of the Resolution are transferred to the Village.

Criteria 4: That for transfers of development rights from one property to another property, the request is incorporated into and accompanied by an approved site plan pursuant to 30-30.5 or as otherwise approved by the Village Council.

Analysis: The applicant has not submitted for any particular development plan. However, the application as offered by the applicant provides the Village the unique opportunity to expand its park system by approximately 40± acres, conserve environmentally sensitive lands, and provide a site for a future fire rescue facility to serve the southeastern portions of the Village.

Finding: Conditionally consistent provided ownership of the lands in Attachment C of the Resolution are transferred to the Village.

Criteria 5: That for transfers of development rights from one property to another property, the number of residential units, commercial lot coverage and/or commercial floor area does not exceed 25% of the maximum permitted at the receiving site.

Analysis: The receiving property is currently permitted to develop up to 400 residential units. The applicant proposes to transfer 85 units. The result is an increase of 21%.

Finding: Consistent.

Criteria 6: That there are no active code violations on the sender or receiver site.

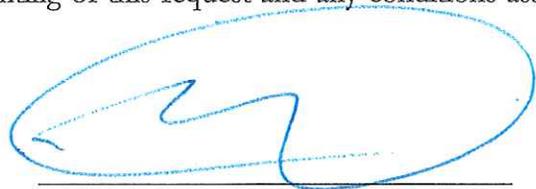
Analysis: There are no active violations on the sender or receiver site.

Finding: Consistent.

RECOMMENDATIONS

Staff recommendations approval of the proposed Transfer of Development Rights as further conditioned below:

1. Approval of the TDR request shall occur before final action is taken on the two companion ordinances.
2. The applicant shall provide sealed surveys that accurately depict the sender site, receiver, and land dedication site, prior to the transfer of the 85 residential units. Said surveys will be deemed acceptable for purposes of transferable rights and land dedication upon staff determination that they are generally reflective of the Attachments A, B and C, of the Resolution.
3. As part of the land dedication process, and prior to transfer of the 85 residential units, the lands involved shall comply with Chapter 28, Subdivisions, of the Miami-Dade County Code of Ordinances, and/or record any other legal instrument deemed necessary to ensure clear title.
4. The approved Resolution shall be recorded to the titles of all lands involved.
5. Prior to transfer of the 85 residential units The Village shall receive clear title to the dedicated lands as generally described in Attachment C of the Resolution and as further depicted in the survey submitted and accepted pursuant to condition of 2 of this recommendation.
6. All previous conditions, approvals, covenants and resolutions shall remain in effect unless otherwise altered by the granting of this request and any conditions assigned therein.



Darby Delsalle, AICP
Director of Planning and Zoning

EXHIBIT 1

VILLAGE CENTER TRANSFER OF DEVELOPMENT RIGHTS
VPB-16-005



VILLAGE OF PALMETTO BAY

January 26, 2016

Scott Silver,
17777 Old Cutler Road, LLC
18001 Old Cutler Road, Suite 600
Palmetto Bay, Florida 33157

Re: Front 22 Acres of 17777 & 18001 Old Cutler Road.

Mr. Silver:

The following is in response to your letter dated January 11, 2016 as it pertains to your request for a "building rights" determination for the front 22 net acres of land locate at 17777 & 18001 Old Cutler Road. Based on the analysis provided below, it appears the property enjoys a potential zoning development right of 85 residential units.

The property in question is presently zoned Interim (I) with a land use designation of Parks and Recreation (PR). The I zoning category was applied to the property when the Village adopted its own land development regulations in 2009. It was previously zoned Government Use (GU) under Miami-Dade County's zoning provisions. The PR designation was applied in 2005 when the Village adopted its Comprehensive Plan and corresponding Future Land Use Map (FLUM). Chapter 163 of the Florida Statutes requires zoning to be consistent with land use. Although the I zoning category is consistent with a PR designation, it may be considered awkward in the context of the private ownership of land.

The PR land use designation is fairly restrictive with regard to permitted uses and development standards. Residential and commercial uses would not be permitted within this designation. The I zoning district (or for that matter the GU district) does not preclude them. The 2005 action establishing the PR designation appeared to anticipate an eventual park amenity; however the land was never acquired by a governmental entity, nor was the property owner required to build one. Its continued private ownership has thus allowed the question to linger of the land's ultimate permitted use. For private development to occur on the property, be it residential or commercial, the land use designation must change accordingly.

9705 East Hibiscus Street, Palmetto Bay, FL 33157
Tel: (305) 259-1234 ♦ www.palmettobay-fl.gov

The Village's I zoning category mirrors Miami-Dade County's GU category. Both districts essentially provided for the concept of "trending of development." As applied, determination of use and intensity within an I or GU district is based on the zoning of adjacent lands. If the surrounding properties vary in intensity, the "trending of development" would fall somewhere in between that permitted within the adjacent zones. Typically, a determination would be applied to the property and then be followed by a rezoning request consistent with the identified uses and intensity.

Given the above, a determination of "building rights" is reviewed under the context of the land's ownership by a private entity and its potential usage as governed by the I zoning district.

The majority of the lots west of the property are zoned One Acre Estate Single-Family District (E-1). The E-1 district permits one unit per acre. One lot is zoned Five Acre Estate Single-Family District (E-2) and two (2) other lots are zoned Estate Modified Single-Family District. The E-2 permits one (1) unit per five (5) acres and the EM district permits roughly three (3) units per acre. The overall density works out to approximately one (1) unit per acre. The lands to the north and east are zoned Village Mixed Use (VMU). The VMU zoned land is approximately 41.59 acres and is permitted to have mid-rise office uses and up to 400 residential units of varying types. Overall residential density works out to approximately the 9.61 units per acre. The resulting trend of residential development would be approximately Five (5) units per acre.

The land in question is subject to a declaration of restrictive covenant that requires the property to provide and maintain landscaping to visual obscure from Old Cutler Road, the more intense multi-family and office uses permitted within the VMU zoning district on the east side. The covenant was proffered as a clear attempt to buffer and protect the low density residential neighborhoods on the west side from the more intense office and multi-family residential uses permitted on the east side property. Given the intent, it is not unreasonable to conclude the covenant would have also resulted in a restriction of commercial development within the 22 acres. It does not appear that the covenant restricts all development on the land in question, however the landscape element in and of itself would logically result in a diminished area available for development. That form of development would most likely be low density residential. In this context, it is assumed that it would take a strip of land of approximately five (5) acres in area immediately adjacent to Old Cutler Road to accomplish the needed landscaping screen. That leaves approximately 17 of the 22 net acres that may be contemplated for potential residential development.

In applying the assumptions described herein, it appears the building right potential for the 22 net acres would be 85 homes.

If you have any additional question please contact this office at 305-259-1234.

17777 Old Cutler Road, LLC
18001 Old Cutler Rd, Suite 600
Palmetto Bay, FL 33157
O: 305-377-8802 | F: 305-377-8804

January 11, 2016

Mr. Darby DeSalle
Director
Planning & Zoning Dept.
9705 E Hibiscus St
Palmetto Bay, FL 33157

Please provide me with the determination of development rights letter as to the land parcel bounded by the VMU District on the East and Old Cutler Road on the West encompassing approximately 22 net acres.

Regards,



Scott Silver
Authorized Rep

ZONING HISTORY

VILLAGE CENTER TRANSFER OF DEVELOPMENT RIGHTS

VPB-16-005

COPY

The following resolution was offered by Commissioner _____,
who moved its adoption; The motion was seconded by Commissioner _____,
and upon being put to a vote was duly carried:

WHERE-AS, Everett W. Martin, has heretofore filed an application with the Dade
County Zoning Department for a change of zone, from zone EU-2 to zone BU-2, upon the
following described property:

Lots 3 and 4, of Dougherty Subdivision, according to the plat thereof,
as recorded in plat book 1, page 1, of the public records of Dade
County, Florida; and

WHERE-AS, a public hearing of the Dade County Zoning Commission was advertised
by the Zoning Director, as required by Law, at which hearing all members of the said
Zoning Commission, who were present, voted against recommending any change of present
zoning within the area; and

WHERE-AS, it appears to this Board that the change of zone requested would prove
detrimental to other property owners within the area;

NOW, THEREFORE BE IT RESOLVED, by the Board of County Commissioners of Dade
County, Florida, that the application for a change of zone upon the foregoing described
property be, and the same is, hereby denied.

Denied
4/30-1946

Heard 4-22-46

RESOLUTION NO. 4-248-578-69

The following resolution was offered by Mr. H. H. Wood,
seconded by Mrs. Irene Faugno, and upon poll of members present,
the vote was as follows:

Irene Faugno	aye	Betty S. Page	abstain
William L. Flynn	aye	Roger Shaw	absent
Steven J. Green	absent	H. H. Wood	aye
Leonard Levenstein	absent	Andrew Lew	aye

WHEREAS, H. G. King, et al, have applied for the following:

A district boundary change from DU-2 (Single Family-5 Acre Estates) to
DU-4 (Apartment House and Hotel), AND

SPECIAL EXCEPTION to permit a multiple family apartment development, AND

VARIANCE of zoning regulations requiring all uses to be on public streets
and roads, to waive same and to permit the aforementioned development on
private drives, AND

UNUSUAL USE to permit an entrance feature; said feature to consist of one
gate house (enclosing pumping station) and one 8' high wall and two pillars
on each side of the access drive into the development, AND

UNUSUAL USE to permit the filling of bay bottom land out to the East line
of the SW $\frac{1}{4}$ of Section 35-55-40, AND

UNUSUAL USE to permit the excavation of a lake and canal. Applicant is
requesting the vertical bulkheading from +6.0' elevation to -5.0' elevation,
then a 12' horizontal to 2.5' vertical slope to a -9.0' elevation, then a
vertical slope to -20' elevation on the lake. Canal excavation is proposed
with a vertical bulkheading from +6.0' elevation to -5.0' elevation, then a
horizontal shelf extending into the canal for 10', then a vertical cut into
-20' elevation of water, AND

UNUSUAL USE to permit a water use facility, to wit: Boat docks in the above
lake, AND

SPECIAL EXCEPTION to permit the following apartment buildings: One with
150' height, one with 140' height, six with 125' height, one with 110' height
(100' permitted on each);

ALL OR: That portion of subject property lying SE/ly of Old Cutler
Road, AND

A district boundary change from DU-2 (Single Family-5 Acre Estates) and
DU-1 (Single Family-One Acre Estates), to DU-1 (Single Family-One Acre Estates)

OR: That portion of subject property, lying SW/ly of Old Cutler Road.

SUBJECT PROPERTY: Tracts 3 thru 9 incl., Dougherty's Sub. (1-1).
Tracts 1 thru 4 incl., S. H. Richmond Sub. (1-67) less the N. 161' of
said Tract 1. N. 195.78' of Tracts 5 and 6 of S. H. Richmond Sub.
(1-67). That portion of the NE $\frac{1}{4}$ SW $\frac{1}{4}$ SW $\frac{1}{4}$ Section 35, Township 35 South,
Range 40 East lying SE/ly of Old Cutler Road and less the N. 600' there

LOCATION: From Old Cutler Rd. to Hiacyne Way, between approx. theo.
ON 177 St. and approx. theo. SW 183 St., and one parcel lying SW/ly of
Old Cutler Rd. at approx. SW 180 St., Dade County, Florida, and

WHEREAS, a public hearing of the Metropolitan Dade County Zoning Appeals Board was advertised and held, as required by law, and all interested parties concerned in the matter were heard, and

WHEREAS, upon due and proper consideration having been given to the matter, it is the opinion of this Board that the requested district boundary changes would be incompatible with the neighborhood and area concerned and would be in conflict with the principles and intent of the plan for the development of Dade County, Florida; and that the requested special exceptions and variance and unusual uses would not be compatible with the area and its development and would not be in harmony with the general purpose and intent of the regulations and would not conform with the requirements and intent of the Zoning Procedure Ordinance;

NOW THEREFORE BE IT RESOLVED by the Metropolitan Dade County Zoning Appeals Board that the requested district boundary changes be and the same are hereby recommended for denial by the Board of County Commissioners of Dade County, Florida; and

BE IT FURTHER RESOLVED that the requested special exceptions and variance and unusual uses be and the same are hereby denied.

The Zoning Director is hereby directed to make the necessary notations upon the records of the Dade County Building and Zoning Department.

PASSED AND ADOPTED this 15th day of October, 1969.

Heard 6/11/69
No. 69-6-56
10/21/69
hf

October 22, 1969

H. C. King, et al
6500 S.W. 135 Terrace
Miami, Florida

RE: H. C. King, et al; request for district boundary changes, special exceptions, variance, unusual uses; Sec. 35-55-40; Hearing 69-6-56.

Enclosed herewith is a copy of Resolution No. 4-ZAB-576-69, adopted by the Metropolitan Dade County Zoning Appeals Board, denying your application concerning the above subject matter.

You are hereby advised that the Zoning Appeals Board recommendation regarding the district boundary change need not be appealed and has already been scheduled for final action by the Board of County Commissioners, as was noted in the courtesy notice.

If you are dissatisfied with the decision of the Zoning Appeals Board concerning the balance of the application, the same may be appealed, as has been provided in Chapter 33-313 of the Code of Metropolitan Dade County, Florida.

Very truly yours,

METROPOLITAN DADE COUNTY
BUILDING AND ZONING DEPARTMENT

CCC/df
Enc.

Chester C. Czebrinski
Assistant Director

cc: Mr. Richard H. Faigo

bcc: Hrg. file ✓
Mr. Bryan

METROPOLITAN DADE COUNTY ZONING APPEALS BOARD

October 15, 1969

H. C. King, et al

Hearing Number 69-6-56. Resolution 4-ZAB-576-69.

Mr. Wood: Mr. Chairman, thank you; I concur in your remarks that the Chair has made. I feel that the applicants are entitled to a decision today.

Chairman Lee: All right.

Mr. Wood: On those bases, I would like to offer a motion for denial of the entire application as presented here today, basing my motion for denial on the recommendations by both departments, in addition to the fact that the information requested by this Board has not been given by the applicant. I feel that those reasons set forth in the recommendations and the fact that the information is unavailable to use would be sufficient to deny this particular application, in its entirety.

Chairman Lee: Seconded by Mrs. Faugno. Any discussion on that motion by the Board?

Unidentified Man: Mr. Lee---

Chairman Lee: We have to get a motion on the floor. Any discussion on the motion? Anyone want to discuss the motion?

Mr. Flynn: Mr. Chairman, I feel we are penalizing Mr. King by doing it this way. I think it should be deferred if anything instead of Denied, to give him time to work this out. I know they haven't gotten, haven't had enough time yet.

Mr. Catlin: Mr. Flynn---

Chairman Lee: I think that is the way I see it now--that we should call the roll on this one.

Mrs. Page: Mr. Czebrinski, on this application I would like to know whether I should abstain at this point?

Mr. Czebrinski: The matter is whether or not you have heard the previous testimony or read it.

Mrs. Page: I abstain.

Chairman Lee: I am going to vote yes, to move it right along; otherwise there would be a tie vote. So, the motion passes three to one for denial of the application with one abstention, Mrs. Page abstaining. That concludes the hearing and the application is denied. (Mr. Flynn voting against the motion; Messrs. Green, Levenstein and Shaw being excused.) Mrs. Page's reason for abstaining was that she wasn't here and didn't read the transcript.

Walter I. Castles

Rehearing 69-9-47. Resolution 4-ZAB-577-69.

Mr. Wood: Mr. Chairman, I move approval.

Chairman Lee: Okay, motion by Mr. Wood for approval, seconded by Mr. Flynn, subject to dedications.

Mr. Czebrinski: Any other conditions?

Mr. Wood: So you have any normal conditions that would be imposed in an operation of this type?

Mr. Czebrinski: Yes, sir.

Mr. Wood: Then, impose those normal conditions.

Mr. Czebrinski: Then in your motion, you would include the usual conditions?

Mr. Wood: Yes.

Chairman Lee: Any further discussion on the motion? Those opposed signify by raising their right hand. Motion carries five to zero for approval, then. (Messrs. Green, Levenstein and Shaw being excused.) We want to thank you for coming back and waiting 30 days, and we hope we didn't inconvenience you too much.

RESOLUTION NO. Z-89-70

The following resolution was offered by Commissioner

Ben Shepard, seconded by Commissioner

Earl J. Carroll, and upon poll of members

present, the vote was as follows:

Earl J. Carroll	aye	Arthur H. Patten, Jr.	absent
Mary H. Foote	aye	Ben Shepard	aye
Alexander S. Gordon	nay	Earl M. Starnes	absent
R. Hardy Matheson	absent	Chuck Hall	aye
Thomas D. O'Malley	absent		

WHEREAS, H. C. King, et al had applied for the following:

~~A district boundary change from EU-2 (Single Family - 5-acre-estates) to RU-4 (Apartment House & Hotel);~~

Special Exception to permit a multiple family apartment development;

Variance of Zoning Regulations requiring all uses to be on public streets and roads, to waive same and to permit the aforementioned development on private drives;

UNUSUAL USE to permit an entrance feature; said feature to consist of one gatehouse (enclosing pumping station) and one 8' high wall and two pillars on each side of the access drive into the development;

UNUSUAL USE to permit the filling of bay bottom land out to the East line of the SW $\frac{1}{4}$ of Section 35, Twp. 55 South, Range 40 East;

UNUSUAL USE to permit the excavation of a lake and canals. Applicant is requesting the vertical bulkheading from plus 6.0' elevation to -5.0' elevation, then a 12' horizontal to 2.5' vertical slope to a -9.0' elevation, then a vertical slope to -20' elevation on the lake. Canal excavation is proposed with a vertical bulkheading from plus 6.0' elevation to -5.0' elevation, then a horizontal shelf extending into the canal for 10', then a vertical cut into -20' elevation of water.

UNUSUAL USE to permit a water use facility: to-wit: boat docks in the above lake;

Hotel

SPECIAL EXCEPTION to permit the following apartment buildings: One with 150' height, one with 140' height, six with 126' height, one with 110' height (100' permitted on each);

ON: That portion of subject property lying SE/ly of Old Cutler Road

A district boundary change from EU-2 and EU-1 (One Acre Estates) to EU-1;

ON: That portion of subject property lying NW/ly of Old Cutler Road

SUBJECT PROPERTY: Tracts 3 - 9 inclusive, Dougherty's Subdivision (PB 1, Page 1); Tracts 1 - 4 inclusive, S. H. Richmond Subdivision (PB 1, Page 67) less the North 161' of said Tract 1, North 196.78' of Tracts 5 and 6 of S. H. Richmond Subdivision (PB 1, Page 67); That portion of the NW $\frac{1}{4}$, SW $\frac{1}{4}$, SW $\frac{1}{4}$, Section 35, Twp. 55 South, Range 40 East, lying SE/ly of Old Cutler Road and less the South 600' thereof;

LOCATION: From Old Cutler Road to Discayne Bay, between approximately theo. SW 177th Street and approximately theo. SW 183rd Street and one parcel lying NW/ly of Old Cutler Road at approximately SW 180th Street, Dade County, Florida, and

WHEREAS, a public hearing of the Metropolitan Dade County Zoning Appeals Board was advertised and held as required by law, and all interested parties concerned in the matter were heard, and upon due and proper consideration having been given to the matter, the requested district boundary changes were recommended for denial and the balance of the requests were denied for failure to obtain the necessary 3/4 majority favorable vote of those members present, and

WHEREAS, F. C. King, et al, had appealed the decision of the Zoning Appeals Board to this Board, pertaining to the requested Special Exceptions, Variance and Unusual Uses, and

WHEREAS, 15-day notice of the time and place of the meeting of this Board was published, as required by the Zoning Procedure Ordinance, and after reviewing the record, recommendation and decision of the Zoning Appeals Board, and after having given an opportunity for interested parties to be heard, and upon considering the record, recommendation and decision of the Zoning Appeals Board and all matters presented at the meeting, it is the opinion of this Board that the requested district boundary changes would be compatible with the neighborhood and area concerned and would not be in conflict with the principles and intent of the plan for the development of Dade County, Florida, and should be approved, and that the grounds and reasons specified for the reversal of the ruling made by the Zoning Appeals Board, pertaining to the requested special exceptions, variance and unusual uses, were sufficient to merit a reversal of the decision;

★ NOW THEREFORE BE IT RESOLVED by the Board of County Commissioners, Dade County, Florida, that the requested district boundary change to R4-4 be and the same is hereby approved and said property is hereby zoned accordingly, and that the special exception to permit a multiple family apartment development be and the same is hereby approved, subject to the following conditions:

1. That dedication of rights-of-way as may be deemed lacking, desirable and necessary, in the opinion of the Director of Public Works and Zoning Director, shall be made, and improvement shall be made of such rights-of-way as may be required by the Director of Public Works.

- 2. That a plot use sign be submitted to and meet with the approval of the Zoning Director, said plan to include among other things but be not limited thereto, type, height and location of structures, density of occupancy for proposed apartments, offstreet parking area, type and location of signs, landscaping, drainage, ingress and egress drives, etc.
- 3. That in the approval of the plan, the same be substantially in accordance with that submitted for the hearing as prepared by William Hamilton Arthur, Architect, entitled, "Adjusted Land Use Plan, South Cutler Bay Development Assoc.", dated January 10, 1970 - Revised February 25, 1970.
- 4. That the development shall be established and maintained in accordance with the approved plan.
- 5. That an instrument suitable for recording and meeting with the approval of the Director of Building and Zoning Department be submitted to the effect that the property would be developed substantially in accordance with the plans submitted for the hearing, unless at some future date either the zoning or plan of development were modified by Public Hearing; that said agreement shall be binding on the property owners and all other parties of interest and their successors in title.
- 6. That a recordable agreement be submitted to and meet with the approval of the Zoning Director providing for permanent and safe access for pedestrian and vehicular traffic within the development and, particularly, for right of access for fire, police, health and sanitation and other public service personnel and vehicles. The agreement which shall be a covenant running with the land shall, also, include a stipulation that the streets or accessways shall be installed and maintained by the applicant including, but not limited to, sidewalks, drainage facilities, water, sewers and fire hydrants meeting with the approval of the Directors of the Public Works and Building and Zoning Departments. Such agreement shall be executed by all parties having an interest in the land and its improvements.

BE IT FURTHER RESOLVED that the requested district boundary change to EG-1 be and the same is hereby approved and said property is hereby zoned accordingly;

~~BE IT FURTHER RESOLVED~~ that the balance of the application be and the same is hereby approved.

The Zoning Director is hereby directed to make the necessary changes and notations upon the maps and records of the Dade County Building and Zoning Department and to issue all permits in accordance with the terms and conditions of this resolution.

PASSED AND ADOPTED this 16th day of April, 1970.

Hears 5-11-69
No. 69-6-53
VP

DADE COUNTY, FLORIDA, BY ITS
BOARD OF COUNTY COMMISSIONERS

E. B. LEATHERMAN, CLERK

By *[Signature]*
Deputy Clerk



STATE OF FLORIDA)
) SS:
COUNTY OF DADE)

I, RICHARD P. BRINKER, Clerk of the Circuit Court in and for Dade County, Florida, and Ex-Officio Clerk of the Board of County Commissioners of said County, DO HEREBY CERTIFY that the above and foregoing is a true and correct copy of Resolution No. Z-89-70, adopted by the said Board of County Commissioners at its meeting held on April 16, 19 70.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal on this 20th day of March, A. D. 19 73.

RICHARD P. BRINKER, Ex-Officio Clerk
Board of County Commissioners
Dade County, Florida

By A. H. Wabike
Deputy Clerk

SEAL

Board of County Commissioners
Dade County, Florida

MEMORANDUM

Agenda Item 2(b)

To: The Honorable Mayor and Members
Board of County Commissioners

Date: July 20, 1972

From: R. Ray Goode
County Manager

Subject: South Cutler Bay, Inc.
Moratorium - Status of
Zoning Revision

The building moratorium on 80⁺ acres located between Old Cutler Road and the Bay, from S.W. 177 Street (theoretical as extended) to S.W. 183 Street (as extended) was imposed by the Commission on June 20, 1972 for a period of 120 days. Resolution R-924-72 which imposed this moratorium also directed that, "the County Manager shall report back to this Board within thirty days as to the steps he has taken toward revision of zoning district boundaries." This report is submitted in compliance with this request.

Two different approaches to revising the zoning on this single owned tract are possible. One approach would be for staff to propose a subdivision of the subject property into various zoning district classifications which will not exceed the maximum density as established in the South Bay Area Plan and, further, will provide for a transition of land uses to adjoining properties. Although this approach is common for multiple owned smaller tracts, it is less desirable for large single owned tracts where the owner has the opportunity to master plan the entire development, with assistance of staff evaluation, and then request zoning based on the site development master plan which becomes part of the zoning. This site development plan approach has obvious advantages over the other but necessitates the cooperation of the owners in formulating a site plan with deed restrictions that becomes an integral part of the zoning. Because the present owner of this subject tract expressed a willingness before the Commission on June 20 to completely revise the site plan which is a part of the existing zoning on this tract and to reduce densities, staff has been working closely these past thirty days with the owner's architects on a revised site plan.

The site plan approach to zoning necessitates that the owner initiate the request for zoning based on his site plan and accompanying voluntarily offered deed restrictions which insures the implementation of the site plan regardless of future ownerships. For this reason, the owner of South Cutler Bay, Inc., who is precluded from filing a rezoning request on the property so long as the building moratorium is in effect, has requested via public hearing that the moratorium as such be removed and in its place, serving the same effect, the owner has offered to legally bind himself from requesting or receiving any building permits on the property until the County Commission has taken final action on the question of rezoning of the property which is estimated to take at least another ninety days--depending on when the application is filed.

The existing zoning and site plan on the 80⁺ acre tract (dated September 21, 1970) shows 1,857 units with a density of 31.3 units per net acre. This approved site plan contains fifty buildings located over the entire area with off-street parking adjacent. Consequently, a major portion of the site is covered with buildings or parking, leaving little open space. These building heights vary from two-story townhouses at 35 feet to a 14-story building at 150 feet. Many are ten stories.

July 20, 1972

The revised site plan prepared by the new land owners shows a total of 1,322 units with a density of 21.3 units per net acre, which is a reduction of 535 units (approximately 28.0 percent) from the present zoning. This revised plan has only five multiple family buildings and one recreational building. In this plan all off-street parking will be incorporated in the lower levels of the buildings. This enables the preservation of a major portion of the existing trees and mangrove area (which will be deed restricted as permanent open space), and creates a deep landscaped buffer along Old Cutler Road. Two-story townhouses are proposed on the north boundary as a transition. Building heights vary from two-story townhouses at 35 feet to a 20-story building at 184 feet. The proposed coverage of land is extremely low for this type development and provides much open space which distinguishes this site plan.

The South Bay Area Study as approved by the Board of County Commissioners in February, 1970 and amended on July 21, 1970 by establishing a maximum population in the study area of 150,000 is the official planning guide for this entire 15 square mile South Bay area including the subject 80 acres. The South Bay plan was also the policy guide used for zoning the vast Saga development which was required to reduce its proposed densities considerably before their zoning was finally approved by the Commission. Based on the approved South Bay Area Land Use Plan and the maximum population policy of the Commission, the subject 80 acre tract is allocated a maximum of approximately 600 total units or a maximum net residential density between 9-10 units per acre.

This proposed development was approved by the Commission in 1970 and recently purchased by another party approximately two years later. The purchase price was probably based primarily on the number of units that would be permitted. An excavation permit was granted earlier this year for dredging and filling, which is currently underway. The developer has secured certain financial commitments to develop this parcel. However, a recently imposed building moratorium has temporarily stopped this development. The staff is sympathetic to the current owner and complimentary of his evidenced willingness to cooperate with the County and revise the site plan for rezoning.

The revised site plan is far superior to the existing plan in every respect. A revised plan has been submitted with a reduction in density from 1,857 units to 1,322 units or approximately 28 percent. This is commendable but, is still more than double the maximum established in the approved South Bay Area Land Use Plan for this tract. If an exception is made in this instance to this recently approved land use plan (1970) then the door is opened for numerous other "exceptions" to be made. A very dangerous precedent and one that nullifies the effectiveness of any overall plan.

Questions raised in regard to water and sewer have been investigated and reveal that this development can be served by existing and planned facilities; further no building permits will be issued on this or any other similar development if it cannot be served adequately at the time of construction.

During the morning peak hour Old Cutler Road in the vicinity of the proposed development, currently serves 639 vehicles northbound and 352 vehicles southbound. One thousand three hundred additional dwelling units would generate approximately 810 peak hour vehicular trips which if added to the existing Old Cutler Road volumes would, theoretically, increase the traffic volume by 82 percent. This is a theoretical increase because Old Cutler Road, assuming no major diversion to other existing or committed facilities, could not carry 1,127 vehicles northbound in the morning peak hour without drastic side street capacity restrictions at signalized and other controlled intersections further to the north. With some realistic intersection and signal timing modifications, Old Cutler Road could accommodate, at "Level of Service D,"⁽¹⁾ approximately 800 northbound vehicles per hour in this section.

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⁽¹⁾"Level of Service D approaches unstable flow, with tolerable operating speeds being maintained though considerably affected by changes in operating conditions. Fluctuations in volume and temporary restrictions to flow may cause substantial drops in operating speeds. Drivers have little freedom to maneuver, and comfort and convenience are low, but conditions can be tolerated for short periods of time." HIGHWAY CAPACITY MANUAL: National Research Council, National Academy of Sciences, Highway Research Board; Special Report 87, 1965; p.81.

of roadway. Using the peak hour generation and distribution of 60 percent northbound and 40 percent southbound the amount of this volume that is in excess of the existing operation translates into that which can be expected to be generated by slightly less than 600 dwelling units. This is one-third the development allowed under existing zoning, and less than half that of the recent proposal. This level of development would allow other potential development in the surrounding area to utilize committed and planned roadway improvements as they come into service.

We cannot comment on sufficiency of internal traffic circulation due to the non-specific roadway elements submitted with the site plan. We recommend that all major internal roadways be a minimum of two lanes with appropriate left turn storage features. Four lane divided roadways with median planting would, of course, provide an improved quality of internal circulation and possibly would add to the visual qualities of the development.

Conclusion and Recommendations

1. The County Commission should agree to continue to follow the guidelines contained in the approved South Bay Area Land Use Plan and the maximum population densities which were established by the Commission in 1970. This would allocate approximately 600 dwelling units as the maximum density for the South Cutler Bay, Inc. property.
2. The Commission should endorse and encourage the site plan approach, which necessitates the land owner's cooperation, as the most desirable way of revising the zoning on this property. In this regard, the new property owner should be commended for voluntarily offering to revise his site plan with lower densities as the basis for rezoning consideration. Further, the owner should be commended for formulating a highly meritorious site plan although the reduced density to 1,322 units is still more than twice the master plan allocation for this property.
3. If the owner is willing to revise his plan not to exceed approximately 600 units then the building moratorium on this site should be modified by the Commission to permit the owner to file a rezoning application with agreement that no building permits will be issued until a final zoning decision on this matter is made by the Commission through the established zoning process.
4. If the owner is unwilling to lower the densities as recommended, then staff will proceed to file an application to rezone the subject property by establishing appropriate zoning district(s) that will limit the density to approximately 600 units and provide for appropriate transition of residential building types. It is anticipated that this can be accomplished and processed through the ZAB and County Commission within the remaining ninety days by giving priority to the processing of this application.

RRG:kj

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Proposed Rezoning of the South Cutler Bay, Inc.
Property (80+ acres) located between
Old Cutler Road and the Bay,
from S.W. 177 Street (theoretical as extended)
to S.W. 183 Street (as extended)

Recommendation of the Dade County Building
and Zoning and Planning Departments

October 18, 1972

Based on the information, conclusions and recommendations contained in the memorandum from the Manager to the Commission, subject: "South Cutler Bay, Inc. Moratorium--Status of Zoning Revision", dated July 20, 1972, the following rezoning plan has been prepared by staff as an alternative approach (admittedly less desirable than the site plan approach which must be based on cooperation of the owner) to rezoning the subject property.

Reference is made to the attached map showing the proposed zoning. A one lot in-depth EU-1 zoning district (1 acre residential) is proposed on the subject property along Old Cutler Road. This is similar to existing development and zoning west of Old Cutler Road and takes full advantage of the higher elevation land which is heavily wooded. Immediately adjacent and to the east, a two lot in-depth EU-M district (one-half acre residential) is proposed for approximately half the width of the property, then widens to the lagoon to permit greater flexibility in street layout and design. This zoning district also extends along the north boundary of the property to the Bay as a transition to future proposed low density development on the adjoining property to the north. Again, much of this area is on higher elevation naturally landscaped portion of the site. The RU-3M district (two story apartments, 12.9 units per acre maximum density) is proposed west of and on the south end of the lagoon-marina area which is currently being dredged. East of the lagoon RU-4L (4-story apartments, 23 units per acre maximum density) is proposed. The mangroves located bayward of the mean high water line and the lagoon area is proposed to be zoned GU (interim district).

This proposed rezoning plan provides for a maximum of approximately 350 dwelling units on the 50 $\frac{1}{2}$ acres of net residential land (excluding mangrove, bay and lagoon areas) which is less than the maximum 600 units allocated to this site by the South Bay Area Land Use Plan. Higher densities approaching the 600 figure could be accommodated on this property and still provide good transition and compatibility with the surrounding area if the rezoning was based on a site development plan which only the property owner can legally prepare and offer. Since this is not the approach being used under this alternative, a density less than the maximum is considered necessary to accomplish development based on good planning principals.

A statistical breakdown of the proposed rezoning follows:

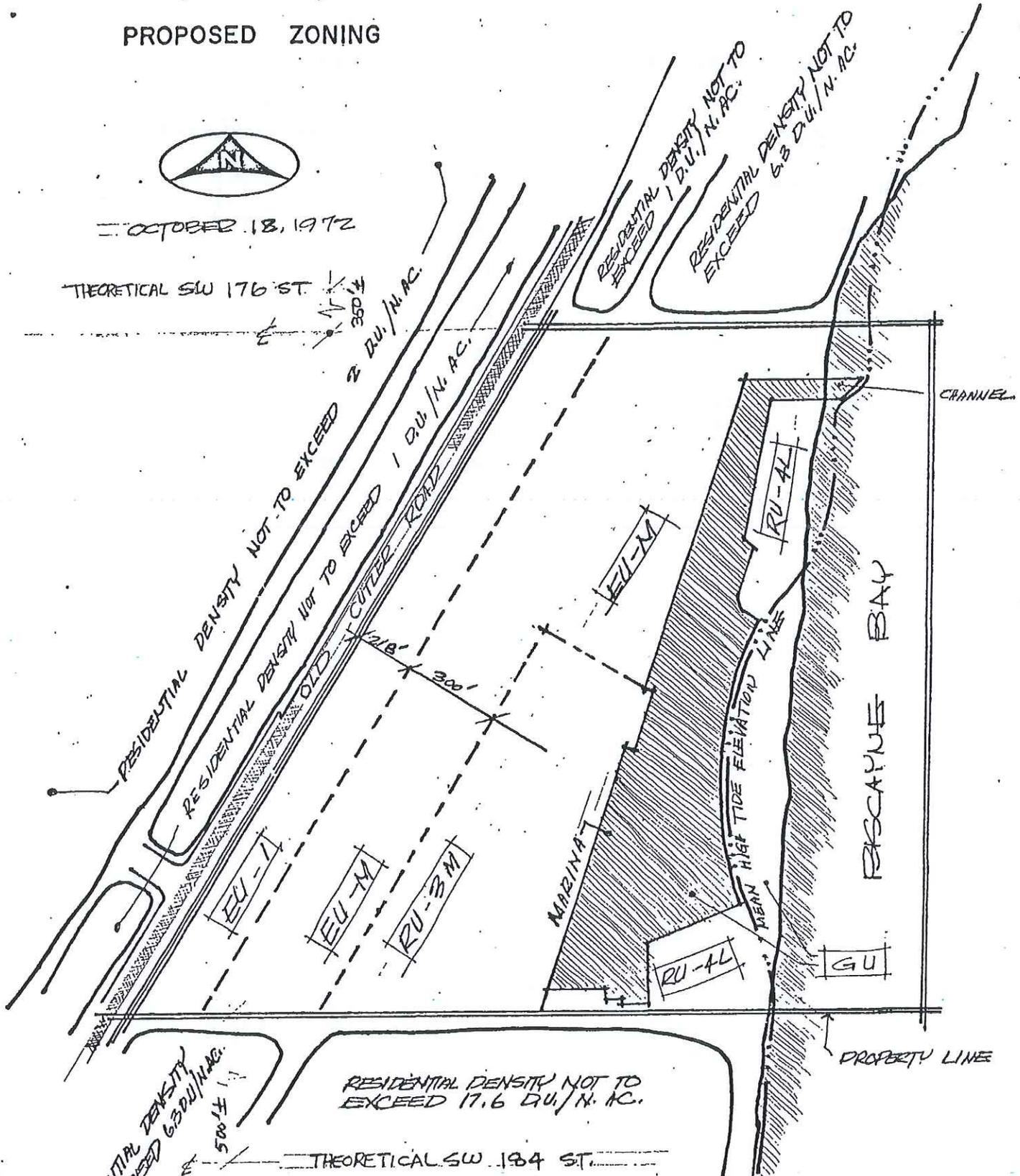
<u>Zoning District</u>	<u>Acres</u>	<u>Maximum Number of Units</u>	
RU-4L North End	2.5	58	} 104
RU-4L South End	2.0	46	
RU-3M	14.3	184	
EU-M	21.2	53	
EU-1	11.0	11	
GU (marina, area east of mean high tide elevation line)	29.0	0	
	<u>Total</u>	<u>Total</u>	
	80.0±	352	

PROPOSED ZONING



OCTOBER 18, 1972

THEORETICAL SW 176 ST.



RESIDENTIAL DENSITY NOT TO EXCEED 6.8 DU./N. AC. 500' ±

RESIDENTIAL DENSITY NOT TO EXCEED 17.6 DU./N. AC.



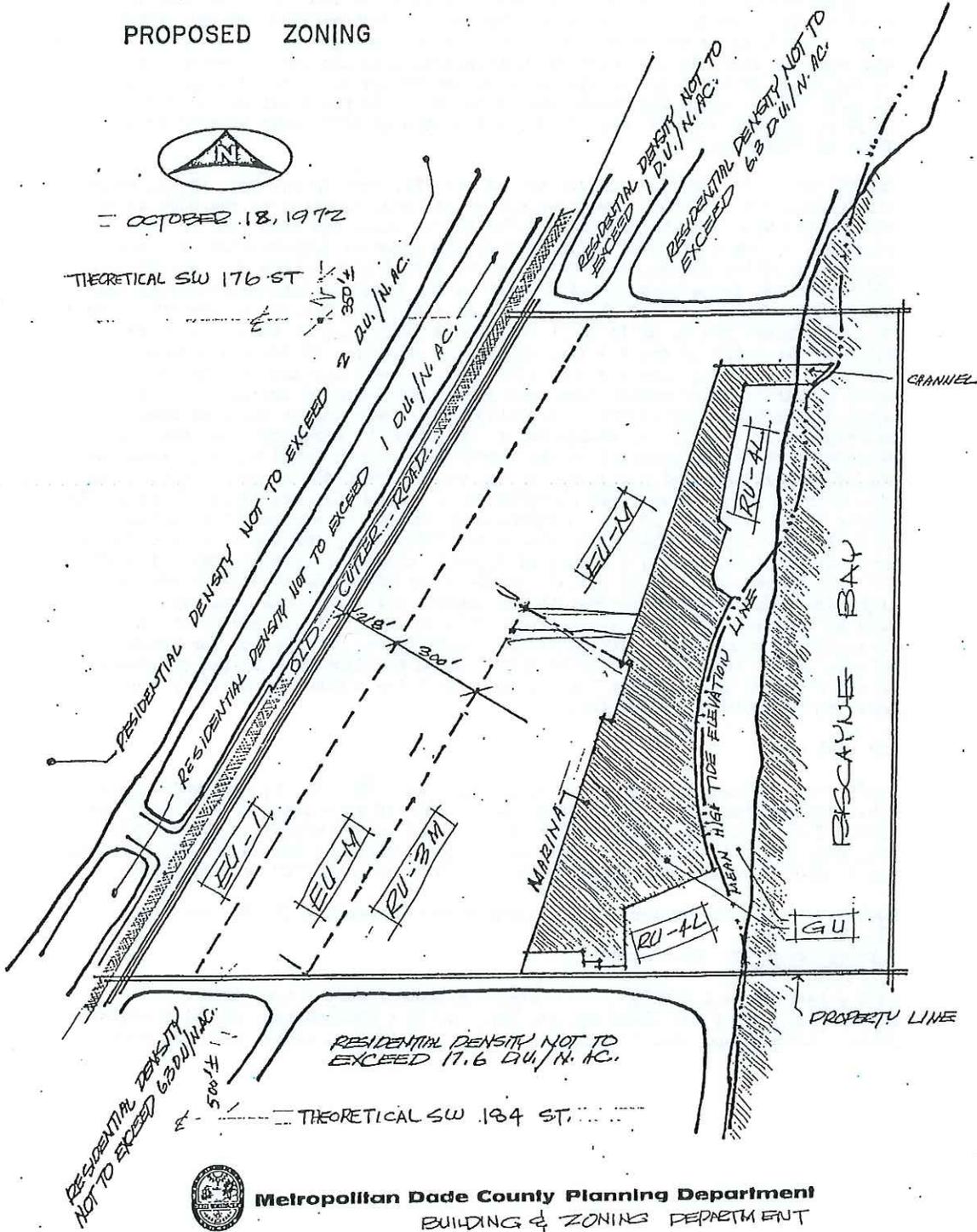
Metropolitan Dade County Planning Department
BUILDING & ZONING DEPARTMENT

PROPOSED ZONING



OCTOBER 18, 1972

THEORETICAL SW 176 ST



Metropolitan Dade County Planning Department
BUILDING & ZONING DEPARTMENT

A point, thence run N. $34^{\circ}00'00''$ E. for a distance of 215', more or less to the point of intersection with the mean high water mark of Biscayne Bay; thence meander SE/ly along the mean high water mark of Biscayne Bay for a distance of 465' 44" more or less, to the point of intersection with the South line of the N.1/2 of the S.1/2 of the S.1/2 of the S.1/2 of the SW 1/4 of said Sec. 35; thence run N. $89^{\circ}24'24''$ W. along the South line of the N.1/2 of the S.1/2 of the S.1/2 of the S.1/2 of the SW 1/4 of said Sec. 35 for a distance of 740', more or less to the Point of Beginning.

PARCEL "X" - All that part of the SW 1/4 of Sec. 35, Twp. 55 S., Rge. 40 E., which lies within the following described parcel of land; Commence at the SW/c of the SW 1/4 of said Sec. 35; thence run N. $00^{\circ}01'53''$ W. along the West line of the SW 1/4 of said Sec. 35 for a distance of 248.17' to the point of intersection with the centerline of Old Cutler Rd.; thence run N. $31^{\circ}43'34''$ E. along the centerline of Old Cutler Rd. for a distance of 397.50' to the point of intersection with the South line of the N.1/2 of the S.1/2 of the S.1/2 of the S.1/2 of the SW 1/4 of said Sec. 35; thence run S. $89^{\circ}14'26''$ E. along the South line of the N.1/2 of the S.1/2 of the S.1/2 of the S.1/2 of the SW 1/4 of said Sec. 35 for a distance of 1293.04' to a point; thence run N. $17^{\circ}00'00''$ E. for a distance of 1690.99' to the point of intersection with a line that is 345.00' South of and parallel to the North line of Lot 3 of DOUGHERTY'S SUBDIVISION, according to the plat thereof recorded in PB 1 at Pg. 1; thence run S. $89^{\circ}20'03''$ E. along the line that is 345.00' South of and parallel to the North line of said Lot 3 for a distance of 145.89' to the Point of Beginning; thence run S. $17^{\circ}00'00''$ W. for a distance of 610.00' to a point; thence run S. $33^{\circ}00'00''$ E. for a distance of 38.07' to a point thence run S. $17^{\circ}00'00''$ W. for a distance of 202.09' to the point of curvature of a circular curve to the left; thence run SE/ly along the arc of said circular curve to the left, having a radius of 110.00', through a central angle of $106^{\circ}20'03''$, for an arc distance of 204.15' to the point of intersection with the mean high water mark of Biscayne Bay; thence meander N/ly along the mean high water mark of Biscayne Bay for a distance of 835', more or less, to the point of intersection with a line that is 345.00' South of and parallel to the North line of said Lot 3; thence run N. $89^{\circ}20'03''$ W. along the line that is 345.00' South of and parallel to the North line of said Lot 3 for a distance of 425', more or less, to the point of beginning.

(3) EU-4 to GU

PARCEL "Y" - Tracts 3-9 inclusive Dougherty's Sub. PB 1 Pg. 1; Tracts 1-4 incl. S.H. Richmond Sub. PB 1 Pg. 67, less the N. 161' of said Tract 1; N. 196.78' of Tracts 5 and 6 of S.H. Richmond Sub. PB 1 Pg. 67; that portion of the W. 1/2, SW 1/4, SW 1/4, Sec. 35, Twp. 55 S., Rge. 40 E., lying SE/ly of Old Cutler Rd., and less the 2,400' thereof; LRS Parcels "A", "B", "C", "D", and "E" as shown above.

LOCATION: From Old Cutler Rd. to Biscayne Bay; between SW 177 St. and approx. the SW 183 St.

SIZE OF PARCELS: 80.1 acres

EU-4 - Apartments & Hotels

EU-1 - Estates 1 Fam. 1 Acre Cross

EU-M - Med. 1 Fam 15000 sq. ft. Net

EU-3M - Minimum Apt. No. 12.9 units/ac.

EU-4E - Limited Apt. No. 23 units/acre

GU - Interim - Awaiting specific zone

January 10, 1973

Joseph N. Lillard Hrg. 73-1-51

Resolution 4-ZAB-47-73

Mr. Borroto: I move that we approve the recommendations of both departments.

Mr. Salman: I second.

Chairman Berlin: Motion by Mr. Borroto, seconded by Mrs. Damewood, for approval based upon the recommendations of both departments. All opposed? Motion carries 7-0 (Mr. Coll and Mrs. Page being excused).

Directors, Dade
County Building &
Zoning and Plan-
ning Departments

Hrg. 73-1-52

Resolution 4-ZAB-48-73

Mr. Borroto: I would like to move that we deny this request, and let me state why. I happen to agree with the property owners around the area that this is definitely a very large spot zone. It is spot zoning, no question about that. There are no services in the area, etc. On the other hand, this property is already under development. I think that here is where the County Commission can exercise their energy and invite the property owner to furnish a plan or do something, but not to the amount of units. What was done was a mistake. I think that was a mistake by the previous Commission of allowing this type of zoning. So I respectfully deny the request of this application.

Mr. Salman: I second.

Chairman Berlin: Motion by Mr. Borroto, seconded by Mr. Salman, for denial--I assume that was without prejudice?

Mr. Borroto: Without prejudice.

Mr. Salman: The reason I think it should be denied, to me it doesn't make any sense. You know, this thing was rezoned April 16, 1970. It was purchased in February of 1972, as was explained by counsel, and there was valid zoning obtained through our official authorities. Later on, a building permit--whether it is for an excavation of a marina or a hole in the ground, or whatever it was--a building permit was actually gotten on April 6th of 1972.

Chairman Berlin: For excavation.

Mr. Salman: An excavation permit for marina construction, right. Later on, they started the thing and they spoke with members of the Planning and Zoning Departments and presented a revised plan that will reduce the density considerably. So, I really believe that it would be very unfair to the property owners to just roll it back without any professional planning on it.

Chairman Berlin: I agree with the motion but not for the reasons stated. I think that any land owner has the right to rely on the integrity of zoning, and here is a perfect instance where somebody started in, purchased a piece of property in reliance upon zoning, expended funds, acted in reliance thereon. Now the county steps in and tries to change it. This is not right; that is not fair. And in my personal opinion, it is something that no court now in this land would uphold. That is just my personal opinion. As far as I'm concerned, I think it is a horrible abortion of zoning and I don't think it should have been there in the first place; but it is there. Now to deprive these people of this right that they purchased and paid for and expended the money just is not right and I am sorry for the residents of the community, because it shouldn't be there. But in evaluating and weighing the rights of others, you must look at all concerned, and I agree with Mr. Borroto. Excuse me, Mrs. Damewood.

Mrs. Damewood: Mr. Berlin, you covered what I wanted to say, but if it would benefit the home owners in the area where this is, as well as the builders, we had a case very much like this come up this morning in connection with another piece of property and the same decision had to be made, where we denied the request of the Directors because of the fact that you must rely on the Zoning Appeals Board and the Metro Commissioners if they give you zoning and you go ahead and spend money for financing and excavation and building. If that is so, you cannot just deny these people this right. We were sort of forced to make such a decision today, I believe.

RESOLUTION NO. 4-ZAB-48-73

The following resolution was offered by Mr. Wilfredo Borroto, seconded by Mr. Carlos Salman, and upon poll of members present, the vote was as follows:

Wilfredo Borroto	aye	Irene Faugno	aye
Frank P. Catania	aye	Aspee Irani	aye
Edward G. Coll, Jr.	abstain	Betty S. Page	absent
Thelma Damewood	aye	Carlos Salman	aye
		Jerome C. Berlin	aye

WHEREAS, Directors, Dade County Building & Zoning and Planning Departments have applied for the following:

A district boundary change from RU-4 (Apartment Houses and Hotels) to EU-1 (Single Family-1 acre estates).

SUBJECT PROPERTY: PARCEL "A" - All that part of the SW $\frac{1}{4}$ of Sec. 35, Twp. 55 S., Rge. 40 E., which lies within the following described parcel of land: Commence at the SW/c of the SW $\frac{1}{4}$ of said Sec. 35; thence run N. 00°01'53" W. along the West line of the SW $\frac{1}{4}$ of said Sec. 35 for a distance of 248.17' to the point of intersection with the centerline of Old Cutler Rd.; thence run N. 31°43'34" E. along the centerline of Old Cutler Rd. for a distance of 397.50' to the point of intersection with the South line of the N. 1/2 of the SW $\frac{1}{4}$ of the SW $\frac{1}{4}$ of the SW $\frac{1}{4}$ of said Sec. 35 and the Point of Beginning of the herein described parcel; thence run S. 89°14'26" E. along the South line of the N. 1/2 of the N. 1/2 of the SW $\frac{1}{4}$ of the SW $\frac{1}{4}$ of the SW $\frac{1}{4}$ of said Sec. 35 for a distance of 312.55' to the point of intersection with a line that is 268.00' SE/ly of and parallel to the centerline of Old Cutler Rd.; thence run N. 31°43'34" E. along the line that is 268.00' SE/ly of and parallel to the centerline of Old Cutler Rd. for a distance of 1264.78' to a point; thence run N. 31°07'32" E. along a line that is 268.00' SE/ly of and parallel to the centerline of Old Cutler Rd., for a distance of 1023.59' to the point of intersection with the North line of Tract 3 of DOUGHERTY'S SUBDIVISION, according to the plat thereof recorded in PB 1 at Pg. 1 thence run N. 89°20'03" W. along the North line of said Tract 3 for a distance of 310.91' to the point of intersection with the centerline of Old Cutler Rd.; thence run S. 31°07'32" W. along the centerline of Old Cutler Rd. for a distance of 864.57' to a point; thence run S. 31°43'34" W. along the centerline of Old Cutler Rd. for distance of 1424.19' to the Point of Beginning, and

A district boundary change from RU-4 to EU-M (Estate Use Modified).

PARCEL "B" - All that part of the SW $\frac{1}{4}$ of Sec. 35, Twp. 55 S., Rge. 40 E., which lies within the following described parcel of land: Commence at the SW/c of the SW $\frac{1}{4}$ of said Sec. 35; thence run N. 00°01'53" W. along the West line of the SW $\frac{1}{4}$ of said Sec. 35 for a distance of 248.17' to the point of intersection with the centerline of Old Cutler Rd.; thence run N. 31°43'34" E. along the centerline of Old Cutler Rd. for a distance of 397.50' to the point of intersection with the South line of the N. 1/2 of the N. 1/2 of the S. 1/2 of the SW $\frac{1}{4}$ of the SW $\frac{1}{4}$ of said Sec. 35; thence run S. 89°14'26" E. along the South line of the N. 1/2 of the N. 1/2 of the S. 1/2 of the SW $\frac{1}{4}$ of said Sec. 35 for a distance of 312.55' to the point of intersection with a line that is 268.00' SE/ly of and parallel to the centerline of Old Cutler Rd. and the Point of Beginning of the herein described parcel; thence continue S. 89°14'26" E. along the South line of the N. 1/2 of the N. 1/2 of the S. 1/2 of the SW $\frac{1}{4}$ of said Sec. 35 for a distance of 349.87' to the point of intersection with a line that is 568.00' SE/ly of and parallel to the centerline of Old Cutler Rd.; thence run N. 31°43'34" E. along the line that is 568.00' SE/ly of and parallel to the centerline of Old Cutler Rd. for a distance of 1142.10' to a point; thence run S. 58°16'26" E. along a line that is at right angles to the previously described course for a distance of 325.83' to a point; thence run N. 17°30'00" E. for a distance of 923.37' to a point of intersection with a line that is 270.00' South of and parallel to the North line of Lot 3 of DOUGHERTY'S SUBDIVISION, according to the plat thereof recorded in PB 1 at Pg. 1; thence run S. 89°20'03" E. along the line that is 270.00' South of and parallel to the North line of said Lot 3 for a distance of 425', more or less, to the point of intersection with the mean high water mark of Biscayne Bay; thence meander N/ly along the mean high water mark of Biscayne Bay for a distance of 285', more or less, to the point of intersection with the North line of said Lot 3; thence run N. 89°20'03" W. along the North line of said Lot 3 for a distance of 635.66' more or less to the point of intersection with a line that is 268.00' SE/ly of and parallel to the cen-

410.00' to a point; thence run S. 35°00'00" E. for a distance of 36.07' to a point thence run S. 17°00'00" W. for a distance of 202.09' to the point of curvature of a circular curve to the left; thence run Se/ly along the arc of said circular curve to the left, having a radius of 110.00', through a central angle of 106°20'03", for an arc distance of 204.15' to the point of intersection with the mean high water mark of Biscayne Bay; thence meander N/ly along the mean high water mark of Biscayne Bay for a distance of 335', more or less, to the point of intersection with a line that is 345.00' South of and parallel to the North line of said Lot 3; thence run N. 89°20'03" W. along the line that is 345.00' South of and parallel to the North line of said Lot 3 for a distance of 425', more or less, to the point of beginning, and

A district boundary change from RU-4 to GU (Interim).

PARCEL "F" - Tracts 3-9 inclusive Dougherty's Sub. PB 1 Pg. 1; Tracts 1-4 incl. S.H. Richmond Sub. PB 1 Pg. 67, less the N. 161' of said Tract 1; N. 196.73' of Tracts 5 and 6 of S.H. Richmond Sub. PB 1 Pg. 67; that portion of the W. 1/2, SW $\frac{1}{4}$, SW $\frac{1}{4}$, Sec. 35, Twp. 55 S., Rge. 40 E., lying SE/ly of Old Cutler Rd. and less the S. 600' thereof; LESS Parcels "A", "B", "C", "D", and "E" as shown above.

LOCATION: From Old Cutler Rd. to Biscayne Bay; between SW 177 St. and approx. the SW 183 St., Dade County, Florida, and

WHEREAS, a public hearing of the Metropolitan Dade County Zoning Appeals Board was advertised and held, as required by law, and all interested parties concerned in the matter were heard, and

WHEREAS, upon due and proper consideration having been given to the matter, the Zoning Appeals Board was of the opinion that the application should be denied.

NOW THEREFORE BE IT RESOLVED by the Metropolitan Dade County Zoning Appeals Board that the requested district boundary changes be and the same are hereby recommended for denial without prejudice by the Board of County Commissioners of Dade County, Florida.

The Zoning Director is hereby directed to make the necessary notations upon the records of the Dade County Building and Zoning Department.

PASSED AND ADOPTED this 10th day of January, 1973.

Heard 1/10/73
No. 73-1-52
1/15/73
ew

RESOLUTION NO. 4-2A2-352-74

The following resolution was offered by Mrs. Nancy Brown,
seconded by Mr. Joe H. Moffat, and upon poll of members present,
the vote was as follows:

Nancy Brown	aye	Carl W. Rhetta	absent
Thelma Danewood	absent	Miguel Suarez	aye
Aspee Iran	absent	Albert H. Veri	absent
Robert S. Kaufman	aye	Edward G. Coll, Jr.	aye
Joe H. Moffat	aye		

WHEREAS, South Outler Bay, Inc., has applied for the following:

SPECIAL EXCEPTION to permit a Multiple Family Apartment Development.

SPECIAL EXCEPTION to Zoning Regulations requiring all uses to abut on a public street or road, to waive same to permit the aforesaid development on private drives.

UNUSUAL USE to permit two (2) entrance features located at each entry point of said development as indicated on plans submitted for the hearing; each feature to consist of an 8' x 16' gatehouse on a 10' wide island.

SPECIAL EXCEPTION to Zoning Regulations to permit the aforementioned apartment development with 5 buildings varying in height from 129'6" to 132'6" (100' permitted).

UNUSUAL USE to permit water system facilities, to wit a lift station.

UNUSUAL USE to permit a marina to include eight (8) boat piers, gasoline pumps, boat gear storage, auxiliary boat supply shop and sanitation facilities.

TO MODIFY Condition #2 of Resolution Z-89-70 passed and adopted by the Metropolitan Dade County Board of County Commissioners on the 16th day of April, 1970, and reading as follows:

FROM: That in the approval of the plan the same be substantially in accordance with that submitted for the hearing as prepared by William Hamilton Arthur, Architect, entitled "Adjusted Land-Use Plan - South Outler Bay Association," and dated January 10, 1970, revised on February 25, 1970.

TO: That in the approval of the plan the same be substantially in accordance with that submitted for the hearing entitled "South Outler Bay," as prepared by Morris Lapidus and Associates, Architects, and dated November 21, 1973.

Purpose of the request is to permit the applicant to submit revised plans showing new enlargement of the existing lake.

Plans of the proposed multiple family development may be examined and are on file in the Zoning Department entitled "South Outler Bay," as prepared by Morris Lapidus and Associates, Architects, and dated November 21, 1973.

SUBJECT PROPERTY: All that part of Tracts 3, 4, 5, 6, 7, 8, and 9, lying East of the E/W line of Ingraham Highway of DOUGHERTY'S SUBDIVISION, P.B. 1, P. 1, AND

Tract 1, (LESS the N 161' thereof, and LESS R/W of Ingraham Highway), that part of Tract 2, lying East of the E/ly R/W line of Ingraham Highway and all of Tracts 3 and 4, of S. H. RICHMOND'S SURVEY of the SW $\frac{1}{4}$ of Section 35, Township 55 South, Range 40 East, P.B. 1, P. 67, AND

The N $\frac{1}{2}$ of the N $\frac{1}{2}$ of the S $\frac{1}{2}$ of the SE $\frac{1}{4}$ of the SW $\frac{1}{4}$ and the N $\frac{1}{2}$ of the N $\frac{1}{2}$ of the SE $\frac{1}{4}$ of the SW $\frac{1}{4}$ of the SW $\frac{1}{4}$, all in Section 35, Township 55 South, Range 40 East, also known as the N $\frac{1}{2}$ of Tracts 5 and 6 of S.H. RICHMOND'S SURVEY of the SW $\frac{1}{4}$ of said Section 35, P.B. 1, P. 67, AND

That part of the NW $\frac{1}{4}$ of the SW $\frac{1}{4}$ of the SW $\frac{1}{4}$ and that part of the N $\frac{1}{2}$ of the N $\frac{1}{2}$ of the SW $\frac{1}{4}$ of the SW $\frac{1}{4}$ of the SW $\frac{1}{4}$, lying East of the E/ly R/W line of Ingraham Highway, all in Section 35, Township 55 South, Range 40 East, AND

All that part of the County Road, as shown on S.H. RICHMOND'S SURVEY of the SW $\frac{1}{4}$ of Section 35, Township 55 South, Range 40 East, P.B. 1, P. 67, included in the above described parcels, EXCEPT the portions thereof now a part of Ingraham Highway; AND FURTHER

LESS 15' R/W dedication along Old Cutler Road.

LESS 100' R/W dedication for South Bay Drive.

LOCATION: East side of Old Cutler Road between thro. SW 177th Street and thro SW 181st Street, Dade County, Florida, and

WHEREAS, a public hearing of the Metropolitan Dade County Zoning Appeals Board was advertised and held, as required by law, and all interested parties concerned in the matter were heard, and

WHEREAS, upon due and proper consideration having been given to the matter, it is the opinion of this Board that the requested special exceptions, unusual uses and modification would not be compatible with the area and its development and would not conform with the requirements and intent of the Zoning Procedure Ordinance;

NOW THEREFORE BE IT RESOLVED by the Metropolitan Dade County Zoning Appeals Board that the requested special exception to permit a multiple family apartment development be and the same is hereby denied without prejudice.

BE IT FURTHER RESOLVED that the requested special exceptions to Zoning Regulations be and the same are hereby denied without prejudice.

BE IT FURTHER RESOLVED that the requested unusual uses be and the same are hereby denied without prejudice.

BE IT FURTHER RESOLVED that the requested modification of Condition #2 of Resolution Z-89-70 be and the same is hereby denied without prejudice.

39-55-40
Item No. 74-172
Page 3

The Zoning Director is hereby directed to make the necessary notations upon the records of the Dade County Building and Zoning Department.

PASSED AND ADOPTED this 6th day of June, 1974.

Board 6/6/74
No. 74-6-31
6/7/74
ml

STATE OF FLORIDA)
) SS:
COUNTY OF DADE)

I, RICHARD P. BRINKER, Clerk of the Circuit Court in and for Dade County, Florida, and Ex-Officio Clerk of the Board of County Commissioners of said County, DO HEREBY CERTIFY that the above and foregoing is a true and correct copy of Resolution No. Z-196-74, adopted by the said Board of County Commissioners at its meeting held on July 23, 19 74.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal on this 7th day of August, A. D. 19 74.

RICHARD P. BRINKER, Ex-Officio Clerk
Board of County Commissioners
Dade County, Florida

By B. H. Khalife
Deputy Clerk

SEAL

Board of County Commissioners
Dade County, Florida

June 6, 1974

South Cutler
Bay, Inc.

Hearing No. 74-6-51

4-ZAB-352-74

Mrs. Brown: Are you ready for a motion?

Chairman Coll: Any more discussion? All right, Mrs. Brown.

Mrs. Brown: I move for denial of this application. Would you like to have this point by point in its entirety?

Chairman Coll: Mr. Gold, would you counsel use on Mrs. Brown's request as to whether or not we need to take this point by point or either approve or deny?

Mr. Gold: She has the right to move for denial on the entire application.

Chairman Coll: Thank you.

Mrs. Brown: I move for it, then, in its entirety, move denial in its entirety without prejudice for the following reasons: If you are to review our reasons for being here at the Zoning Appeals Board, we are not an advocate to any of the applicants or to any of the objectors but are supposed to be looking at the overall benefit of Dade County; and we are to place ourselves in the position of overseeing the overall benefit to Dade County. Whereas the court order did make certain instructions, I find that in looking at this recommendation from the Zoning Director, that he felt that he could not approve it even barring the court order, that he could not approve this site plan because it is contrary to good zoning. Whereas the Planning Department may be able to make all kinds of apologies for the lack of good zoning, I cannot do it. The Zoning Department could not do it and on the basis of the overall benefit to Dade County, this particular site plan is not acceptable to me. The special exceptions, the additional things created into it are not acceptable simply because they are not in the best interest and the best benefit and the best use of the people. Now, the area in question, the people who live in that area will suffer irreversible loss of their privacy, the right to their land, and the value of their land to simply give maximum economic benefit to this one property owner, and that is exactly what we are warned not to do in our own zoning handbook, in our own directions for the way we are to operate. For this reason, I move denial in its entirety. It does not contradict the court order, but it simply says that as presented here this is unacceptable to me. It is unacceptable to the Zoning Director himself.

Chairman Coll: Second?

Mr. Moffat: Second. I would like to add one point:

Chairman Coll: Motion by Mrs. Brown, seconded by Mr. Moffat that the application be denied in its entirety. Discussion on the motion?

Mr. Moffat: I would like to add one point: It will also create a safety hazard during hurricane periods.

Chairman Coll: Thank you. Mr. Kaufman, you had a comment?

Mr. Kaufman: I would like to say that this motion is completely out of order; that this motion prohibits water system facilities in this project -- absolutely ridiculous. This motion, if it passes, it prohibits two entrance features on this project which are allowed in every project.

Mrs. Brown: If the project itself is approved, but I am denying the request for special exceptions to permit this

June 6, 1974

South Cutler
Bay, Inc.
Cont.

multi-family development; in effect; I am saying deny the site plan, and without the site plan, then it is not important whether or not he has a lift station or an entrance feature. That is why I denied it in its entirety.

Mr. Kaufman: I feel that we could have gone down the line in those ones which are really not debateable. The court order says that we must give him a marina. If his motion is approved, we are prohibiting them from erecting a marina of any kind -- absolutely ridiculous. For the points that go more to the merits of some of the other items here, here the people come in and they could split this thing up and zone it for 50 units, and they could come in with 17. They could have 40 percent lot coverage and they have got 80 percent open space. They could come in with a floor area ratio of two and are willing to come in with 1.5. I don't see really what more they can do.

Mrs. Brown: We have the obligation to accept a site plan, but not necessarily this site plan. This is not an acceptable site plan.

Chairman Coll: Mr. Kaufman, I think what she is saying does have merit. I think what Mrs. Brown is saying has merit. The County Attorney also has already ruled that that is here prerogative as a member of this Board, and I think the type of motion that she has made and has been seconded, I think we ought to just call the roll, if you feel that it is in order. Call the roll, please.

Whereupon the motion was put to a vote. Motion to deny the application without prejudice carried three to two. Those voting for the motion: Mrs. Brown, Mr. Moffat and Chairman Coll. Those voting against the motion: Mr. Kaufman and Mr. Suarez. Mrs. Damewood and Mr. Rhetta were excused, and Mr. Irani and Mr. Veri were absent.

Chairman Coll: Yes, only because I am opposed to the height that was recommended. I am sympathetic with the developer since the departments have suggested this to him, but I think the height of these buildings of 182 feet in this area is totally out of character with the neighborhood as well as the eight boat piers, gasoline pumps, and the rest of the commercial activities that belong to the marina. Motion to deny the application without prejudice carries three to two.
-(Applause)-

John Crouse

Hearing No. 74-6-52

4-ZAB-353-74

Chairman Coll: ---- The Chair is ready for a motion.

Mr. Moffat: So move.

Mrs. Brown: Second.

Chairman Coll: Motion by Mr. Moffat, seconded by Mrs. Brown that the application be approved in its entirety, motion based on the recommendations of both departments and the restrictions therein, that the period for approval is five years.

All opposed? Motion carries five to zero, with Mrs. Damewood and Mr. Rhetta being excused and Mrs. Irani and Mr. Veri being absent.

RESOLUTION NO. E-128-74

The following resolution was offered by Commissioner

Harry F. Cain, seconded by CommissionerEdward T. Stephenson, and upon poll of members present,

the vote was as follows:

Harry F. Cain	aye	Beverly B. Phillips	aye
Mike Calhoun	aye	Harvey Kavin	aye
Edward C. Fogg III	aye	Edward T. Stephenson	aye
Mrs. Stanley (Joyce) Goldberg	absent	John B. Orr, Jr.	absent
Edward T. Graham	aye		

WHEREAS, South Cutler Bay, Inc., had applied for the following:

SPECIAL EXCEPTION to permit a multiple family apartment development;

SPECIAL EXCEPTION to zoning regulations requiring all uses to abut on a public street or road, to waive same to permit the aforesaid development on private drives;

UNUSUAL USE to permit two (2) entrance features located at each entry point of said development, as indicated on plans submitted for the hearing; each feature to consist of an 8' x 16' gatehouse on a 14' wide island;

SPECIAL EXCEPTION to zoning regulations to permit the aforementioned apartment development with 3 buildings varying in height from 128'6" to 162'6" (100' permitted);

UNUSUAL USE to permit water system facilities, to-wit: a lift station;

UNUSUAL USE to permit a marina to include eight (8) boat piers, gasoline pumps, boat gear storage, auxiliary boat supply shop and sanitation facilities;

TO MODIFY Condition No. 2 of Resolution E-69-70, passed and adopted by the Metropolitan Dade County Board of County Commissioners on the 11th day of April, 1970;

Purpose of the request is to permit the applicant to submit revised plans showing new enlargement of the existing lake;

Plans of the proposed multiple family apartment development may be examined and are on file in the zoning Department entitled, "South Cutler Bay" as prepared by Morris Lapidus & Associates, Architects, and dated November 21, 1973;

SUBJECT PROPERTY: All that part of Tracts 3, 4, 5, 6, 7, 8 and 9, lying East of the E/ly right-of-way line of Ingraham Highway of Deagherly's Subdivision (PB 1, Page 1);

Tract 1 (less the North 161' thereof and less right-of-way of Ingraham Highway) that part of Tract 2 lying East of the E/ly right-of-way line of Ingraham Highway and all of Tracts 3 and 4 of S. H. Richmond's Survey of the SW $\frac{1}{4}$ of Section 35, Twp. 35 South, Range 40 East (PB 1, Page 67);The North 1/2 of the North 1/2 of the South 1/2 of the SW $\frac{1}{4}$ of the SW $\frac{1}{4}$ and the North 1/2 of the North 1/2 of the SW $\frac{1}{4}$ of the SW $\frac{1}{4}$ of the SW $\frac{1}{4}$ all in 35-53-40, also known as the North 1/2 of Tracts 5 and 6 of S. H. Richmond's Survey of the SW $\frac{1}{4}$ of said Section 35 (PB 1, Page 67);That part of the SW $\frac{1}{4}$ of the SW $\frac{1}{4}$ of the SW $\frac{1}{4}$ and that part of the North 1/2 of the North 1/2 of the SW $\frac{1}{4}$ of the SW $\frac{1}{4}$ of the SW $\frac{1}{4}$ lying East of the E/ly right-of-way line of Ingraham Highway, all in 35-53-40;

All that part of the County Road, as shown on S. H. Richmond's Survey of the SW $\frac{1}{4}$ of 35-39-40 (PB 1, Page 67) included in the above-described parcels except the portions thereof now a part of Ingraham Highway - and further

Less 15' right-of-way dedication along Old Cutler Road;

Less 100' right-of-way dedication for South Bay Drive;

LOCATION: East side of Old Cutler Road, between thos. SW 177th Street and thos. SW 181st Street, Dade County, Florida, and

WHEREAS, a public hearing of the Metropolitan Dade County Zoning Appeals Board was advertised and held as required by law, and all interested parties concerned in the matter were heard, and the Zoning Appeals Board was of the opinion that the requested special exceptions, unusual uses and modification would not be compatible with the area and its development and would not conform with the requirements and intent of the Zoning Procedure Ordinance and denied the requests without prejudice, and

WHEREAS, South Cutler Bay, Inc., the applicant, had appealed the decision of the Zoning Appeals Board to this Board, and after a 15-day notice of the time and place of the meeting of this Board was published as required by the Zoning Procedure Ordinance, a hearing was held by this Board, and after reviewing the record and decision of the Zoning Appeals Board and after having given an opportunity for interested parties to be heard, and upon considering the record and decision of the Zoning Appeals Board and all matters presented at the meeting, and upon due and proper consideration having been given to the matter, it is the opinion of this Board that the grounds and reasons specified for the reversal of the ruling made by the Zoning Appeals Board were sufficient to merit a reversal of the decision;

NOW THEREFORE BE IT RESOLVED by the Board of County Commissioners, Dade County, Florida, that the decision of the Zoning Appeals Board be and the same is hereby overruled and the requested Special Exception to permit a multiple family apartment development; Special Exception to Zoning Regulations requiring all uses to abut on a public street or road and the Special Exception pertaining to height of buildings and the requested modification be and the same are hereby approved, subject to the following conditions:

1. That the dedication of rights-of-way shall be made in accordance with Section 33-133 of the Code of Metropolitan Dade County, unless the Director of Public Works deems such are not

necessary or requires a lesser amount. Improvements shall be made of such rights-of-way in order to comply with and in accordance with the requirements of the Manual of Public Works Construction, as may be deemed lacking, desirable and necessary by the Director of Public Works.

2. That a plot use plan be submitted to and meet with the approval of the Zoning Director; said plan to include among other things but be not limited thereto, type, height and location of structures, density of occupancy for proposed apartments, offstreet parking areas, type and location of signs, landscaping, drainage, ingress and egress drives, etc.
3. That in the approval of the plan, the same be substantially in accordance with that submitted for the hearing as prepared by Morris Lapins & Associates, Architects, entitled, "South Cutler Bay", and dated July 23, 1974.
4. That the height of four (4) of the said buildings will exceed the 100' height limitation and vary from 129'6" to 132'6".
5. That the development shall be established and maintained in accordance with the approved plan.
6. That an instrument suitable for recording and meeting with the approval of the Director of Building and Zoning Department be submitted to the effect that the property would be developed substantially in accordance with the plans submitted for the hearing, unless at some future date either the zoning or plan of development were modified by public hearing; that said agreement shall be binding on the property owners and all other parties of interest and their successors in title.
7. That a recordable agreement be submitted to and meet with the approval of the Zoning Director providing for permanent and safe access for pedestrian and vehicular traffic within the development and, particularly, for right of access for fire, police, health and sanitation and other public service personnel and vehicles. The agreement, which shall be a covenant running with the land, shall, also, include a stipulation that the streets or accessways shall be installed and maintained by the applicant including, but not limited to, sidewalks, drainage facilities, water, sewers and fire hydrants, meeting with the approval of the Public Works and Building and Zoning Departments. Such agreement shall be executed by all parties having an interest in the land and its improvements.

BE IT FURTHER RESOLVED that the requested Unusual Use to permit two entrance features be and the same is hereby approved, subject to the following conditions:

1. That a detailed plot use plan be submitted to and meet with the approval of the Zoning Director; said plan shall include, but be not limited thereto, location of structure or structures, offstreet parking areas and driveways, walls, hedges and fences, landscaping, signs, etc.
2. That the use be established and maintained in accordance with the approved plan.
3. That the applicant work out with the Director of Building and Zoning a satisfactory plan for the future maintenance of the structures and landscaping in connection with the use.

BE IT FURTHER RESOLVED that the requested unusual use to permit a lift station be and the same is hereby approved, subject to the following conditions:

1. That a plot use plan be submitted to and meet with the approval of the Dade County Building and Zoning Department, said plan to include among other things but be not limited thereto, type and location of proposed structure, landscaping, driveways, fencing, etc.
2. That the installation be subject to the approval of the Dade County Pollution Control Department.
3. That the use be established and maintained in accordance with the approved plan and applicable conditions, and in such a manner that the same will not become objectionable to the surrounding neighborhood because of noise, vibration or odors.

BE IT FURTHER RESOLVED that the requested Unusual Use to permit a Marina, including gasoline pumps, boat gear storage, auxiliary boat supply shop and sanitation facilities, be and the same is hereby approved, subject to the following conditions:

1. That a plot use plan be submitted to and meet with the approval of the Zoning Director, said plan to include among other things but be not limited thereto, location of gas pumps, boat docks and fishing pier, type and location of signs, light standards, parking areas, exits and entrances, drainage, walls, fences, landscaping, etc.
2. That in the approval of the plan, the same be basically in compliance with that submitted for the hearing entitled, "Revised Marina Excavation and Bulkhead Plan - Location Only - South Cutler Bay", prepared by H. J. Ross Associates, Inc., dated Revised January 21, 1974.
3. That the use be established and maintained in accordance with the approved plan.
4. That the maximum number of pumps be limited to two (2).
5. That the use of the marina shall be restricted for the use and accommodation of the apartment owners in the project with incidental, temporary berthing by guests of said owners being permitted.
6. Emergency services and use of marina shall not be prohibited.
7. Commercial use and berthing by outsiders shall be prohibited.
8. That the use permit be automatically renewable annually by the Dade County Building and Zoning Department upon compliance with all terms and conditions, and be subject to cancellation upon violation of any of the conditions, and when in the opinion of the Metropolitan Dade County Zoning Appeals Board, after public hearing, it is determined that the use is detrimental and/or incompatible to the surrounding neighborhood.

The Zoning Director is hereby directed to make the necessary notations upon the maps and records of the Dade County Building and Zoning Department, and to issue all permits in accordance with the terms and conditions of this resolution.

PASSED AND ADOPTED this 23rd day of July, 1974.

DADE COUNTY, FLORIDA, BY ITS
BOARD OF COUNTY COMMISSIONERS

Heard 6-6-74
No. 74-6-51
vp

RICHARD P. BRINKER, CLERK
EDWARD D. PHELAN
By _____

RESOLUTION NO. Z-191-81

The following resolution was offered by Commissioner William G. Oliver, seconded by Commissioner Babara M. Carey, and upon poll of members present the vote was as follows:

Barbara M. Carey	aye	Harvey Ruvin	absent
Clara Oesterle	absent	Barry D. Schreiber	aye
William G. Oliver	aye	Ruth Shack	aye
Beverly B. Phillips	nay	Stephen P. Clark	aye
James F. Redford, Jr.	aye		

WHEREAS, CLINTON F. WONG, TRUSTEE, ET AL, had applied for the following:

- (1) A district boundary change from EU-2 (Single Family Estates - 5 acres) and RU-4 (Apartments) to EU-M (Estate Use Modified);
- (2) NON-USE VARIANCE OF LOT FRONTAGE REQUIREMENTS to permit 2 proposed lots (#9 and #12) each with a frontage of 75' (120' required) as proposed single family building sites

ON

All that part of Lots 7 & 11 of th SW1/4 of the SW 1/4 of Section 35, Township 55 South, Range 40 East, lying NW/ly of th County Road as shown on plat of the SW 1/4 of Section 35, Township 55 South, Range 40 East, surveyed and drawn by S. H. Richmond and filed in Plat Book 1, page 67, lying SE/ly of Ingraham Highway (Old Cutler Road); AND all that part of the north 1/2 of the SW 1/4 of the SW 1/4 of the SW 1/4 of Section 35, Township 55 South, Range 40 East, lying NW/ly of the County Road, as shown on plat filed in Plat Book 1, page 67 and lying SE/ly of Ingraham Highway (Old Cutler Road); All that portion of land lying and being situate and immediately adjacent to Parcels I & II, and Old Cutler Road (hereinafter referred to as "Strip of Land"), currently being acquired from the county. AND all of Lot 8 lying S/ly and E/ly of the County Road, and that portion of Lot 11 lying west of a line running perpendicular to the south boundary of Lot 11 and running parallel to the east boundary line of Lot 11, 625' west of the east boundary line of Lot 11 of the south 1/4 of Section 35, Township 55 South, Range 40 East, Plat Book 1, page 67; and all of the south 1/2 of the north 1/2 of the SW 1/4, of the SW 1/4, of the SW 1/4, lying E/ly and S/ly of the County Road, Section 35, Township 55 South, Range 40 East and also all that part of the SE 1/4, of the SE 1/4 of the SE 1/4 of Section 34, Township 55 South, Range 40 East, lying S/ly and E/ly of the County Road; also a strip of land 25' in width lying west of said Lot 11 abovementioned and south of the S/ly line of the County Road.

- (3) A district boundary change from EU-2 to RU-4L (Limited Apartment House);
- (4) SPECIAL EXCEPTION AND NON-USE VARIANCE OF ZONING REGULATIONS as applied to height of structures and number of stories in the RU-4L zone to permit 60' in height (50' required) and 6 stories (4 stories permitted) in proposed apartment buildings.

ON

All of Lot 9 and that portion of Lot 10 lying W/ly of a line located 650' to the west and running parallel to the eastern boundary of Lot 10 together with that portion of Lot 11 lying E/ly of a line 625' to the west and parallel to the eastern boundary of Lot 11, Section 35, Township 55 South, Range 40 East, S. H. RICHMOND SURVEY, Plat Book 1, page 67.

- (5) A district boundary change from EU-2 to GU (Interim)

ON

That portion of Lot 10 lying easterly of a line located 650' to the west and running parallel to the eastern boundary of Lot 10, Section 35, Township 55 South, Range 40 East, S. H. RICHMOND SURVEY, Plat Book 1, page 67.

A conceptual site plan of the proposed rezoning, EU-M subdivision, and apartment site is on file and may be examined in the Zoning Department entitled "Illustrative Site Plan, a Planned Community for Clinton Wong" prepared by Haynes

Spencer Richards, Architects and Planners, and dated June 23, 1981.

LOCATION: The north side of S.W. 184 Street, between Old Cutler Road and Biscayne Bay, Dade County, Florida, and

WHEREAS, a public hearing of the Board of County Commissioners, Dade County, Florida, was advertised and held, as required by law, and all interested parties concerned in the matter were heard, at which time the applicant by his attorney, Robert Y. Chulock, proffered a Declaration of Restrictive Covenants concerning the development of the subject property, and upon due and proper consideration having been given to the matter and to the recommendation of the Developmental Impact Committee, it is the opinion of this Board that the requested district boundary changes would be compatible with the neighborhood and area concerned and would not be in conflict with the principles and intent of the plan for the development of Dade County, Florida, and should be approved, and that the requested non-use variances and special exception would be compatible with the area and its development and would be in harmony with the general purpose and intent of the regulations and would conform with the requirements and intent of the Zoning Procedure Ordinance and should be approved and that the proffered covenant should be accepted;

NOW THEREFORE BE IT RESOLVED by the Board of County Commissioners, Dade County, Florida, that the requested district boundary changes to EU-M, RU-4L and GU be and the same are hereby approved and said property is hereby zoned accordingly;

BE IT FURTHER RESOLVED that the requested non-use variance of lot frontage requirements and the requested special exception and non-use variance of zoning regulations be and the same are hereby approved;

BE IT FURTHER RESOLVED that, pursuant to Section 33-6 of the Code of Metropolitan Dade County, Florida, the County hereby accepts the proffered Declaration of Restrictive Covenants and does exercise its option to enforce the proffered restrictions wherein the same are more restrictive than applicable zoning regulations.

The Zoning Director is hereby directed to make the necessary changes and notations upon the maps and records of the Dade County Building and Zoning Department.

PASSED AND ADOPTED this 23rd day of July, 1981.

July, 1981
No. 81-7-CC-33
vp
7/27/81

DADE COUNTY, FLORIDA, BY ITS
BOARD OF COUNTY COMMISSIONERS
Richard P. Brinker, Clerk

By _____
Deputy Clerk

This resolution transmitted to the Clerk of the Board of County Commissioners on
the 31st day of July, 1981.

August 3, 1981

Clinton F. Wong, Trustee, et al
2600 Douglas Road #904
Coral Gables, Florida - 33134

Re: Hearing No. 81-7-CC-33, The North side of SW 184th Street,
between Old Cutler Road and Biscayne Bay

Dear Sir:

Enclosed, herewith, is a copy of Resolution No. Z-191-81, adopted by the Board of County Commissioners, which approved your requested district boundary changes to EU-21, RU-4L and GU and your requested special exception and non-use variance on the above-described property and accepted your proffered Declaration of Restrictive Covenants.

You are, hereby, advised that the decision of the Dade County Commission may be appealed by an aggrieved party within 30 days of the date of the submittal of the resolution to the Clerk of the County Commission. You are, further, advised that in the event that an appropriate appeal is timely filed in the Circuit Court, any building permit sought or obtained shall be solely at the risk of the party obtaining said permit.

Very truly yours,

Chester C. Czebrinski
Assistant Director

CCC/vp

Enclosure

23-55-40/84-672
34/35

RESOLUTION NO. Z-30-85

The following resolution was offered by Commissioner Clara Oesterle, seconded by Commissioner Barbara M. Carey, and upon poll of members present the vote was as follows:

Barbara M. Carey	aye	Barry D. Schreiber	absent
Clara Oesterle	aye	Sherman S. Winn	absent
Beverly B. Phillips	aye	Jorge (George) Valdes	absent
James F. Redford, Jr.	absent	Stephen P. Clark	aye
Harvey Ruvin	aye		

WHEREAS, SCB PROPERTIES, INC., had applied for the following:

- (1) A district boundary change from RU-4 (Apartments) to OPD (Government Property) (Parcel A).
- (2) A district boundary change from EU-M (Estate Use Modified), EU-2 (Estates, 1 Family-5 Acres Gross), and RU-4 (Apartments) to GU (Agricultural (Parcel C).
- (3) A district boundary change from RU-4L (Limited Apartment House), EU-M (Estate Use Modified), EU-2 (Estates, 1 Family-5 Acres Gross), and GU (Agriculture) to GU (Agriculture) (Parcel D).
- (4) USE VARIANCE to permit a 10 unit apartment building in the GU district.
- (5) UNUSUAL USE to permit private recreational facilities, to wit: tennis courts, basketball courts, swimming pool, and playing fields in the GU district.
- (6) SPECIAL EXCEPTION to permit night lighting on the proposed recreational facilities.
- (7) UNUSUAL USE to permit the filling and enlargement of portions of the existing lake.
- (8) MODIFICATION of Condition #2 pertaining to the approval of the marina of Resolution Z-196-74, passed and adopted by the Board of County Commissioners on July 23, 1974 as follows:

FROM: "2. That in the approval of the plan, the same be basically in compliance with that submitted for the hearing entitled 'Revised Marina Excavation and Bulkhead Plan - Location Only - South Cutler Bay', prepared by H. J. Ross Associates, Inc., dated revised January 21, 1974."

TO: "2. That in the approval of the plan, the same be basically in compliance with that submitted for the hearing entitled 'Lake Modifications', as prepared by Post, Buckley, Schuh, and Jernigan, Inc., dated 12-31-84, consisting of four pages, and plan entitled 'Burger King World Headquarters: Control Drawing - Site Plan', as prepared by Hellmuth, Obata, and Kassabaum, Planners and Architects, consisting of one sheet, dated last revised January 7, 1985."

The purpose of the request is to permit the applicant to revise the approved slopes as follows:

Section A-A: The applicant is proposing a 3 foot horizontal to 1 foot vertical slope from existing ground elevation into a minimum depth of 3' of water, thence a 5 foot wide horizontal shelf, thence a deep cut vertical slope to the existing bottom of the lake at - 20.0 elevation.

Section B-B: The applicant is proposing a deep cut vertical slope from the top of the existing bulkhead at elevation +4.0 to the bottom of the existing lake at -20.0 elevation.

Section C-C: The applicant is proposing a 3 foot horizontal to 1 foot vertical slope from top of berm at elevation +5.0 into a minimum depth of 3' of water, thence a 5' wide horizontal shelf, thence a 1 foot horizontal to 1 foot vertical slope to the existing bottom of the lake at - 20.0 elevation.

Section D-D: The applicant is proposing a deep cut vertical slope from the top of the existing bulkhead at +4.0 elevation to the bottom of the existing lake at -20.0 elevation.

- (9) NON-USE VARIANCE OF LOT FRONTAGE REGULATIONS to permit a parcel (Parcel A) with a frontage of 0' on a public street (100' required).
- (10) NON-USE VARIANCE OF ZONING AND SUBDIVISION REGULATIONS to permit access to a public street by means of private drives (Parcel A).
- (11) NON-USE VARIANCE OF SETBACK REQUIREMENTS to permit a proposed bus/bicycle shelter setback 0' (50' required) from the west (Old Cutler Road) property line.
- (12) NON-USE VARIANCE OF PARKING REGULATIONS to permit back-out space of 14' and 22' (24' required).
- (13) NON-USE VARIANCE OF LANDSCAPED OPEN SPACE REQUIREMENTS to permit 75% of the total required landscaping to be of category 1 type landscaping (80% required).

Plans are on file and may be examined in the Zoning Department entitled "Burger King World Headquarters", as prepared by Hellmuth, Obata, & Kassabaum, Inc., Architects consisting of 21 sheets, dated revised January 7, 1985, on sheets 1, 3, 4, 5, 7, 7a, 7b, 8, 9, 10, 11, and 13 through 17, dated revised January 10, 1985, on cover sheet and sheet 2, and dated revised January 15, 1985, on sheets 6, 7a revised, and 7b revised.

Plans of the proposed lake enlargement and slope modifications are entitled "Lake Modifications", as prepared by Post, Buckley, Schuh, & Jernigan, Inc. Consulting Engineers and Planners, consisting of 5 sheets dated 12-31-84.

SUBJECT PROPERTY: Portions of Section 34 and Section 35, Township 55 South, Range 40 East. See composite Exhibit A for complete description.

LOCATION: The east side of Old Cutler Road, between theoretical S.W. 177 Street and theoretical S.W. 184 Street, Dade County, Florida.

SIZE OF PROPERTY: 114+ Acres

WHEREAS, a public hearing of the Board of County Commissioners, Dade County, Florida, was advertised and held, as required by law, and all interested parties concerned in the matter were heard, at which time Mr. Rawlinson, Coordinator for the Developmental Impact Committee (D.I.C.), had announced that the applicant had submitted a revised plan which had minor modifications and which was within the scope of the advertisement for the hearing and this Board permitted the amendment of the application accordingly; and at which time the applicant proffered a Declaration of Restrictive Covenants, which among other things agreed that the property would be developed in substantial compliance with plans submitted for the hearing; that property, along the water front, would be dedicated to the National Park Service; that changes in the plans, both as to residential and office

buildings, would require waivers from adjacent property owners, and a Public Hearing; that any increase requested in square footage of the buildings within the OPD district, would require an appropriate DRI application; that owners would contribute sums of money, goods or services to Dade County Parks Department to be used for Old Cutler Hammock Park, and upon due and proper consideration having been given to the matter and to the recommendation of the Developmental Impact Committee, it is the opinion of this Board that the requested district boundary changes would be compatible with the neighborhood and area concerned and would not be in conflict with the principles and intent of the plan for the development of Dade County, Florida, and that the use variance, unusual uses, special exception, modification of Condition #2 pertaining to Resolution Z-196-74, and non-use variances, would be compatible with the area and its development and would be in harmony with the general purpose and intent of the regulations and would conform with the requirements and intent of the Zoning Procedure Ordinance and should be approved and that the proffered Declaration of Restrictions should be accepted;

NOW THEREFORE BE IT RESOLVED by the Board of County Commissioners, Dade County, Florida, that the application in total, including the amended site plan, be and the same is hereby approved;

BE IT FURTHER RESOLVED that the Modification #2 of Resolution Z-196-74 pertaining to the Marina is approved as follows:

That in the approval of the plan, the same be basically in compliance with that submitted for the hearing entitled, "Lake Modifications" as prepared by Post, Buckley, Schuh and Jernigan, Inc., dated last revised 1-31-85, consisting of 5 pages, and plan entitled, "Burger King World Headquarters: Site Plan", as prepared by Hellmuth, Obata and Kassabaum, Planners and Architects, consisting of one sheet (2A) dated last revised February 7, 1985".

BE IT FURTHER RESOLVED that the approval is predicated on the acceptance of the proffered Covenant and the Board does exercise its option to enforce the proffered Covenant wherein the same is more restrictive than applicable zoning regulations; said Covenant includes the revised site plan entitled "Burger King World Headquarters", as prepared by Hellmuth, Obata, & Kassabaum, P.A., Planners and Architects dated January 7, 1985, on sheets 1, 3, 4, 5, 7, 7a, 7b, 8, 9, 10, 11, and 13-17, dated revised January 10, 1985, on cover sheet and sheet 2, and dated revised January 15, 1985, on sheet 6, and dated last revised January 30, 1985, on sheets 7A revised and 7B revised, a

complete set of which is on file with the Dade County Building and Zoning Department.

BE IT FURTHER RESOLVED that this Board accepts and elects to enforce all assurances and representations made by and on behalf of the applicant at the Public Hearing.

BE IT FURTHER RESOLVED that the approval of the Subdivision Variances are predicated upon the following:

1. That there are special circumstances affecting the subject property and strict application of the subdivision regulations would deprive the applicant of a reasonable use of their land. These special circumstances pertain to the fact that the subject property has severe environmental and other site constraints which impact the design of an internal circulation system and make the proposed use infeasible if subdivision regulations are strictly adhered to.
2. The variance is necessary for the preservation and enjoyment of a substantial property right of the applicant, in that, the approval of this variance would enable Burger King Corporation to construct a proper internal roadway system which adequately serves the proposed development while preserving valuable environmental resources on the site.
3. The granting of the variance will not be detrimental to the public welfare or injurious to other property in the area in which the subject property is located because the applicant has agreed to make the necessary modifications to the area road system which will maintain adequate transportation safety and service.

The Zoning Director is hereby directed to make the necessary changes and notations upon the maps and records of the Dade County Building and Zoning Department and to issue all permits in accordance with the terms of this resolution.

PASSED AND ADOPTED this 7th day of February, 1985.

February, 1985
No. 85-2-CC-1
mr
2/11/85

DADE COUNTY, FLORIDA, BY ITS
BOARD OF COUNTY COMMISSIONERS
Richard P. Brinker, Clerk

By _____
Deputy Clerk

This resolution transmitted to the Clerk of the Board of County Commissioners on the 11th day of February 1985.

February 27, 1985

SCB Properties, Inc.
c/o Stan Price
2401 Douglas Road
Miami, Florida - 33134

Re: Resolution Z-30-85
The East side of Old Cutler Road, between
theo. SW 177 Street and theo. SW 184 Street

Gentlemen:

Enclosed, herewith, is a corrected "Page Two" of the above resolution.

The correction was necessary because the legal description was incomplete and, therefore, we have added the words, "See composite Exhibit "A" for complete description".

Along with this corrected "Page Two", we are enclosing seven pages of legal description to be attached to the back of the resolution.

Very truly yours,

Chester C. Czebrinski
Assistant Director

CCC/vp

cc: CCC
File (Misc.)
Hearing File ✓
Complete resolution distribution

February 14, 1985

SCB Properties, Inc.
c/o Stan Price
2401 Douglas Rd.
Miami, FL 33134

Re: Hearing No. 85-2-CC-1: The east side of Old Cutler Road, between
theoretical S.W. 177 Street and theoretical
S.W. 184 Street

Gentlemen:

Enclosed, herewith, is a copy of Resolution No. Z-30-85, adopted by the Board of County Commissioners, which approved your requested application on the above-described property and accepted your proffered Declaration of Restrictive Covenants.

You are, hereby, advised that the decision of the Dade County Commission may be appealed by an aggrieved party within 30 days of the date of the submittal of the resolution to the Clerk of the County Commission. You are, further, advised that in the event that an appropriate appeal is timely filed in the Circuit Court, any building permit sought or obtained shall be solely at the risk of the party obtaining said permit.

Very truly yours,

Chester C. Czebrinski
Assistant Director

CCC/mr

Enclosure

RESOLUTION NO. 4-ZAB-270-85

The following resolution was offered by Mr. Murray Sisselman seconded by Mrs. Joyce Masso and upon poll of members present, the vote was as follows:

Thomas A. Conger	aye	Margaret Nelson	aye
Peter Goldring	absent	Mary Jean Risi	aye
Levi A. Johnson	aye	Murray Sisselman	aye
Jose A. Losa	aye	R. Jollivette Frazier	absent
Joyce Masso	aye		

WHEREAS, BURGER KING CORPORATION has applied for the following:

- (1) DELETION of an Agreement only as it affects the hereinafter described subject property; said Agreement being recorded in Official Record Book 7197, at Pages 498 through 516, on the 26th day of April, 1971, and pursuant to Resolution Z-89-70, passed and adopted by the Board of County Commissioners on the 16th day of April, 1970.
- (2) DELETION of an Agreement entered into between South Cutler Bay, Inc. and Dade County; said agreement being recorded in Official Record Book 8997 at Pages 1168 through 1170 on the 22nd day of May, 1975, and required pursuant to Resolution Z-196-74, passed and adopted by the Board of County Commissioners on the 23rd day of July, 1974.
- (3) DELETION of a Declaration of Restrictive Covenants entered into between Sun-Belt Corporation of America and Dade County; said Restrictive Covenants being recorded in Official Record Book 11198 at Pages 987 through 999 on the 28th day of August, 1981.

The purpose of the above requests is to remove these agreements from the official records of Dade County, and to release the subject property from the conditions therein, leaving the property under the current restrictions of the Declaration of Restrictive Covenants filed pursuant to Resolution Z-30-85 in Official Record Book 12428 at Pages 990 through 1010.

SUBJECT PROPERTY: PARCEL 1: All of Blocks 8 and 11, lying S/ly and E/ly of the County Road, and all of Blocks 9 and 10 of the SW 1/4 of Section 35, Township 55 South, Range 40 East, Plat book 1, Page 67; and all of the south 1/2, of the north 1/2, of the SW 1/4, of the SW 1/4, of the SW 1/4 lying E/ly and S/ly of the County Road in Section 35, Township 55 South, Range 40 East, and also all that part of the SE 1/4, of the SE 1/4, of the SE 1/4 of Section 34, Township 55 South, Range 40 East, lying S/ly and E/ly of the County Road; also a strip of land 25' in width lying west of the said aforementioned Block 11 and south of the S/ly line of the County Road.

PARCEL 2: All that part of Lots 7 and 11 of the SW 1/4 of the SW 1/4 of Section 35, Township 55 South, Range 40 East, lying NW/ly of the County Road as shown on the plat of the SW 1/4 of Section 35, Township 55 South, Range 40 East, surveyed and drawn by S. H. RICHMOND and filed in Plat book 1, Page 67, and lying SE/ly of Ingraham Highway (Old Cutler Road) as same is currently laid out.

PARCEL 3: All that part of the north 1/2 of the SW 1/4 of the SW 1/4 of the SW 1/4 of Section 35, Township 55 South, Range 40 East, lying NW/ly of the County Road as shown on the plat filed in Plat book 1, Page 67, and lying SE/ly of Ingraham Highway (Old Cutler Road) as same is currently laid out.

PARCEL 4: That portion of that certain parcel of land conveyed to Dade County by Warranty Deed from Julian S. Eaton and Ethelwynne Eaton, dated February 5, 1942 and recorded in Deed Book 2237 at Page 549, under Clerk's File Number R-22573, lying SE/ly of a line 50' SE/ly of and parallel with the following described centerline for Old Cutler Road; commence at the Southeast corner of Section 34, Township 55 South, Range 40 East; thence run N89°29'5"W along the south line of the SE 1/4 of said Section 34 for a distance of 151.64' to the Point of beginning of the herein described centerline for Old Cutler Road; thence run N31°3'37"E across the SE 1/4 of said Section 34 and across the SW 1/4 of Section 35, Township 55 South, Range 40 East, for a distance of 914.42'±, to a point on the north line of the north 1/2, of the SW 1/4, of the SW 1/4, of the SW 1/4 of said Section 35 and to the end of the herein described centerline for Old Cutler Road.

PARCEL 5: All of County Road shown on S.H. Richmond's Survey of the SW 1/4 of Section 35, Township 55 South, Range 40 East, Plat book 1, Page 67, lying between those lands shown as Parcels 1 through 4 herein.

AND: All riparian and littoral rights (if any) appurtenant to all of the foregoing described property, including but not limited to, all riparian and littoral rights east of the mean high water line, and in the interest (if any) in the foregoing described property up to the centerline of an road(s) or street(s) abutting any of the foregoing described property.

AND:

All that part of Tracts 3, 4, 5, 6, 7, 8, and 9, lying east of the E/ly right-of-way line of Ingraham Highway of DOUGHTERY'S SUBDIVISION, Plat book 1, Page 1 of the Public Records of Dade County, Florida;

AND:

All that part of Tracts 1 and 2 lying east of the E/ly Right-of-Way line of Ingraham Highway, and all of Tracts 3 and 4 of S.H. RICHMOND'S SURVEY of the SW 1/4 of Section 35, Township 55 South, Range 40 East, Plat book 1, Page 67;

AND:

The north 1/2 of the north 1/2 of the south 1/2 of the SE 1/4 of the SW 1/4 and the north 1/2 of the north 1/2 of the SE 1/4 of the SW 1/4 of the SW 1/4, all in Section 35, Township 55 South, Range 40 East, also known as the north 1/2 of Tracts 5 and 6 of S.H. RICHMOND'S SURVEY of the SW 1/4 of said Section 35, Plat book 1, Page 67;

AND:

That part of the NW 1/4 of the SW 1/4 of the SW 1/4 lying east of the E/ly right-of-way line of Ingraham Highway in Section 35, Township 55 South, Range 40 East;

AND:

All of that part of the north 1/2 of the north 1/2 of the SW 1/4 of the SW 1/4 of the SW 1/4 in Section 35, Township 55 South, Range 40 East, lying east of the center line of the County Road as shown on S.H. RICHMOND'S SURVEY of the SW 1/4 of Section 35, Township 55 South, Range 40 East, Plat book 1, Page 67;

AND:

All that part of the County Road as shown on S.H. RICHMOND'S SURVEY of the SW 1/4 of Section 35, Township 55 South, Range 40 East, Plat book 1, Page 67, included in the above described parcels, EXCEPT the portions thereof now a part of Ingraham Highway;

AND:

The south 1/2 of the north 1/2 of the SE 1/4 of the SW 1/4 of the SW 1/4 (the south 1/2 of Lot 5) and the south 1/2 of the north 1/2 of the south 1/2 of the SE 1/4 of the SW 1/4 (south 1/2 of Lot 6) of S.H. RICHMOND'S SURVEY of the SW 1/4 of Section 35, Township 55 South, Range 40 East, Plat book 1, Page 67; and all riparian and littoral rights (if any) appurtenant to all of the foregoing described property, including but not limited to, all riparian and littoral rights east of the mean high water line, as shown on the survey prepared by Jack Mueller & Associates, Inc., dated April 18, 1984, revised August 3, 1984, November 15, 1984 and December 21, 1984, and including the interest (if any) in the property up to the center line of any road(s) or street(s) abutting any of the foregoing described property.

LOCATION: The east side of Old Cutler Road between theoretical S.W. 177 Street and theoretical S.W. 184 Street, Dade County, Florida, and

WHEREAS, a public hearing of the Metropolitan Dade County Zoning Appeals Board was advertised and held, as required by law, and all interested parties concerned in the matter were heard, and

WHEREAS, upon due and proper consideration having been given to the matter, it is the opinion of this Board that the requested deletions would be in harmony with the general purpose and intent of the regulations and would conform with the requirements and intent of the Zoning Procedure Ordinance;

NOW THEREFORE BE IT RESOLVED by the Metropolitan Dade County Zoning Appeals Board, that the requested Deletion of an Agreement only as it affects the subject property; said Agreement being recorded in Official Record Book 7197, at Pages 498 through 516, on the 26th day of April, 1971, and pursuant to Resolution Z-89-70, Deletion of an Agreement entered into between South Cutler Bay, Inc. and Dade County; said agreement being recorded in Official Record Book 8997 at Pages 1168 through 1170 on the 22nd day of May, 1975, and required pursuant to Resolution Z-196-74 and Deletion of a Declaration of Restrictive Covenants entered into between Sun-Belt Corporation of America and Dade County; said Restrictive Covenants being recorded in Official Record Book 11198 at Pages 987 through 999 on the 28th day of August, 1981 be and the same are hereby approved.

The Zoning Director is hereby directed to make the necessary notations upon the maps and records of the Dade County Building and Zoning Department.

PASSED AND ADOPTED this 24th day of JULY, 1985.

Heard 7/24/85
Hearing No. 85-7-32
7/25/85 aa

July 30, 1985

Burger King Corporation
c/o Stanley B. Price
2401 Douglas Road
Miami, Fl. 33145

Re: Hearing No. 85-7-32; Section 34/35-55-40
Location:

Gentlemen:

Enclosed herewith is a copy of Resolution No. 4-ZAB-270-85, adopted by the Metropolitan Dade County Zoning Appeals Board, approving your application.

You are hereby advised that the decision of the Zoning Appeals Board may be appealed by an aggrieved party (within 14 days) or by the Directors of the Dade County Building and Zoning Department and Planning Department (within 18 days), as is provided in Chapter 33-313 of the Code of Metropolitan Dade County, Florida; and that no permits can be issued until the appeal periods have expired, and only if no appeal has been filed. Application for necessary permits should be made with this Department. The deadline for an appeal by the applicant and/or an aggrieved party is Friday, August 9, 1985.

Very truly yours,

Chester C. Czebrinski
Assistant Director

CCC:aa

Enclosure

RESOLUTION NO. 4-ZAB-143-86

The following resolution was offered by Mr. Jose A. Losa seconded by Mr. Levi A. Johnson and upon poll of members present, the vote was as follows:

Thomas A. Conger	aye	Margaret Nelson	aye
Peter Goldring	absent	Mary Jean Risi	aye
Levi A. Johnson	aye	Murray Sisselman	absent
Jose A. Losa	aye	R. Jollivette Frazier	aye
Joyce Masso	absent		

WHEREAS, BURGER KING CORPORATION has applied for the following:

- (1) UNUSUAL USE to permit the filling of a portion of an existing lake.

The applicant is requesting to fill underneath the proposed building site and provide a vertical bulkhead with a slope beginning 7'9" below the bulkhead cap, thence a minimum 3' wide shelf, thence a one foot vertical to two foot horizontal slope to the bottom of the existing lake.

Plans are on file and may be examined in the Zoning Department entitled "Burger King Corporation World Headquarters Site Sea Wall", consisting of six sheets, prepared by Bliss and Nyitray, Inc. Consulting Engineers, dated 3-21-86.

- (2) MODIFICATION of Condition #2 of Resolution Z-196-74, passed and adopted by the Board of County Commissioners on July 23, 1974 and amended by Resolution Z-30-85 passed and adopted by the Board of County Commissioners on the 7th day of February, 1985, as follows:

FROM: "2. That in the approval of the plan, the same be basically in compliance with that submitted for the hearing entitled 'Lake Modifications', as prepared by Post, Buckley, Schuh and Jernigan, Inc., dated last revised 1-31-85, consisting of 5 pages, and plan entitled 'Burger King World Headquarters: Site Plan', as prepared by Hellmuth, Obata and Kassabaum, Planners and Architects, consisting of one sheet (2A) dated last revised February 7, 1985."

TO: "2. That in the approval of the plan, the same be basically in compliance with that submitted for the hearing entitled 'Burger King Corporation World Headquarters Site Sea Wall', consisting of six sheets, prepared by Bliss and Nyitray, Inc., consulting engineers, dated 3-21-86."

The purpose of the request is to substitute new plans for the existing lake which indicates its current proposed shape, area to be filled underneath the building, new seawalls to be constructed and proposed new slope areas.

- (3) MODIFICATION of the Proffered Covenant paragraph of Resolution Z-30-85, passed and adopted by the Board of County Commissioners on the 7th day of February, 1985, as follows:

FROM: "BE IT FURTHER RESOLVED that the approval is predicated on the acceptance of the proffered Covenant and the Board does exercise its option to enforce the proffered Covenant wherein the same is more restrictive than applicable zoning regulations; said Covenant includes the revised site plan entitled 'Burger King World Headquarters', as prepared by Hellmuth, Obata, & Kassabaum, P.A., Planners and Architects dated January 7, 1985, on sheets 1, 3, 4, 5, 7, 8, 9, 10, 11, and 13-17, dated revised January 10, 1985, on cover sheet and sheet 2, and dated revised January 15, 1985, on sheet 6, and dated last revised January 30, 1985, on sheets 7A revised and 7B revised, a complete set of which is on file with the Dade County Building and Zoning Department.

TO: "BE IT FURTHER RESOLVED that the approval is predicated on the acceptance of the proffered Covenant and the Board does exercise its option to enforce the proffered Covenant wherein the same is more restrictive than applicable zoning regulations; said Covenant includes the revised site plan entitled 'Burger King World

Headquarters', as prepared by Hellmuth, Obata, & Kassabaum, P.A., Planners and Architects dated January 7, 1985, on sheets 1, 3, 4, 5, 7, 7a, 7b, 8, 9, 10, 11, and 13-16, dated revised January 10, 1985, on cover sheet; sheets 2 and 6 replaced by a sheet 1 entitled 'Site Dimensions & Statistics Computations' last dated Feb. 26, 1986; sheets 7a & 7b replaced by sheets 2 through 5 entitled 'Parking Layout/Tech Center/Training Center/Office' and dated Feb. 14, 1986, Sheet 17 dated Feb. 27, 1986; a complete set of which is on file with the Dade County Building and Zoning Department."

- (4) MODIFICATION of a Declaration of Restrictive Covenants recorded in Official Record Book 12428 at Pages 990 - 1010, accepted pursuant to Resolution Z-30-85, passed and adopted by the Board of County Commissioners on the 7th day of February, 1985, as follows:

FROM: "1. That the Development will be built in substantial compliance with the plans entitled 'Burger King World Headquarters', as prepared by Hellmuth, Obata, & Kassabaum, P.A., Planners and Architects dated January 7, 1985, on sheets 1, 3, 4, 5, 7, 7a, 7b, 8, 9, 10, 11, and 13-17, dated revised January 10, 1985, on cover sheet and sheet 2, and dated revised January 15, 1985, on sheet 6, and dated last revised January 30, 1985, on sheets 7A revised and 7B revised, a complete set of which is on file with the Dade County Building and Zoning Department."

TO: "1. That the Development will be built in substantial compliance with the plans entitled 'Burger King World Headquarters', as prepared by Hellmuth, Obata, & Kassabaum, P.A., Planners and Architects dated January 7, 1985, on sheets 1, 3, 4, 5, 7, 8, 9, 10, 11, and 13-16, dated revised January 10, 1985, on cover sheet; sheets 2 and 6 replaced by a sheet 1 entitled 'Site Dimensions & Statistics Computations' last dated Feb. 26, 1986; sheets 7a & 7b replaced by sheets 2 through 5 entitled 'Parking Layout/Tech Center/Training Center/Office' and dated Feb. 14, 1986, Sheet 17 dated Feb. 27, 1986; a complete set of which is on file with the Dade County Building and Zoning Department."

The purpose of the modification of resolution and agreement is to permit a revised site plan & parking plans which indicate 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.

The aforementioned plans are on file and may be examined in the Zoning Department.

SUBJECT PROPERTY: Tract "A" and "B" of BURGER KING WORLD HEADQUARTERS, Plat book 127, Page 86.

LOCATION: The east side of Old Cutler Road, between S.W. 177 Street and S.W. 184 Street, Dade County, Florida, and

WHEREAS, a public hearing of the Metropolitan Dade County Zoning Appeals Board was advertised and held, as required by law, and all interested parties concerned in the matter were heard, and

WHEREAS, upon due and proper consideration having been given to the matter, it is the opinion of this Board that the requested unusual use and modifications would be in harmony with the general purpose and intent of the regulations, would be compatible with the area and its development and would conform with the requirements and intent of the Zoning Procedure Ordinance;

NOW THEREFORE BE IT RESOLVED by the Metropolitan Dade County Zoning Appeals Board, that the requested Unusual Use to permit the filling of a portion of an existing lake, Modification of Condition #2 of Resolution Z-196-74, Modification of the Proffered Covenant paragraph of Resolution Z-30-85, and Modification of a Declaration of Restrictive Covenants recorded in Official Record Book 12428 at Pages 990-1010, accepted pursuant to Resolution Z-30-85 be and the same are hereby approved, subject to the following conditions:

1. That the revised Emergency Access plan satisfy the requirements of the Metro-Dade County Fire Department.
2. That the applicants comply with all conditions and requirements of the Department of Environmental Resources Management.
3. Building finishes shall be dark to enhance blending with vegetation and tree canopy and the architectural treatment for the primary office building shall provide for planter boxes and landscaping along the entire length of all four stories as well as the roof top on the building's east elevation to mitigate its visual impact.
4. That the applicant submit to the Planning Department for its review and approval a landscaping plan which indicates the type of plant material and size prior to the issuance of a building permit and to be installed prior to the issuance of a certificate of use and occupancy.

The Zoning Director is hereby directed to make the necessary notations upon the maps and records of the Dade County Building and Zoning Department and to issue all permits in accordance with the terms and conditions of this resolution.

PASSED AND ADOPTED this 30th day of APRIL, 1986.

Heard 4/30/86
Hearing No. 86-4-28
Typed 5/2/86 aa

May 12, 1986

Burger King Corp.
c/o Stanley B. Price
Fine, Jacobson, Schwartz, et al
2401 Douglas Rd.
Miami, Fl. 33145

Re: Hearing No. 86-4-28; Section 35-55-40
Location: E/s Old Cutler RD. bet. SW 177 St. & SW 184 St.

Gentlemen:

Enclosed herewith is a copy of Resolution No. 4-ZAB-143-86, adopted by the Metropolitan Dade County Zoning Appeals Board, approving your application.

Please note the conditions under which said approval was granted, inasmuch as strict compliance therewith will be required.

You are hereby advised that the decision of the Zoning Appeals Board may be appealed by an aggrieved party (within 14 days) or by the Directors of the Dade County Building and Zoning Department and Planning Department (within 18 days), as is provided in Chapter 33-313 of the Code of Metropolitan Dade County, Florida; and that no permits can be issued until the appeal periods have expired, and only if no appeal has been filed. Application for necessary permits should be made with this Department. The deadline for an appeal by the applicant and/or an aggrieved party is Friday, May 16, 1986.

Very truly yours,

Chester C. Czebrinski
Assistant Director

CCC:aa

Enclosure

bcc: Environmental Resources Mgt.
Fire Dept.

RESOLUTION NO. Z-34-89

The following resolution was offered by Commissioner Barry D. Schreiber, seconded by Commissioner Charles Dusseau, and upon poll of members present the vote was as follows:

Barbara M. Carey	absent	Barry D. Schreiber	aye
Charles Dusseau	aye	Jorge (George) Valdes	aye
Joseph M. Gersten	aye	Sherman S. Winn	absent
Larry Hawkins	nay	Stephen P. Clark	absent
Harvey Ruvin	absent		

WHEREAAS, BURGER KING CORP., had applied for the following:

- (1) UNUSUAL USE to permit parking in a zone more restrictive than the use it serves; to wit: parking of cars in a GU district to serve an OPD district.

Plans are on file and may be examined in the Zoning Department entitled "Burger King Corporation World Headquarters," as prepared by Hellmuth, Obata & Kassabaum, Inc., dated 8-18-88 on sheets CL-1, CL-2, CL-3 & 2C.6-1. Plans may be modified at public hearing.

- (2) MODIFICATION of the Proffered Covenant paragraph of Resolution Z-30-85, passed and adopted by the Board of County Commissioners on the 7th day of February, 1985, as modified by Resolution 4-ZAB-143-86, passed and adopted by the Dade County Zoning Appeals Board on the 30th day of April, 1986, as follows:

FROM: "BE IT FURTHER RESOLVED that the approval is predicated on the acceptance of the proffered Covenant and the Board does exercise its option to enforce the proffered Covenant wherein the same is more restrictive than applicable zoning regulations; said Covenant includes the revised site plan entitled 'Burger King World Headquarters,' as prepared by Hellmuth, Obata & Kassabaum, P.A., Planners and Architects dated January 7, 1985, on sheets 1, 3, 4, 5, 7, 7a, 7b, 8, 9, 10, 11 and 13-16, dated revised January 10, 1985, on cover sheet; sheets 2 and 6 replaced by a sheet 1 entitled 'Site Dimensions & Statistics Computations' last dated Feb. 26, 1986; sheets 7a & 7b replaced by sheets 2 through 5 entitled 'Parking Layout/Tech Center/Training Center/Office' and dated Feb. 14, 1986, Sheet 17 dated Feb. 27, 1986; a complete set of which is on file with the Dade County Building and Zoning Department."

TO: "BE IT FURTHER RESOLVED that the approval is predicated on the acceptance of the proffered Covenant and the Board does exercise its option to enforce the proffered Covenant wherein the same is more restrictive than applicable zoning regulations; said Covenant includes the revised site plan entitled 'Burger King World Headquarters,' as prepared by Hellmuth, Obata & Kassabaum, P.A., Planners and Architects dated January 7, 1985, on sheets 1, 3, 4, 5, 7, 7a, 7b, 8, 9, 10, 11 and 13-16, dated revised January 10, 1985, on cover sheet; sheets 2 and 6 replaced by a sheet 1 entitled 'Site Dimensions & Statistics Computations' last dated Feb. 26, 1986; sheets 7a & 7b replaced by sheets 2 through 5 entitled 'Parking Layout/Tech Center/Training Center/Office' and dated Feb. 14, 1986, Sheet 17 dated Feb. 27, 1986; and additional sheets CL-1, CL-2, CL-3 and 2C.6-1, dated 8-18-88, a complete set of which is on file with the Dade County Building and Zoning Department."

- (3) MODIFICATION of a Declaration of Restrictive Covenants recorded in Official Record Book 12428 at Pages 990-1010, accepted pursuant to Resolution Z-30-85, passed and adopted by the Board of County Commissioners on the 7th day of February, 1985, and modified by Resolution 4-ZAB-143-86, passed and adopted by the Dade County Zoning Appeals Board on the 30th day of April, 1986, as follows:

FROM: "1. That the Development will be built in substantial compliance with the plans entitled 'Burger King World Headquarters,' as prepared by Hellmuth, Obata & Kassabaum, P.A., Planners and Architects dated January 7, 1985, on sheets 1, 3, 4, 5, 7, 8, 9, 10, 11 and 13-16, dated revised January 10, 1985, on cover sheet; sheets 2 and 6 replaced by a sheet 1 entitled 'Site

Dimensions & Statistics Computations' last dated Feb. 26, 1986; sheets 7a & 7b replaced by sheets 2 through 5 entitled 'Parking Layout/Tech Center/Training Center/Office' and dated Feb. 14, 1986, Sheet 17 dated Feb. 27, 1986; a complete set of which is on file with the Dade County Building and Zoning Department."

TO: "1. That the Development will be built in substantial compliance with the plans entitled 'Burger King World Headquarters,' as prepared by Hellmuth, Obata & Kassabaum, P.A., Planners and Architects dated January 7, 1985, on sheets 1, 3, 4, 5, 7, 8, 9, 10, 11 and 13-16, dated revised January 10, 1985, on cover sheet; sheets 2 and 6 replaced by a sheet 1 entitled 'Site Dimensions & Statistics Computations' last dated Feb. 26, 1986; sheets 7a & 7b replaced by sheets 2 through 5 entitled 'Parking Layout/Tech Center/Training Center/Office' and dated Feb. 14, 1986, Sheet 17 dated Feb. 27, 1986; and additional sheets CL-1, CL-2, CL-3 and 2C.6-1, dated 8-18-88, a complete set of which is on file with the Dade County Building and Zoning Department."

The purpose of the modification of resolution and agreement is to show additional surface parking in the area north of the north office building on the official development plans.

SUBJECT PROPERTY: Tract "A" of BURGER KING WORLD HEADQUARTERS, Plat book 127, Page 86.

LOCATION: 17777 Old Cutler Road, Dade County, Florida, and

WHEREAS, a public hearing of the Board of County Commissioners, Dade County, Florida, was advertised and held, as required by law, and all interested parties concerned in the matter were heard, and upon due and proper consideration having been given to the matter, it is the opinion of this Board that the requested unusual use and Modifications of Covenants would be compatible with the area and its development and would conform with the requirements and intent of the Zoning Procedure Ordinance and should be approved, subject to conditions;

NOW THEREFORE BE IT RESOLVED by the Board of County Commissioners, Dade County, Florida, that the application be approved, subject to the following conditions:

1. That an amended covenant be submitted in recordable form within 90 days of the public hearing approval of this application, and to submit the proposed amended Declaration of Restrictions for approval prior to recording.
2. That the applicant submit to the Planning Department for its review and approval a landscaping plan which indicates the type of plant material and size prior to the issuance of a building permit and to be installed prior to the issuance of a certificate of use and occupancy.

The Zoning Director is hereby directed to make the necessary changes and notations upon the maps and records of the Dade County Building and Zoning Department and to issue all permits in accordance with the terms and conditions of this resolution.

PASSED AND ADOPTED this 23rd day of February, 1989.

January, 1989
No. 89-1-CC-20
3/14/89
mr

DADE COUNTY, FLORIDA, BY ITS
BOARD OF COUNTY COMMISSIONERS

By Richard P. Brinker, Clerk
Deputy Clerk

This resolution transmitted to the Clerk of the Board of County Commissioners
on the 24th day of MARCH, 1989.

METROPOLITAN DADE COUNTY, FLORIDA



METRO-DADE CENTER

BUILDING & ZONING DEPARTMENT
SUITE 1010
111 N.W. 1st STREET
MIAMI, FLORIDA 33128-1974
(305) 375-2500

March 24, 1989

Burger King Corp.
c/o Stanley B. Price, Esq.
One CenTrust Financial Center
100 S.E. 2nd Street
Miami, FL 33131

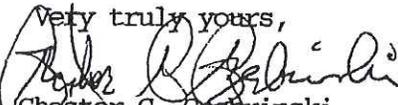
Re: Hearing No. 89-1-CC-20; 17777 Old Cutler Road

Gentlemen:

Enclosed, herewith, is a copy of Resolution No. Z-34-89, adopted by the Board of County Commissioners, which approved, subject to conditions, your application on the above-described property. Please note the conditions under which said approval was granted, inasmuch as strict compliance, therewith, will be required.

Please note that you are requested to submit the proposed amended Declaration of Restrictions for approval prior to recording.

You are, hereby, advised that the decision of the Dade County Commission may be appealed by an aggrieved party within 30 days of the date of the submittal of the resolution to the Clerk of the County Commission. You are, further, advised that in the event that an appropriate appeal is timely filed in the Circuit Court, any building permit sought or obtained shall be solely at the risk of the party obtaining said permit.

Very truly yours,

Chester C. Czebrinski
Assistant Director

CCC/mr
Enclosure

- 1 2. The property is encumbered by a Declaration of Restrictive Covenants,
2 which covenants regulate certain uses of the property. These declarations
3 are attached and incorporated by reference as exhibit 1.
- 4 3. Clause #8 of page four of the attached declaration of restrictive covenants
5 (exhibit 1) requires that a "Unity of Title" agreement be in place for the
6 property. This requirement requires that the entire property be under the
7 ownership of one person (natural person or entity).
- 8 4. The current property owner intends to turn the existing units into
9 condominiums, thus providing for a master condominium association and
10 individual owners of the units. To proceed with the condominium action the
11 property owner shall require the replacement of the "unity of title"
12 requirement with a declaration of restrictions, requiring master association
13 and individual unit owners to comply with all the underlying declarations
14 of restrictions on the property.
- 15 5. Section 33-257 of the Miami-Dade County Code, which code section was
16 adopted by the village council on May 5, 2003, provides a mechanism for
17 replacing the "unity of title" requirement with a declaration of restrictive
18 covenants. The covenant would effectively be used in lieu of the unity of
19 title document. The covenant would ensure that the master association,
20 and all individual owners comply with the underlying restriction in the
21 attached declaration of restrictions.
- 22 6. Section 33-257 provides for a unified, coordinated site plan for the property
23 and provides the village with control over the development and the
24 continuation of coordinated development theme, even with multiple owners
25 within the property.
- 26 7. The remainder of the provisions of exhibit 1 would remain in effect and
27 would not be affected by the removal of the "unity of title" requirement.

28
29 Section 3. Conclusions of law.

30 Pursuant to Section 33-257 of the Miami-Dade County Code the applicant's
31 request to replace the unity of title (required under Clause 8 of page 4 of the
32 attached declaration of restrictions) with a declaration of restrictions in lieu of
33 unity of title is hereby granted. The declaration of restrictions in lieu of unity of
34 title is attached as exhibit 2 to this resolution and incorporated by reference into
35 this resolution.

36
37
38 Section 4. Order.

Additional conditions.

- 1
2
3 1. The Property will be developed in substantial compliance with the site plan
4 entitled, "Burger King World Headquarters", prepared by Hellmuth, Obata and
5 Kassabaum, P.A., Planners and Architects, dated January 7, 1985, on sheets 1, 3,
6 4, 5, 7, 7A, 7B, 8, 9, 10, 11 and 13-17, dated revised January 10, 1985 on cover
7 sheet and sheet 2; and dated revised January 30, 1985 on sheets 7A revised 7B
8 revised. No modification shall be effected in said site plan without the written
9 consent of the then owner(s) of the Property, and the submittal of an application to
10 modify the plan or covenant at public hearing before the Village Council of
11 Palmetto Bay, Florida.
- 12 2. If the Property is developed in phases, each phase will be developed in substantial
13 accordance with the site plan.
- 14 3. In the event of multiple ownership subsequent to said site plan approval, each of
15 the subsequent owners, mortgagees and other parties in interest shall be bound by
16 the terms, provisions and conditions of this instrument. Owner further agrees that
17 it will not convey portions of the Property to such other parties unless and until the
18 Owner and such other party or parties shall have executed and mutually delivered
19 in recordable form, and instrument to be known as an "Easement and Operating
20 Agreement" which shall contain, among other things:
- 21 (i) easements in the common area of each parcel for ingress to and egress from
22 other parcels;
- 23 (ii) easements in the common area of each parcel for the passage and parking of
24 vehicles;
- 25 (iii) easements in the common area of each parcel for the passage and
26 accommodation of pedestrians;
- 27 (iv) easements for access roads across the common area of each parcel to
28 private roadways;
- 29 (v) easements for the installation, use, operation, maintenance, repair,
30 replacement, relocation and removal of utility facilities in appropriate areas
31 in each such parcel;
- 32 (vi) easements on each such parcel for construction of buildings and
33 improvements in favor of each such other parcel;

- 1 (vii) easements upon each such parcel in favor of each adjoining parcel for the
2 installation, use, maintenance, repair, replacement and removal of common
3 construction improvements such as footings, supports and foundations;
- 4 (viii) easements on each parcel for attachment of buildings;
- 5 (ix) easements on each such parcel for building overhangs, other overhangs and
6 projections encroaching upon such parcel from adjoining parcel such as, by
7 way of example, marquees, canopies, lights, lighting devices, awnings,
8 wing walls and the like;
- 9 (x) appropriate reservation of rights to grant easements to utility companies;
- 10 (xi) easements in favor of each such parcel for pedestrian and vehicular traffic
11 over dedicated private ring roads and access roads; and
- 12 (xii) appropriate agreements between the owners of the several parcels as to the
13 obligation to maintain and repair all private roadways, parking facilities,
14 common areas and the like.

15 The easement provisions or portions thereof may be waived by the Village Attorney of
16 the Village of Palmetto Bay, if they are not applicable to the subject application. When
17 executed, the Easement and Operating Agreement shall not be amended without the prior
18 written approval of the Office of the Village Attorney of Palmetto Bay. Such Easement
19 and Operating Agreement may contain such other provisions with respect to the
20 operation, maintenance and development of the Property as to which the parties thereto
21 may agree, all to the end that although the property may have several owners, it will be
22 constructed, conveyed, maintained and operated in accordance with the approved site
23 plan.

24

25 4. The provisions of the declaration of restrictions in lieu of unity of title with all
26 associated conditions as reflected in this resolution shall become effective upon
27 their recordation in the public records of Miami-Dade County, Florida, and shall
28 continue in effect for a period of thirty (30) years after the date of such
29 recordation, after which time they shall be extended automatically for successive
30 periods of ten (10) years each, unless released in writing by the then owners of the
31 Property and the Village Attorney, acting for and on behalf of the Village of
32 Palmetto Bay, Florida, upon the demonstration and affirmative finding that the
33 same is no longer necessary to preserve and protect the property for the purposes
34 herein intended.

- 1 5. The provisions of the attached exhibit 2, declaration of restrictions in lieu of unity
2 of title, may be amended or modified by a written instrument executed by the then
3 Owner or Owners of the Property, with joinders by all mortgagees, if any. Should
4 the Declaration of Restrictive Covenants in lieu of unity of title be so amended, or
5 modified, the Village Attorney, or his successor, shall forthwith execute a written
6 instrument effectuating and acknowledging such amendment or modification. The
7 provisions of this instrument may be released by a written instrument executed by
8 the then Owner or Owners of the Property, with joinders by all mortgagees, if any,
9 after public hearing. Should the attached exhibit 2, Declaration of Restrictive
10 Covenants, be so released, after public hearing and approval of the Village
11 Council of the Village of Palmetto Bay, the Village Attorney, or his successor,
12 shall forthwith execute a written instrument effectuating and acknowledging such
13 release. .
- 14 6. Enforcement shall be by action against any parties or persons violating or
15 attempting to violate any covenants. The prevailing party to any action or suit
16 pertaining to or arising out of this Declaration shall be entitled to recover, in
17 addition to costs and disbursements, allowed by law, such sum as the Court may
18 adjudge to be reasonable for the services of his attorney. This enforcement
19 provision shall be in addition to any other remedies available at law, in equity or
20 both.
- 21 7. Invalidation of any of these covenants by judgment of Court shall not affect any of
22 the other provisions, which shall remain in full force and effect.
- 23 8. All rights, remedies and privileges granted herein shall be deemed to be
24 cumulative and the exercise of any one or more shall neither be deemed to
25 constitute an election of remedies, nor shall it preclude the party exercising the
26 same from exercising such other additional rights, remedies or privileges.
- 27 9. In the event of a violation of this resolution and the attached exhibit 2, the
28 declaration of restrictive covenants in lieu of unity of title, in addition to any other
29 remedies available, the Village of Palmetto Bay shall be authorized to withhold
30 any future permits, and refuse to make any inspections or grant any approval, until
31 such time as there is compliance.
- 32 10. The declaration of restrictions in lieu of unity of title shall be recorded in the
33 public records of Miami-Dade County at the Owner's expense.
- 34 11. The declaration of restrictions in lieu of unity of title shall specifically incorporate
35 the Declaration of Restrictive Covenants and the First Amendment to the

1 Declaration of Restrictive Covenants recorded May 1, 1989 at Official Records
2 Book 14089 at Pages 2349-52 and Official Records Book 12428 at Pages 923-
3 1010, of the Public Records of Miami-Dade County, Florida, with the exception of
4 the unity of title requirement, any inconsistencies between this Declaration and the
5 prior documents, the Declaration of Restrictive Covenants and the First
6 Amendment to the Declaration of Restrictive Covenants found at Official Records
7 Book 14089 at Pages 2349-52 and Official Records Book 12428 at Pages 923-
8 1010, of the Public Records of Miami-Dade County, Florida, shall control.

9 This is a final order.

10
11 Section 5. Record.

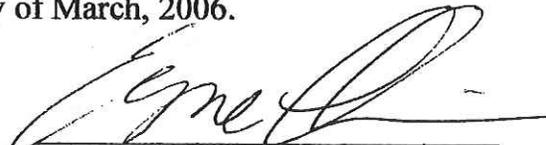
12 The record shall consist of the notice of hearing, the applications, documents
13 submitted by the applicant and the applicant's representatives to the Miami-Dade County
14 Department of Planning and Zoning in connection with the applications, the county
15 recommendation and attached cover sheet and documents, the testimony of sworn
16 witnesses and documents presented at the quasi-judicial hearing, and the tape and
17 minutes of the hearing. The record shall be maintained by the village clerk.
18

19 Section 6. This resolution shall take effect immediately upon approval.

20 PASSED and ADOPTED this 13th day of March, 2006.

21
22 Attest:


23 Meighan Pier
24 Village Clerk


Eugene P. Flinn, Jr.
25 Mayor

26
27 APPROVED AS TO FORM:

28
29 
30 Eye A. Boutsis, office of
31 Village Attorney
32 Nagin Gallop & Figueredo, P.A.
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FINAL VOTE AT ADOPTION:

- Council Member Ed Feller YES
- Council Member Paul Neidhart YES
- Council Member John Breder YES
- Vice-Mayor Linda Robinson YES
- Mayor Eugene P. Flinn, Jr. NO

Exhibit 1

OFF. REC. 14089M2349

FIRST AMENDMENT TO DECLARATION OF RESTRICTIVE COVENANTS

This First Amendment of Restrictive Covenants running with the land is made and entered into this 5th day of April, 1989, by the BURGER KING CORPORATION, a Florida corporation (the "OWNER") in favor of Dade County, Florida, a political subdivision of the State of Florida.

WHEREAS, the Owner is the fee simple owner of real property described in Exhibit "A".

WHEREAS, the Owner has filed for a public hearing bearing Public Hearing No. 88-684 seeking a modification of a previously approved site plan.

MODIFICATION of the Proffered Covenant paragraph of Resolution 2-30-85, passed and adopted by the Board of County Commissioners on the 7th day of February, 1985, as modified by resolution 4-ZAB-143-86, passed and adopted by the Dade County Zoning Appeals Board on the 30th day of April, 1986 as follows:

FROM: "BE IT FURTHER RESOLVED that the approval is predicated on the acceptance of the proffered Covenant and the Board does exercise its option to enforce the proffered Covenant wherein the same is more restrictive than applicable zoning regulations; said Covenant includes the revised site plan entitled 'Burger King World Headquarters,' as prepared by Hellmuth, Obata & Kassabaum, P.A., Planners and Architects dated January 7, 1985, on sheets 1, 3, 4, 5, 7, 7a, 7b, 8, 9, 10, 11 and 13-16, dated revised January 10, 1985, on cover sheet; sheets 2 and 6 replaced by a sheet 1 entitled 'Site Dimensions & Statistics computations last dated Feb. 26, 1986; sheets 7A & 7b replaced by sheets 2 through 5 entitled 'Parking Layout/Tech Center/Training Center/Office' and dated Feb. 14, 1986, Sheet 17 dated Feb. 27, 1986; a complete set of which is on file with the Dade county Building and Zoning Department."

TO: "BE IT FURTHER RESOLVED that the approval is predicated on the acceptance of the proffered Covenant and the Board does exercise its option to enforce the proffered Covenant wherein the same is more restrictive than applicable zoning regulations; said Covenant includes the revised site plan entitled 'Burger King World Headquarters,' as prepared by Hellmuth, Obata & Kassabaum, P.A., Planners and Architects dated January 7, 1985, on sheets 1, 3, 4, 5, 7, 7a, 7b, 8, 9, 10, 11 and 13-16, dated revised January 10, 1985; on cover sheet; sheets 2 and 6 replaced by a sheet 1 entitled

PREPARED BY
STANLEY B. PRICE
FIRE JACOBSON SCHWARTZ
RASH BLOK & EPSTEIN
ONE CENTURIST FINANCIAL CENTER
100 S. E. 2 STREET
MIAMI, FLORIDA 33131

19.50

Ref: 1408902350

'Site Dimensions & Statistics Computations' last dated Feb. 26, 1986; sheets 7a & 7b replaced by sheets 2 through 5 entitled 'Parking Layout/Tech Center/Training Center/Office' and dated Feb. 14, 1986 Sheet 17 dated Feb. 27, 1986; and additional sheets CL-1, CL-2, CL-3 and 2C.6-1, dated 8-18-88; a complete set of which is on file with the Dade County Building and Zoning Department."

NOW, THEREFORE, THE OWNER hereby agrees and covenants, that in furtherance of its request to modify a previously approved site plan, that the Declaration of Restrictive Covenants is modified, as follows:

(1) MODIFICATION of a Declaration of Restrictive Covenants recorded in Official Record Book 12428 at Pages 990-1010, accepted pursuant to resolution Z-30-85, passed and adopted by the Board of County commissioners on the 7th day of February, 1985, and modified by Resolution 4-ZAB-143-86, passed and adopted by the Dade County Zoning Appeals Board on the 30th day of April, 1986, as follows:

FROM: "1. That the Development will be built in substantial compliance with the plans entitled 'Burger King World Headquarters' as prepared by Hellmuth, Obata & Kassabaum, P.A., Planners and Architects dated January 7, 1985, a complete set which is on file with the Dade County Building and Zoning Department."

TO: "1. That the Development will be built in substantial compliance with the plans entitled 'Burger King World Headquarters,' as prepared by Hellmuth, Obata & Kassabaum, P.A., Planners and Architects dated January 7, 1985, on sheets 1, 3, 4, 5, 7, 7a, 7b, 8, 9, 10, 11 and 13-16, dated revised January 10, 1985, on cover sheet; sheets 2 and 6 replaced by a sheet 1 entitled 'Site Dimensions & Statistics Computations' last dated Feb. 26, 1986; sheets 7a & 7b replaced by sheets 2 through 5 entitled 'Parking Layout/Tech Center/Training Center/ Office' and dated Feb. 14, 1986, Sheet 17 dated

REF: 1408902351

Feb. 27, 1986; and additional sheets CL-1, CL-2, CL-3 and 2C.6-1, dated 8-18-88, a complete set of which is on file with the Dade County Building and Zoning Department."

(2) In all other respects, the original Declaration of Restrictions shall remain in full force and effect.

IN WITNESS, the Owner has hereunto set its respective hand and seals on the day and year first above written.

Burger King Corporation,
a Florida Corporation.

By: Eugene Teola
Vice President

Mark O. Civeri
Attest
Assistant Secretary

STATE OF FLORIDA)
) SS
COUNTY OF DADE)

The foregoing instrument was acknowledged before me this 5th day of April, 1989, by Eugene Teola as Vice President, on behalf of the corporation.

Sara Lopez
Notary Public
State of Florida at

My Commission Expires:
NOTARY PUBLIC, STATE OF FLORIDA
MY COMMISSION EXPIRES: OCT. 12, 1992.
NOTES THIS NOTARY PUBLIC STATE OF FLORIDA



OFF. REC. 1408912352

EXHIBIT "A"
LEGAL DESCRIPTION

Tract A and Tract B of the Plat of Burger King World Headquarters, as recorded in Plat Book 127, at Page 06, of the Public Records of Dade County, Florida

RECORDED IN OFFICE OF CLERK OF
THE JUDGE, DADE COUNTY, FLORIDA
SECOND FLOOR
RICHARD P. BRUYER
CLERK, CIRCUIT COURT

RL:153RL0266D

1985 FF o. AN 8 41

85R059002

35-55-40

UNITY OF TITLE

REC. 12428PG 973

WHEREAS, the undersigned is the owner of that property described as

See Exhibit A annexed hereto and made a part hereof

also known as theoretical S.W. 176th Street to 182nd Street and Old Cutler Road Dade County, Florida, and

The undersigned recognizes and acknowledges that for the public health, welfare, safety or morals, the herein described property should not be divided into separate parcels owned by several owners so long as the same is put to the hereinafter use, and

In consideration of the issuance of a permit for a zoning change pursuant to the Office Park District.

and for other good and valuable considerations, the undersigned hereby agrees to restrict the use of the subject property in the following manner:

1. That said property shall be considered as one plot and parcel of land and that no portion of said plot and parcel of land shall be sold, transferred, devised or assigned separately, except in its entirety as one plot or parcel of land.
2. The undersigned further agrees that this condition, restriction and limitation shall be deemed a covenant running with the land and shall remain in full force and effect and be binding upon the undersigned, their heirs and assigns until such time as the same may be released in writing by the Director of the Dade County Building and Zoning Department or the executive officer of the successor of such Department, or in the absence of such director or executive officer, by his assistant in charge of the office in his absence.

provided, however, that a release will be executed when the premises are made to conform with applicable zoning regulations or the use or structure is removed from the premises and there is no further reason to maintain the Unity of Title on the public records.

Signed, sealed, executed and acknowledged on this 1st day of October 1984

(CORP)
(SEAL.)

ATTEST

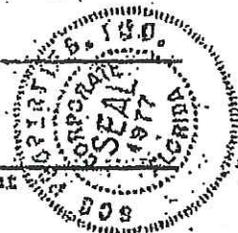
By

Secretary

SCB Properties, Inc.
Corporate Name

By

President/Vice President



STATE OF FLORIDA)

COUNTY OF DADE)

Prepared By:
Stanley B. Price, Esq.
2401 Douglas Rd.
Miami, Florida 33143

I HEREBY certify that on this day before me, a Notary Public duly authorized in the state and county named above to take acknowledgements, personally appeared James Carr and Arthur Paul, to me known to be the persons described as President and Secretary of SCB Properties, Inc.

who executed the foregoing instrument, and acknowledged before me that such persons executed the said instrument in the name of and for the corporation adding the corporate seal of that corporation.

U.F. Corporation

OFF. REC. 12428 PG 974

Page Iv

as such corporate officers such persons are duly authorized by that corporation to do so; and that the foregoing instrument is the act of that corporation.

WITNESSE my hand and official seal in the county and state named above this
1st day of October A.D. 1984

Grace M. Kroger

Notary Public in and for the State of Florida at Large



My Commission expires:

REF. 12428PG 975

Exhibit "A"

LEGAL DESCRIPTION

PARCEL "A"

A portion of DOUGHERTY'S SUBDIVISION as recorded in Plat Book 1 at Page 1 and S.H. Richmond's Survey of the S.W. 1/4 of Section 35, Township 55 South, Range 40 East, as recorded in Plat Book 1 at Page 67, both the Public Records of Dade County, Florida being more particularly described as follows:

Commence at the intersection of the Easterly Right of Way line of Ingraham Highway with the Northerly line of Tract 3, said DOUGHERTY'S SUBDIVISION; thence run $S25^{\circ}06'20''W$, along said Easterly Right of Way line of Ingraham Highway, for a distance of 377.28 feet to a point; thence run $S61^{\circ}53'40''E$ for a distance of 102.97 feet to the POINT OF BEGINNING; thence run $S13^{\circ}57'55''W$ for a distance of 1050.00 feet to a point; thence run $S76^{\circ}02'05''E$ for a distance of 141.00 feet to a point; thence run $S50^{\circ}17'05''E$ for a distance of 675.00 feet to a point; thence run $N58^{\circ}12'55''E$ for a distance of 350.00 to a point of curvature of a circular curve to the left, having for its elements a central angle of $22^{\circ}45'00''$ and a radius of 180.00 feet; thence run Northeasterly and Northerly along the arc of said curve for a distance of 259.97 feet to a point of reverse curvature of a circular curve of the right, having for its elements a central angle of $38^{\circ}30'00''$ and a radius of 300.00 feet; thence run Northerly along the arc of said curve for a distance of 201.59 feet to the Point of Tangency; thence run $N13^{\circ}57'55''E$ for a distance of 145.00 feet to the Point of Curvature of a circular curve to the left, having for its elements a central angle of $49^{\circ}00'00''$ and a radius of 350.00 feet; thence run Northerly and Northwesterly along the arc of said curve for a distance of 299.32 feet to a point of reverse curvature of a circular curve to the right, having for its elements a central angle of $62^{\circ}00'00''$ and a radius of 180.00 feet; thence run Northwesterly and Northerly along the arc of said curve for a distance of 194.78 feet to a point of reverse curvature of a circular curve to the left, having for its elements a central angle of $17^{\circ}20'06''$ and a radius of 275.00 feet; thence run Northerly along the arc of said curve for a distance of 83.20 feet to a point; thence run $N76^{\circ}02'05''W$ for a distance of 768.50 feet to the POINT OF BEGINNING.

Containing 24.94 Acres more or less

Subject to any reservations, dedications or easements of record.

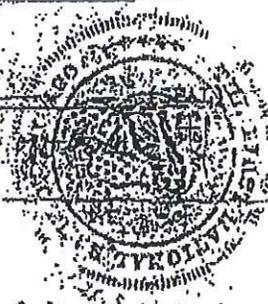
The undersigned, The First National Bank of Chicago
 National Banking Association
 a Florida Corporation, Mortgagee, under that certain mortgage from
SCB Properties, Inc. dated the 14th day of August,
1984, and recorded in Official Records Book 12237, Page 143A, of the
 Public Records of Dade County, Florida, in the original amount of
\$ 3,881,250.00 covering all/or a portion of the property described
 in the foregoing agreement, do hereby acknowledge that the terms of this
 agreement are and shall be binding upon the undersigned and its successors
 in title.

IN WITNESS WHEREOF, these presents have been executed this 30th
 day of August, 1984.

The First National Bank of Chicago
 Name of Corporation

By: [Signature]
 Vice President

Attest: [Signature]
 Secretary
 Commercial Banking



STATE OF ILLINOIS
 COUNTY OF COOK

BEFORE ME, the undersigned authority, this day appeared Donald H. Erkes
 and Barbara A. Schorr, both being to me well known and known by
 me to be the Vice President and Com. Banking Officer of First National
Bank of Chicago, under the laws of the United States,
 and which said Corporation is known by me to be the persons described in and
 which executed the foregoing instrument, the said officers of the said Corpora-
 tion being likewise known by me to be the officers thereof who, in their
 official capacities as such officers of said Corporation executed, signed
 and delivered the said instrument as the act and deed of said Corporation,
 and the said officers of said Corporation then and there severally acknowledged
 to and before me that they executed the said instrument, acting in their said
 official capacities, for and as to the act and deed of said Corporation and in
 its name, and impressed thereon its Corporate Seal, for the uses and purposes
 therein mentioned, and after being duly authorized and directed.

WITNESS my hand and official Seal at Chicago In the County and
 State aforesaid, on this, the 30th day of August, A.D., 1984

My Commission Expires:
My Commission Expires 4/2/88

[Signature]
 Notary Public, State of Illinois
 At Large

01/07/2004

11:00

SILVER, GARVETT, HENKEL, P.A. → 3053512250

198 6.3 AM 9 42

85R0590C

REC. 12428PG 990

DECLARATION OF RESTRICTIVE COVENANTS

THIS DECLARATION OF RESTRICTIVE COVENANTS running with the land is made and entered into this 14th day of January, 1985, by SCB PROPERTIES, INC. ("SCB"), a Florida corporation and SUN-BELT CORPORATION OF AMERICA ("SUN-BELT"), a Florida corporation (the "OWNERS") in favor in Dade County, Florida, a political subdivision of the State of Florida.

WHEREAS, SCB is the fee simple owner of certain real property located in Dade County, Florida, and more particularly described in Exhibit "A", attached hereto and hereinafter referred to in this Covenant as Tract A; and

WHEREAS, Tract A is comprised of two separate tracts referred to as Tracts I and II as legally described as Exhibits "I" and "II," attached hereto; and

WHEREAS, SUN-BELT is the fee simple owner of certain real property located in Dade County, Florida and more particularly described in Exhibit "B," attached hereto and hereinafter referred to in this Covenant as Tract B; and

WHEREAS, the OWNERS have filed an application with Dade County for various district boundary changes, under Public Hearing Number DIC 84-672; and

WHEREAS, the OWNERS have separately entered into Contracts for sale with the BURGER KING CORPORATION for the intended purpose of the BURGER KING CORPORATION constructing its World Headquarters on Tracts A and B; and

WHEREAS, Tract A is subject to a Final Order on Summary Judgment dated November 12, 1983 and entered by the Hon. Jack M. Turner, Circuit Court Judge of the Eleventh Judicial Circuit wherein 1325 multiple family units have been approved; and

WHEREAS, Tract B is presently approved for 140 units and is presently zoned RU-4L, EU-M and GU; and

Prepared by:

STANLEY B. FRICE
Fine Jacobson Schwartz
Nash Block & England
2401 Douglas Road
Coral Gables, Florida 33179

0900

REC. 12428PG 991

WHEREAS, the BURGER KING CORPORATION, in conjunction with the proposed development is desirous of donating, subject to certain reservations and restrictions, to the United States Department of the Interior, National Park Service certain bayfront property herein described in Exhibit "C"; and

WHEREAS, the OWNERS are desirous of voluntarily pledging to Dade County that the zoning application, if approved, will inure to the benefit of the citizens of Dade County.

NOW, THEREFORE, the OWNERS hereby agree and covenant, in the event that their zoning application is granted, as follows:

1. That the Development will be built in substantial compliance with the plans entitled "Burger King World Headquarters" prepared by Hellmuth, Obata and Kassabaum, P.A., Planners and Architects, dated January 7, 1985, on sheets 1, 3, 4, 5, 7, 7A, 7B, 8, 9, 10, 11 and 13-17, dated revised January 10, 1985 on cover sheet and sheet 2, and dated revised January 15, 1985 on sheet 6 and dated last revised January 30, 1985 on sheets 7A revised and 7B revised, a complete set which is on file with the Dade County Building and Zoning Department.
2. That the property described in Exhibit "C" will be donated, subject to certain agreed to reservations and restrictions, to the United States Department of the Interior, National Park Service within 180 days after the acquisition of Tracts A and B by the BURGER KING CORPORATION.
3. That the portion of real property described as Tracts II and B (which will be designated GU and RU-4) shall only be developed in substantial compliance with the plans described in Paragraph 1.
 - A. No application for rezoning for Tracts II and B for the express purpose of the construction of additional residential units or the construction of additional square footage for commercial or office buildings shall be filed with Dade County unless and until written approval is obtained from the

REC. 12428PG 992

owners of more than seventy-five (75) percent of all individual properties within five hundred (500) feet from the perimeter of the subject property. This subsection may be released upon written authorization from the owners of more than seventy-five (75) percent of all individual properties within five hundred (500) feet from the perimeter of the subject property.

B. Nothing contained herein shall require such consent in connection with the filing of a zoning application for permission to construct ancillary facilities (eg. security, recreational, maintenance or utility facilities) on Tracts II and/or B.

4. That in the event that in the future the OWNERS desire to increase the square footage of the buildings within the OVD district as described in Exhibit "I," the OWNERS shall, as a condition precedent, file an appropriate application for development approval pursuant to the provisions of Chapter 380, Florida Statutes, unless the proposed addition shall not exceed the then existing thresholds which from time to time may be amended, by statute or formal rule.
5. That the OWNERS will voluntarily contribute Fifty Thousand Dollars (\$50,000) in cash, goods or services to The Dade County Parks Department to be used for the Old Cutler Hammock Park located at 17535 S.W. 79th Avenue in conformance with plans to be submitted by the Dade County Parks Department to the Burger King Corporation.
6. That the OWNERS will not request nor will they support any vehicular or pedestrian bridging of S.W. 77th Avenue in the proximity to the proposed development.

REF. 12428 PG 993

7. The OWNERS will continue to maintain native vegetation on the portion of their property located adjacent to Old Cutler Road and the north and south boundaries with the intent to obscure any visibility of the office building from Old Cutler Road. All landscaping plans will be submitted to Dade County for approval prior to implementation.
8. That the OWNERS will execute a unity of title on Tracts A and B, less Tract C (to be conveyed pursuant to the provisions of Paragraph 2) so that the individual Tracts or parts thereof cannot be disposed of separately at a later date.
9. This Declaration shall be a covenant running with the land and shall be binding upon all of the OWNERS' successors in title and assigns.
10. This Declaration shall be in effect for a period of thirty (30) years from the date this document is recorded in the Public Records of Dade County, Florida, after which time it shall be renewed automatically for successive periods of ten (10) years unless released, modified, or amended as provided herein.
11. With the exception of the provisions of Paragraph 3.A., this Declaration may be released, modified or amended as to all or any portion of the property by written instrument executed by a majority of the then owners of the fee simple title to Tracts A and B, providing same is approved after a public hearing by resolution of the Board of County Commissioners of Dade County, Florida.
12. Invalidation of any one of these covenants by judgment of court in no way shall affect any of

REC-12428PG 994

the other provisions which shall remain in full force and effect.

- 13. Enforcement of this Declaration shall be by action at law or in equity with costs and reasonable attorneys fees to the prevailing party.

IN WITNESS WHEREOF, the OWNERS have hereunto set their respective hand and seals on the day and year first above written.

Attest:

[Signature]

 Asst. Secretary

SOB PROPERTIES, INC.

By: *[Signature]*



STATE OF FLORIDA)
) ss. 1
 COUNTY OF DADE)

The foregoing instrument was acknowledged before me this 17th day of January, 1985 by James Cole and Antonia Brats as Vice President and Assistant Secretary, on behalf of the corporation.

[Signature]

 Notary Public
 State of Florida at Large
 My Commission Expires: _____

NOTARY PUBLIC STATE OF FLORIDA
 MY COMMISSION EXPIRES OCT 28 1987

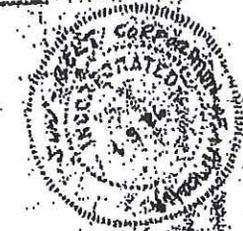
OFF. REC. 12428 PG 995

SUN-BELT CORPORATION OF AMERICA

Attest:

By: *Clinton F. Wong* (Seal)
President

STATE OF TEXAS)
) ss.:
COUNTY OF HARRIS)



The foregoing instrument was acknowledged before me
this 14th day of January, 1985 by Clinton F. Wong
and _____ as President
and _____ on behalf of the corporation.

Laurin W. Dodo (Seal)
Notary Public
in and for Harris County, Texas
My Commission Expires:



LAURIN W. DODO
Notary Public, State of Texas
My Commission Expires October 31, 1988

2004

11:08

SILVER, GARUETT, HENKEL, P.A. → 3053512250

REC. 1242876 996

SUN-BELT CORPORATION OF AMERICA

Attest:

Robert J. Chulock
Secretary

By: _____ (Seal)

STATE OF INDIANA)
COUNTY OF MARION) ss.:

The foregoing instrument was acknowledged before me
this 31st day of January, 1985 by _____
and Robert Chulock as _____
and Secretary, on behalf of the corporation.

Julia N. Foss
Notary Public
State of Indiana at Large
My Commission Expires 12/31/86



REF 12428 PG 998

RECORDS NOTE:
The liability of printing, binding or opening unsealed
papers in this document when received.

Exhibit A

Tract A

All that part of Tracts 3, 4, 5, 6, 7, 8 and 9, lying east of the easterly right-of-way line of Ingraham Highway of DOUGHERTY'S SUBDIVISION, according to the plat thereof recorded in Plat Book 1, Page 1 of the Public Records of Dade County, Florida;

AND

All that part of Tracts 1 and 2 lying East of the Easterly Right-of-Way line of Ingraham Highway, and all of Tracts 3 and 4, of S.H. RICHMOND'S SURVEY of the SW 1/4 of Section 35, Township 55 South, Range 40 East, according to the plat thereof recorded in Plat Book 1, Page 67 of the Public Records of Dade County, Florida;

AND

The North 1/2 of the North 1/2 of the South 1/2 of the SE 1/4 of the SW 1/4 and the North 1/2 of the North 1/2 of the SE 1/4 of the SW 1/4 of the SW 1/4, all in Section 35, Township 55 South, Range 40 East, also known as the North 1/2 of Tracts 3 and 6 of S.H. RICHMOND'S SURVEY of the SW 1/4 of said Section 35, according to the plat thereof recorded in Plat Book 1, Page 67 of the Public Records of Dade County, Florida;

AND

That part of the NW 1/4 of the SW 1/4 of the SW 1/4 lying East of the Easterly Right-of-Way line of Ingraham Highway in Section 35, Township 55 South, Range 40 East;

AND

All that part of the North 1/2 of the North 1/2 of the SW 1/4 of the SW 1/4 of the SW 1/4, in Section 35, Township 55 South, Range 40 East, lying East of the center line of the County Road, as shown on S.H. RICHMOND'S SURVEY of the SW 1/4 of Section 35, Township 55 South, Range 40 East, according to the plat thereof recorded in Plat Book 1, at Page 67, of the Public Records of Dade County, Florida;

AND

All that part of the County Road as shown on S.H. RICHMOND'S SURVEY of the SW 1/4 of Section 35, Township 55 South, Range 40 East, according to the plat thereof recorded in Plat Book 1, Page 67 of the Public Records of Dade County, Florida, included in the above described parcels, EXCEPT the portions thereof now a part of Ingraham Highway.

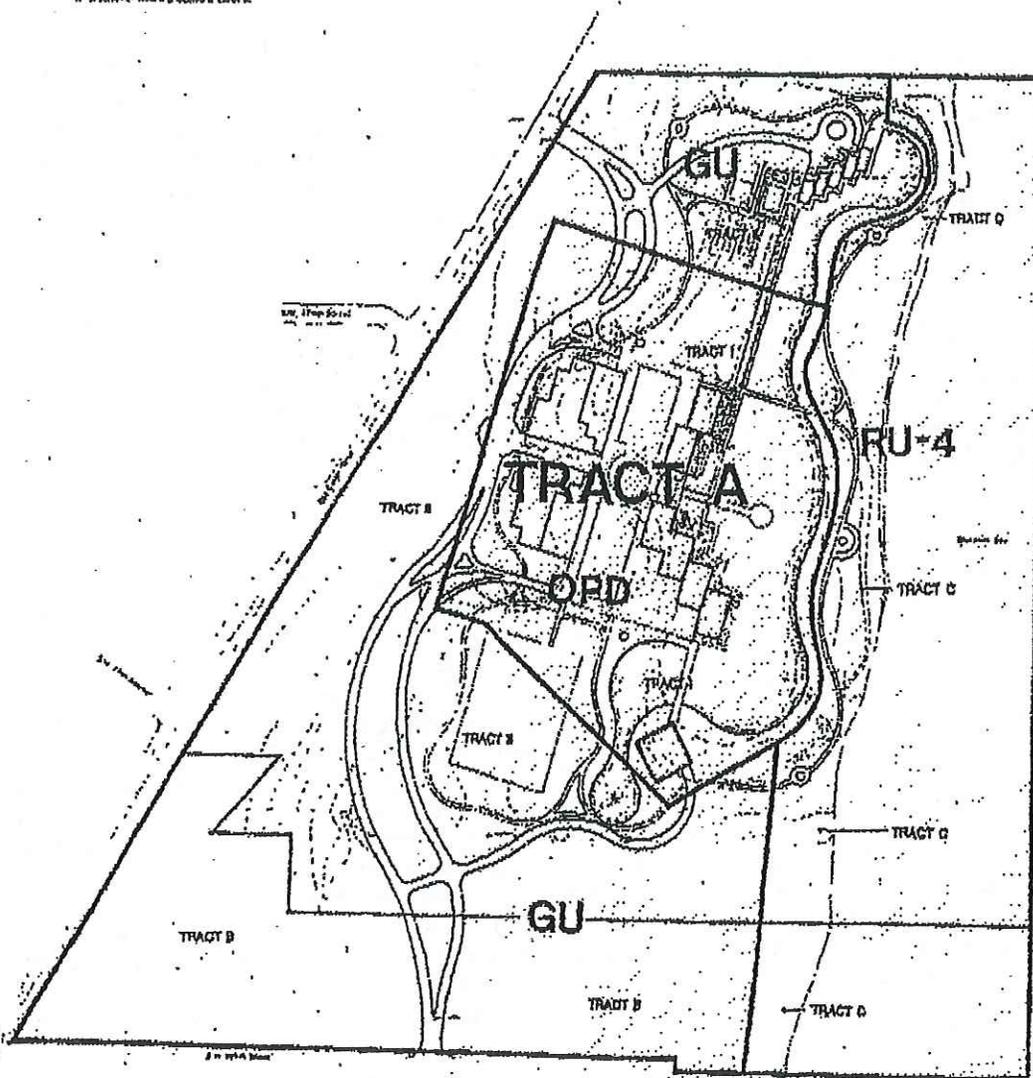
AND

The South 1/2 of the North 1/2 of the SE 1/4 of the SW 1/4 of the SW 1/4 (South 1/2 of Lot 5) and the South 1/2 of the North 1/2 of the South 1/2 of the SE 1/4 of the SW 1/4 (South 1/2 of Lot 6) of S.H. RICHMOND'S SURVEY of the SW 1/4 of Section 35, Township 55 South, Range 40 East, according to the plat thereof recorded in Plat Book 1, at Page 67 of the Public Records of Dade County, Florida;

REF. 12428 PG 997 TFC

NOTES

- 1. Shaded areas are shown in blue.
- 2. A color or hatched areas in tract.



Illustration

PROPOSED ZONING

BURGER KING WORLD HEADQUARTERS

SILVER AND COMPANY, INC. 1400 N. W. 10TH AVENUE, SUITE 1000, MIAMI, FLORIDA 33136

This plan is based on the information provided by the applicant and is not a guarantee of accuracy. The applicant is responsible for the accuracy of the information provided. The plan is subject to the approval of the local government.

SCALE: 1" = 100'

DATE: 01/07/2004

DRAWN BY: [Name]

CHECKED BY: [Name]

APPROVED BY: [Name]

SILVER, GARUETT, HENKEL, P.A.

RE: 12428 PG 998 - A

Tract B

All of Blocks 8 and 11, lying southerly and easterly of the County Road, and all of Blocks 9 and 10 of the S.W. 1/4 of Section 35, Township 55 South, Range 40 East according to Plat Book 1, Page 67, of the Public Records of Dade County, Florida; and all of the S 1/2, N 1/2, S.W. 1/4, S.W. 1/4, S.W. 1/4 lying easterly and southerly of the County Road in Section 35, Township 55 South, Range 40 East; and also all that part of the S.E. 1/4, S.E. 1/4, S.E. 1/4 of Section 34, Township 55 South, Range 40 East, lying southerly and easterly of the County Road being in Dade County, Florida; also a strip of land 25 feet in width lying west of said Block 11 above mentioned and south of the southerly line of the County Road.

AND

All that part of Blocks 7 and 11 of the S.W. 1/4 of the S.W. 1/4 of Section 35, Township 55 South, Range 40 East, lying northwesterly of the County Road as shown on Plat of the S.W. 1/4 of Section 35, Township 55 South, Range 40 East, surveyed and drawn by S.H. Richmond and filed in Plat Book 1, Page 67, and lying southeasterly of Ingraham Highway (Old Cutler Road) as same is currently laid out.

AND

All that part of the N 1/2 of the S.W. 1/4 of the S.W. 1/4 of the S.W. 1/4 of Section 35, Township 55 South, Range 40 East, lying northwesterly of the County Road as shown on plat filed in Plat Book 1, Page 67, of the Public Records of Dade County, Florida, and lying southeasterly of Ingraham Highway (Old Cutler Road) as same is currently laid out.

AND

That portion of that certain parcel of land conveyed to Dade County by Warranty Deed from Julian S. Eaton and Ethelwynne Eaton, dated February 5, 1942 and recorded in Deed Book 2237 at Page 549, under Clerk's File Number R-22573 of the Public Records of Dade County, Florida, lying southeasterly of a line 50.00 feet southeasterly of and parallel with the following described centerline for Old Cutler Road; Commence at the Southeast corner of Section 34, Township 55 South, Range 40 East, Dade County, Florida; thence run N89°29'05" W along the south line of the S.E. 1/4 of said Section 34 for a distance of 151.64 feet to the point of beginning of the herein described centerline for Old Cutler Road; thence run N31°03'37" E across the S.E. 1/4 of said Section 34 and across the S.W. 1/4 of Section 35, Township 55 South, Range 40 East, Dade County, Florida, for a distance of 914.42 feet, more or less, to a point on the North line of the North 1/2 of the S.W. 1/4 of the S.W. 1/4 of the S.W. 1/4 of said Section 35 and to the end of the herein described centerline for Old Cutler Road.

AND

That portion of the westerly 1/2 of the County Road shown on S.H. Richmond's Survey, of the S.W. 1/4 of Section 35, Township 55 South, Range 40 East Dade County, Florida, according to the Plat thereof as recorded in Plat Book 1, at Page 67 of the Public Records of Dade County, Florida, lying easterly of Block 7 of said S.H. Richmond's Survey, easterly of that portion of Block 11 of said S.H. Richmond's Survey lying northwesterly of said County Road and within the N 1/2 of the S.W. 1/4 of the S.W. 1/4 of the S.W. 1/4 of said Section 35, less that portion thereof lying within the 10.00 feet

Tract C REC. 12428 PG 1003

A portion of DOUGHERTY'S SUBDIVISION, as recorded in Plat Book 1 at Page 1, Dade County Records, and a portion of S.H. RICHMOND'S SURVEY, as recorded in Plat Book 1 at Page 67, Dade County Records, lying in the S.W. 1/4 of Section 35, Township 55 South, Range 40 East, Dade County, Florida being more particularly described as follows:

Commence at the S.W. corner of said Section 35; thence run N87°04'58"E, along the south line of said Section 35 for a distance of 1850.00 feet to the Point of Beginning; thence run N04°05'08"E for a distance of 596.45 feet to a point; thence run N87°04'46"E for a distance of 39.81 feet to a point; thence run N04°05'08"E for a distance of 403.39 feet to a point; thence run N07°29'23"E for a distance of 9.00 feet to a point; thence run N11°52'22"E for a distance of 61.43 feet to a point; thence run N07°18'50"E for a distance of 101.63 feet to a point; thence run N06°07'49"E for a distance of 89.69 feet to a point; thence run N05°26'17"E for a distance of 105.41 feet to a point; thence run N06°01'47"E for a distance of 105.14 feet to a point; thence run N15°05'29"W for a distance of 21.24 feet to a point; thence run N04°05'08"E for a distance of 689.98 feet to a point; thence run S85°02'52"E for a distance of 7.82 feet to a Point of Curvature of a circular curve concave to the West, having for its elements, a central angle of 180°00'00" and a radius of 84.32 feet; thence run Easterly, Northerly and Westerly along the arc of said curve for a distance of 264.90 feet to a Point of Tangency; thence run N85°02'52"W for a distance of 58.27 feet to a point; thence run N04°05'08"E for a distance of 225.23 feet to a point of intersection with the North line of Tract 3, said DOUGHERTY'S SUBDIVISION; thence run N87°39'08"E along said North line for a distance of 177.06 feet to a point on the Mean High Water line of Biscayne Bay, as determined by Jack Mueller & Associates and approved by the Department of Natural Resources, State of Florida; thence run Southerly, along said Mean High Water line for the next twenty seven (27) courses; 57°05'41"E, 17.22 feet; 501°06'22"E, 58.91 feet; 510°03'13"E, 54.68 feet; 514°09'36"E, 82.10 feet; 520°06'36"E, 59.25 feet; 500°31'24"W, 23.48 feet; 565°11'24"W, 15.63 feet; 580°11'13"W, 31.22 feet; 519°38'31"W, 107.85 feet; 510°08'17"W, 102.42 feet; 516°44'23"W, 105.82 feet; 510°42'37"W, 102.65 feet; 514°22'28"W, 104.41 feet; 501°06'18"W, 100.18 feet; 502°19'22"E, 100.00 feet; 501°08'34"E, 100.02 feet; 503°59'02"E, 100.04 feet; 509°44'50"E, 100.84 feet; 507°38'10"W, 101.54 feet; 509°13'42"W, 102.08 feet; 510°18'46"W, 102.49 feet; 522°20'49"W, 110.07 feet; 509°52'32"W, 102.32 feet; 500°41'05"E, 100.04 feet; 500°54'28"E, 100.03 feet; 501°33'41"W, 100.23 feet; 507°58'50"E, 66.77 feet to its intersection with the North line of the aforesaid Tract 10 of S.H. RICHMOND'S SURVEY; thence departing the said Mean High Water Line run N87°46'46"E along the said North line of Tract 10 of S.H. RICHMOND'S SURVEY for 543.96 feet to the Northeast corner of said Tract 10 of S.H. RICHMOND'S SURVEY; thence S03°00'45"E along the East line of said Tract 10 of S.H. RICHMOND'S SURVEY for 193.68 feet to the Southeast corner of said Tract 10 of S.H. RICHMOND'S SURVEY, said point also being the Southeast corner of the SW 1/4 of said Section 35; thence S87°47'58"W along the South line of the SW 1/4 of said Section 35 for 790.08 feet to the Point of Beginning.

REF: 12428PC 1004

JOINDER BY CONTRACT VENDEE

The undersigned Burger King Corporation, a Florida corporation, Contract Vendee under that certain contract from Sun-Belt Corporation of America

dated the 2nd day of November, 1984, a memo of which is recorded in Official Records Book 12317 at Page 926, of the Public Records of Dade County, Florida,

covering all/or a portion of the property described in the foregoing agreement, do hereby acknowledge that the terms of this agreement are and shall be binding upon the undersigned and its successors in title.

IN WITNESS WHEREOF, these presents have been executed this 31st day of January, A.D., 1985.

Burger King Corporation
Name of Corporation

By Eugene Feola
Vice President

Attest Robert H. Sorenson
Secretary



STATE OF FLORIDA
COUNTY OF DADE

BEFORE ME, the undersigned authority, this day appeared Eugene Feola and Robert H. Sorenson both being to me well known and known by me to be the Vice President and Secretary of Burger King Corporation under the laws of the State of Florida, and which said Corporation is known by me to be the persons described in and which executed the foregoing instrument, the said officers of the said Corporation being likewise known by me to be the officers thereof who, in their official capacities as such officers of said Corporation executed, signed and delivered the said instrument as the act and deed of said Corporation, and the said officers of said Corporation then and there severally acknowledged to and before me that they executed the said instrument, acting in their said official capacities, for and as to the act and deed of said Corporation and in its name, and impressed thereon its Corporate Seal for the uses and purposes therein mentioned, and after being duly authorized and directed:

WITNESS my hand and official Seal at Miami in the County and State aforesaid, on this, the 31st day of January, A.D., 19 85

Notary Public, State of Florida at Large
My Commission Expires October 19, 1988
Bonded thru Mynard Banking Agency
My Commission Expires:

Sara Lopez
Notary Public in and for the State of Florida at Large

The undersigned Paul E. Shipe, Jr.
~~Florida corporation, Mortgagee,~~ under that certain mortgage from
Sun-Belt Corporation of America

dated the 13th day of March, 1981, and recorded in
Official Records Book 11650 at Page 880 of the Public
Records of Dade County, Florida, in the original amount of
\$ 276,840.85 covering all/or a portion of the property
described in the foregoing agreement, do hereby acknowledge that
the terms of this agreement are and shall be binding upon the
undersigned and its successors in title.

IN WITNESS WHEREOF, these presents have been executed
this 11 day of January, A.D., 1985.

Paul E. Shipe, Jr.
Paul E. Shipe, Jr.

STATE OF Florida
COUNTY OF Dade

BEFORE ME, the undersigned authority, this day appeared Paul E. Shipe, Jr.
and Paul E. Shipe, Jr.
both being to me well known and known by me to be the
and et
appear the laws of the
State of Florida and which said Corporation is known
by me to be the persons described in and who executed the foregoing
instrument, the said officers of the said Corporation being likewise
known by me to be the officers thereof and, in their official
capacity as such officers of said Corporation executed, signed
and delivered the said instrument as the act and deed of said
Corporation, and the said officers of said Corporation then and
there severally acknowledged to and before me that they executed
the said instrument, acting in their said official capacities, for
and as to the act and deed of said Corporation and in its name, and
impressed thereon its Corporate Seal for the uses and purposes therein
mentioned, and after being duly authorized and directed.



WITNESS my hand and official Seal at Conrad Huber in the
County of Dade and State aforesaid, on this, the 11th day of January,
1985.

Conrad Huber
Notary Public in and for the State
of Florida at Large

RE. 124287 1006

JOINER BY 106 1006

The undersigned Ruth S. Monk
~~Florida Corporation, Mortgagee, under that certain mortgage from~~
Sun-Belt Corporation of America

dated the 13th day of March, 1981, and recorded in
Official Records Book 11050 at Page 880, of the Public
Records of Dade County, Florida, in the original amount of
\$ 276,840.85 covering all/or a portion of the property
described in the foregoing agreement, do hereby acknowledge that
the terms of this agreement are and shall be binding upon the
undersigned and its successors in title.

IN WITNESS WHEREOF, these presents have been executed
this 11 day of January, A.D., 1985.

Ruth S. Monk
RUTH S. MONK

STATE OF Delaware
COUNTY OF New Castle

BEFORE ME, the undersigned authority, this day appeared
Ruth S. Monk and
both being to me well known and known by me to be the
and of

~~under the laws of the~~
~~State of~~ and which said Corporation is known
by me to be the person described in and who executed the foregoing
instrument, the said officers of the said Corporation being likewise
known by me to be the officers thereof who, in their official
capacities as such officers of said Corporation executed, signed
and delivered the said instrument to the set and deed of said
Corporation, and the said officers of said Corporation then and
there severally acknowledged to and before me that they executed
the said instrument, acting in their said official capacities, for
and as to the set and deed of said Corporation and in its name, and
impressed thereon the Corporate Seal for the uses and purposes therein
mentioned, and after being duly authorized and directed.

WITNESS my hand and official Seal at Wilmington, Delaware in the
County and State aforesaid, on this 11 day of January
A.D., 1985



My Commission Expires:

NOTARY PUBLIC

My Commission Expires August 12, 1988

James E. Freese
Public in and for the State
of Florida at Large

JOINDER BY MORTGAGEE

The undersigned Old Cutler Manor, a
Florida Partnership Mortgagee, under that certain mortgage from
Sun - Belt Corporation of America to Old Cutler Manor

dated the 13th day of March, 1981, and recorded in
Official Records Book 11167 at Page 167, of the Public
Records of Dade County, Florida, in the original amount of
\$ _____ covering all/or a portion of the property
described in the foregoing agreement, do hereby acknowledge that
the terms of this agreement are and shall be binding upon the
undersigned and its successors in title.

IN WITNESS WHEREOF, these presents have been executed
this 14th day of January, A.D., 1985.

Old Cutler Manor
Name of Corporation

By [Signature]
General Partner

Attest _____ (Seal)
Secretary

STATE OF TEXAS

COUNTY OF HARRIS

BEFORE ME, the undersigned authority, this day appeared Clinton Wong
Wong being to me well known and known by me to be the General Partner
Partner and and of Old Cutler Manor, a partnership
Manor, a partnership under the laws of the State of Florida
Florida and which said Partnership is known by me to be the person described in and which executed the foregoing instrument, the said partner of the said Corporation being likewise known by me to be the partner thereof who, in his official capacities as such partner of said partnership executed, signed and delivered the said instrument as the act and deed of said Partnership and the said partner of said Partnership then and there severally acknowledged to and before me that he executed the said instrument, acting in his capacity for and as to the act and deed of said Partnership and in its name, impressed thereon its Corporate Seal for the uses and purposes therein mentioned, and after being duly authorized and directed.

WITNESS my hand and official Seal at 7800 San Felipe in the County and State aforesaid, on this, the 14th day of January, 1985.



Laurin W. Dado
Notary Public in and for
Harris County, Texas

REF. 12428 PG 1009
JOINDER BY MORTGAGEE

The undersigned M. Ronald Krongold, as Trustee (s),
and Mortgagee, under that certain mortgage from Sun-Belt Corporation
of America dated the 4th day of October, 1985
and recorded in Official Records Book 11581 Page 1059 of the
Public Records of Dade County, Florida, in the original amount of \$50,000.00
covering all/or a portion of the property
described in the foregoing instrument, do hereby acknowledge that the terms of
this agreement are and shall be binding upon the undersigned and its successors
in title.

IN WITNESS WHEREOF, these presents have been executed this 29th day of
January A.D., 19 85.

WITNESSES:

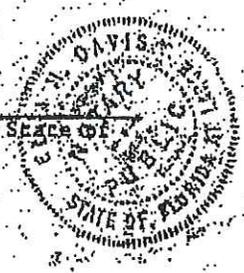
[Signature]
[Signature]
Trustee

STATE OF FLORIDA)
COUNTY OF DADE)

I, an officer authorized to take acknowledgements according to the law and
duly qualified, and so acting, do hereby certify that on this date personally
appeared before me M. Ronald Krongold
who is to me personally known and who acknowledged the foregoing instrument for
the purposes therein contained, and had acknowledged that he was authorized
under the trust to execute said instrument on behalf of the beneficiaries of the
trust.

IN WITNESS WHEREOF, I have hereunto set my hand and seal at Miami, Dade
County, Florida, this 29th day of January A.D.
1985.

[Signature]
Notary Public in and for the State of
Florida at Large



My Commission expires:

1/1/87

Trustee

JOINDER BY MORTGAGE

The undersigned Paul H. Bass, as Trustee (s),
 and Mortgagee, under that certain mortgage from Sun-Belt Corporation
of America dated the 4th day of October, 1982
 and recorded in Official Records Book 11501 Page 1058 of the
 Public Records of Dade County, Florida, in the original amount of \$50,000.00
 covering all/or a portion of the property
 described in the foregoing instrument, do hereby acknowledge that the terms of
 this agreement are and shall be binding upon the undersigned and its successors
 in title.

IN WITNESS WHEREOF, these presents have been executed this 29th day of
January A.D., 1985.

WITNESSES:

[Signature]
[Signature]

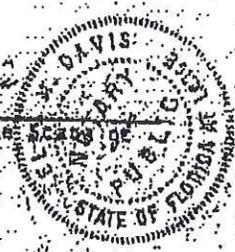
[Signature]
 Trustee

STATE OF FLORIDA)
 COUNTY OF DADE)

I, an officer authorized to take acknowledgements according to the law and
 duly qualified, and so acting, do hereby certify that on this date personally
 appeared before me Paul H. Bass
 who is to me personally known and who acknowledged the foregoing instrument for
 the purposes therein contained, and had acknowledged that he was authorized
 under the trust to execute said instrument on behalf of the beneficiaries of the
 trust.

IN WITNESS WHEREOF, I have hereunto set my hand and seal at Miami, Dade
 County, Florida, this 29th day of January A.D.
1985

[Signature]
 Notary Public in and for the State of
 Florida at Large



My Commission expires:

12/1/87

RECORDED IN OFFICIAL RECORDS BOOK
 OF DADE COUNTY, FLORIDA
 RECORD NUMBER
RICHARD P. BRUNKEE
 CLERK CIRCUIT COURT

RESOLUTION NO. Z-30-85

The following resolution was offered by Commissioner Clara Oesterle, seconded by Commissioner Barbara M. Carey, and upon poll of members present the vote was as follows:

Barbara M. Carey	aye	Barry D. Schreiber	absent
Clara Oesterle	aye	Sherman S. Winn	absent
Beverly B. Phillips	aye	Jorge (George) Valdes	absent
James F. Redford, Jr.	absent	Stephen P. Clark	aye
Harvey Ruvlin	aye		

WHEREAS, SCB PROPERTIES, INC., had applied for the following:

- (1) A district boundary change from RU-4 (Apartments) to OPD (Government Property) (Parcel A).
- (2) A district boundary change from EU-M (Estate Use Modified), EU-2 (Estates, 1 Family-5 Acres Gross), and RU-4 (Apartments) to GU (Agricultural) (Parcel C).
- (3) A district boundary change from RU-4L (Limited Apartment House), EU-M (Estate Use Modified), EU-2 (Estates, 1 Family-5 Acres Gross), and GU (Agriculture) to GU (Agriculture) (Parcel D).
- (4) USE VARIANCE to permit a 10-unit apartment building in the GU district.
- (5) UNUSUAL USE to permit private recreational facilities, to wit: tennis courts, basketball courts, swimming pool, and playing fields in the GU district.
- (6) SPECIAL EXCEPTION to permit night lighting on the proposed recreational facilities.
- (7) UNUSUAL USE to permit the filling and enlargement of portions of the existing lake.
- (8) MODIFICATION of Condition #2 pertaining to the approval of the marina of Resolution Z-196-74, passed and adopted by the Board of County Commissioners on July 23, 1974 as follows:

FROM: "2. That in the approval of the plan, the same be basically in compliance with that submitted for the hearing entitled 'Revised Marina Excavation and Bulkhead Plan - Location Only - South Cutler Bay', prepared by H. J. Ross Associates, Inc., dated revised January 21, 1974."

TO: "2. That in the approval of the plan, the same be basically in compliance with that submitted for the hearing entitled 'Lake Modifications', as prepared by Post, Buckley, Schuh, and Jernigan, Inc., dated 12-31-84, consisting of four pages, and plan entitled 'Burger King World Headquarters: Control Drawing - Site Plan', as prepared by Hellmuth, Obata, and Kassabaum, Planners and Architects, consisting of one sheet, dated last revised January 7, 1985."

The purpose of the request is to permit the applicant to revise the approved slopes as follows:

Section A-A: The applicant is proposing a 3 foot horizontal to 1 foot vertical slope from existing ground elevation into a minimum depth of 3' of water, thence a 5 foot wide horizontal shelf, thence a deep cut vertical slope to the existing bottom of the lake at - 20.0 elevation.

Section B-B: The applicant is proposing a deep cut vertical slope from the top of the existing bulkhead at elevation +4.0 to the bottom of the existing lake at -20.0 elevation.

Section C-C: The applicant is proposing a 3 foot horizontal to 1 foot vertical slope from top of berm at elevation +5.0 into a minimum depth of 3' of water, thence a 5' wide horizontal shelf, thence a 1 foot horizontal to 1 foot vertical slope to the existing bottom of the lake at -20.0 elevation.

Section D-D: The applicant is proposing a deep cut vertical slope from the top of the existing bulkhead at +4.0 elevation to the bottom of the existing lake at -20.0 elevation.

- (9) NON-USE VARIANCE OF LOT FRONTAGE REGULATIONS to permit a parcel (Parcel A) with a frontage of 0' on a public street (100' required).
- (10) NON-USE VARIANCE OF ZONING AND SUBDIVISION REGULATIONS to permit access to a public street by means of private drives (Parcel A).
- (11) NON-USE VARIANCE OF SETBACK REQUIREMENTS to permit a proposed bus/bicycle shelter setback 0' (50' required) from the west (Old Cutler Road) property line.
- (12) NON-USE VARIANCE OF PARKING REGULATIONS to permit back-out space of 14' and 22' (24' required).
- (13) NON-USE VARIANCE OF LANDSCAPED OPEN SPACE REQUIREMENTS to permit 75% of the total required landscaping to be of category 1 type landscaping (80% required).

Plans are on file and may be examined in the Zoning Department entitled "Burger King World Headquarters", as prepared by Hellmuth, Obata, & Kassabaum, Inc., Architects consisting of 21 sheets, dated revised January 7, 1985, on sheets 1, 3, 4, 5, 7, 7a, 7b, 8, 9, 10, 11, and 13 through 17, dated revised January 10, 1985, on cover sheet and sheet 2, and dated revised January 15, 1985, on sheets 6, 7a revised, and 7b revised.

Plans of the proposed lake enlargement and slope modifications are entitled "Lake Modifications", as prepared by Post, Buckley, Schuh, & Jernigan, Inc. Consulting Engineers and Planners, consisting of 5 sheets dated 12-31-84.

SUBJECT PROPERTY: Portions of Section 34 and Section 35, Township 55 South, Range 40 East. See composite Exhibit A for complete description.

LOCATION: The east side of Old Cutler Road, between theoretical S.W. 177 Street and theoretical S.W. 184 Street, Dade County, Florida.

SIZE OF PROPERTY: 114+ Acres

WHEREAS, a public hearing of the Board of County Commissioners, Dade County, Florida, was advertised and held, as required by law, and all interested parties concerned in the matter were heard, at which time Mr. Rawlinson, Coordinator for the Developmental Impact Committee (D.I.C.), had announced that the applicant had submitted a revised plan which had minor modifications and which was within the scope of the advertisement for the hearing and this Board permitted the amendment of the application accordingly; and at which time the applicant proffered a Declaration of Restrictive Covenants, which among other things agreed that the property would be developed in substantial compliance with plans submitted for the hearing; that property, along the water front, would be dedicated to the National Park Service; that changes in the plans, both as to residential and office

buildings, would require waivers from adjacent property owners, and a Public Hearing; that any increase requested in square footage of the buildings within the OPD district, would require an appropriate DRI application; that owners would contribute sums of money, goods or services to Dade County Parks Department to be used for Old Cutler Hammock Park, and upon due and proper consideration having been given to the matter and to the recommendation of the Developmental Impact Committee, it is the opinion of this Board that the requested district boundary changes would be compatible with the neighborhood and area concerned and would not be in conflict with the principles and intent of the plan for the development of Dade County, Florida, and that the use variance, unusual uses, special exception, modification of Condition #2 pertaining to Resolution 2-196-74, and non-use variances, would be compatible with the area and its development and would be in harmony with the general purpose and intent of the regulations and would conform with the requirements and intent of the Zoning Procedure Ordinance and should be approved and that the proffered Declaration of Restrictions should be accepted;

NOW THEREFORE BE IT RESOLVED by the Board of County Commissioners, Dade County, Florida, that the application in total, including the amended site plan, be and the same is hereby approved;

BE IT FURTHER RESOLVED that the Modification #2 of Resolution 2-196-74 pertaining to the Marina is approved as follows:

That in the approval of the plan, the same be basically in compliance with that submitted for the hearing entitled, "Lake Modifications" as prepared by Post, Buckley, Schuh and Jernigan, Inc., dated last revised 1-31-85, consisting of 5 pages, and plan entitled, "Burger King World Headquarters: Site Plan", as prepared by Hellmuth, Obata and Kassabaum, Planners and Architects, consisting of one sheet (2A) dated last revised February 7, 1985".

BE IT FURTHER RESOLVED that the approval is predicated on the acceptance of the proffered Covenant and the Board does exercise its option to enforce the proffered Covenant wherein the same is more restrictive than applicable zoning regulations; said Covenant includes the revised site plan entitled "Burger King World Headquarters", as prepared by Hellmuth, Obata, & Kassabaum, P.A., Planners and Architects dated January 7, 1985, on sheets 1, 3, 4, 5, 7, 7a, 7b, 8, 9, 10, 11, and 13-17, dated revised January 10, 1985, on cover sheet and sheet 2, and dated revised January 15, 1985, on sheet 6, and dated last revised January 30, 1985, on sheets 7A revised and 7B revised, a

complete set of which is on file with the Dade County Building and Zoning Department.

BE IT FURTHER RESOLVED that this Board accepts and elects to enforce all assurances and representations made by and on behalf of the applicant at the Public Hearing.

BE IT FURTHER RESOLVED that the approval of the Subdivision Variances are predicated upon the following:

1. That there are special circumstances affecting the subject property and strict application of the subdivision regulations would deprive the applicant of a reasonable use of their land. These special circumstances pertain to the fact that the subject property has severe environmental and other site constraints which impact the design of an internal circulation system and make the proposed use infeasible if subdivision regulations are strictly adhered to.
2. The variance is necessary for the preservation and enjoyment of a substantial property right of the applicant, in that, the approval of this variance would enable Burger King Corporation to construct a proper internal roadway system which adequately serves the proposed development while preserving valuable environmental resources on the site.
3. The granting of the variance will not be detrimental to the public welfare or injurious to other property in the area in which the subject property is located because the applicant has agreed to make the necessary modifications to the area road system which will maintain adequate transportation safety and service.

The Zoning Director is hereby directed to make the necessary changes and notations upon the maps and records of the Dade County Building and Zoning Department and to issue all permits in accordance with the terms of this resolution.

PASSED AND ADOPTED this 7th day of February, 1985.

February, 1985
No. 85-2-CC-1
mr
2/11/85

DADE COUNTY, FLORIDA, BY ITS
BOARD OF COUNTY COMMISSIONERS
Richard P. Brinker, Clerk

By RAYMOND REED
Deputy Clerk

This resolution transmitted to the Clerk of the Board of County Commissioners on the 11th day of February 1985.

LEGAL DESCRIPTION

PARCEL "A"

A portion of DOUGHERTY'S SUBDIVISION as recorded in Plat Book 1 at Page 1 and S.H. Richmond's Survey of the S.W. 1/4 of Section 35, Township 55 South, Range 40 East, as recorded in Plat Book 1 at Page 67, both the Public Records of Dade County, Florida being more particularly described as follows:

Commence at the intersection of the Easterly Right of Way line of Ingraham Highway with the Northerly line of Tract 3, said DOUGHERTY'S SUBDIVISION thence run $S28^{\circ}06'20''W$; along said Easterly Right of Way line of Ingraham Highway, for a distance of 377.28 feet to a point; thence run $S61^{\circ}53'40''E$ for a distance of 102.97 feet to the POINT OF BEGINNING; thence run $S13^{\circ}57'55''E$ for a distance of 1050.00 feet to a point; thence run $S76^{\circ}02'05''E$ for a distance of 141.00 feet to a point; thence run $S50^{\circ}17'05''E$ for a distance of 675.00 feet to a point; thence run $N58^{\circ}12'55''E$ for a distance of 350.00 to a point of curvature of a circular curve to the left, having for its elements a central angle of $82^{\circ}45'00''$ and a radius of 180.00 feet; thence run Northeasterly and Northerly along the arc of said curve for a distance of 259.97 feet to a point of reverse curvature of a circular curve of the right, having for its elements a central angle of $36^{\circ}30'00''$ and a radius of 500.00 feet; thence run Northerly along the arc of said curve for a distance of 201.59 feet to the Point of Tangency; thence run $N13^{\circ}57'55''E$ for a distance of 145.00 feet to the Point of Curvature of a circular curve to the left, having for its elements a central angle of $45^{\circ}00'00''$ and a radius of 350.00 feet; thence run Northerly and Northwesterly along the arc of said curve for a distance of 299.32 feet to a point of reverse curvature of a circular curve to the right, having for its elements a central angle of $62^{\circ}00'00''$ and a radius of 130.00 feet; thence run Northwesterly and Northerly along the arc of said curve for a distance of 194.78 feet to a point of reverse curvature of a circular curve to the left, having for its elements a central angle of $17^{\circ}20'06''$ and a radius of 275.00 feet; thence run Northerly along the arc of said curve for a distance of 33.20 feet to a point; thence run $N76^{\circ}02'05''W$ for a distance of 768.50 feet to the POINT OF BEGINNING.

Containing 24.94 Acres more or less

Subject to any reservations, dedications or easements of record.

A portion of DOUGHERTY'S SUBDIVISION as recorded in Plat Book 1 at Page 1 and S.H. RICHMOND'S SURVEY of the S.W. 1/4 of Section 35, Township 55 South, Range 40 East, as recorded in Plat Book 1 at Page 67, both of the Public Records of Dade County, Florida being more particularly described as follows:

Commence at the intersection of the Easterly Right of Way line of Ingraham Highway with the Northerly line of Tract 3, said DOUGHERTY'S SUBDIVISION; thence run $N87^{\circ}39'08''E$ along the North line of said Tract 3 for a distance of 819.58 feet to the POINT OF BEGINNING; thence continue $N87^{\circ}39'08''E$ for a distance of 119.57 feet to a point on the "Mean High Water Line Elevation +1.50 NGVD" as established by JACK MUELLER & ASSOCIATES, INC. and approved by the State of Florida, Department of Natural Resources on May 9, 1984; thence run Southerly along said "Mean High Water Line Elevation +1.50 NGVD" for the next twenty-seven (27) courses; thence run $S70^{\circ}54'06''E$ for a distance of 17.22 feet to a point; thence run $S01^{\circ}06'22''E$ for a distance of 58.91 feet to a point; thence run $S10^{\circ}03'13''E$ for a distance of 54.68 feet to a point; thence run $S14^{\circ}09'36''E$ for a distance of 82.10 feet to a point; thence run $S20^{\circ}06'36''E$ for a distance of 59.25 feet to a point; thence run $S00^{\circ}31'24''W$ for a distance of 23.48 feet to a point; thence run $S65^{\circ}11'24''W$ for a distance of 15.63 feet to a point; thence run $S60^{\circ}11'13''W$ for a distance of 31.22 feet to a point; thence run $S19^{\circ}38'31''W$ for a distance of 107.85 feet to a point; thence run $S10^{\circ}08'17''W$ for a distance of 102.42 feet to a point; thence run $S18^{\circ}44'23''W$ for a distance of 105.82 feet to a point; thence run $S10^{\circ}42'37''W$ for a distance of 102.65 feet to a point; thence run $S14^{\circ}22'28''W$ for a distance of 104.15 feet to a point; thence run $S01^{\circ}06'13''W$ for a distance of 100.18 feet to a point; thence run $S02^{\circ}19'22''E$ for a distance of 100.00 feet to a point; thence run $S01^{\circ}03'54''E$ for a distance of 100.02 feet to a point; thence run $S03^{\circ}39'02''E$ for a distance of 100.04 feet to a point; thence run $S09^{\circ}44'50''E$ for a distance of 100.54 feet to a point; thence run $S07^{\circ}38'10''W$ for a distance of 101.54 feet to a point; thence run $S09^{\circ}13'42''W$ for a distance of 102.08 feet to a point; thence run $S10^{\circ}18'46''W$ for a distance of 102.49 feet to a point; thence run $S22^{\circ}20'49''W$ for a distance of 110.07 feet to a point; thence run $S09^{\circ}52'32''W$ for a distance of 102.32 feet to a point; thence run $S00^{\circ}41'05''E$ for a distance of 100.04 feet to a point; thence run $S00^{\circ}54'28''E$ for a distance of 100.03 feet to a point; thence run $S01^{\circ}33'41''W$ for a distance of 100.23 feet to a point; thence run $S07^{\circ}58'50''E$ for a distance of 66.77 feet to a point; thence, departing said "Mean High Water Line Elevation +1.50 NGVD", run $S87^{\circ}46'46''W$ along the South line of the North 1/2 of the South 1/2 of the South 1/2 of said Section 35, for a distance of 125.00 feet to a point; thence run $N03^{\circ}16'00''W$ for a distance of 461.00 feet to a point on a circular curve concave to the Northwest, a radial to said point bears $S31^{\circ}47'05''E$; thence run Northeasterly and Northerly along the arc of said curve, through a central angle of $82^{\circ}45'00''$ and a radius of 150.00 feet, for a distance of 259.97 feet to a point of reverse curvature of a circular curve concave to the East, having for its elements a central angle of $38^{\circ}30'00''$ and a radius of 300.00 feet; thence run Northerly along the arc of said curve for a distance of 201.59 feet to a point of tangency; thence run $N13^{\circ}57'55''E$ for a distance of 145.00 feet to a point of curvature of a circular curve to the left, having for its elements a central angle of $45^{\circ}00'00''$ and a radius of 350.00 feet; thence run Northerly and Northwesterly along the arc of said curve for a distance of 299.32 feet to a point of reverse curvature of a circular curve to the right, having for its elements a central angle of $62^{\circ}00'00''$ and a radius of 180.00 feet; thence run Northwesterly and Northerly along the arc of said curve for a distance of 194.78 feet to a point of reverse curvature of a circular curve to the left, having for its elements a central angle of $37^{\circ}00'00''$ and a radius of 275.00 feet; thence run Northerly along the arc of said curve for a distance of 177.59 feet to a point of reverse curvature of a circular curve to the right, having for its elements a central angle of $105^{\circ}00'00''$ and a radius of 120.00 feet; thence run Northerly and Northeasterly along the arc of said curve for a distance of 219.91 feet to a point of reverse curvature of a circular curve to the left having for its elements a central angle of $100^{\circ}00'00''$ and a radius of 120.00 feet; thence run Northeasterly, Northerly and Northwesterly along the arc of said curve for a distance of 376.99 feet to a point; thence run $N04^{\circ}57'55''E$, radial to the last described curve, for a distance of 127.34 feet to the POINT OF BEGINNING.

Containing 7.92 Acres More or Less

LEGAL DESCRIPTION
REMAINDER PART

PARCEL "C"

All that part of Tracts 3, 4, 5, 6, 7, 8 and 9, lying east of the Easterly Right-of-Way line of Ingraham Highway of DOUGHERTY'S SUBDIVISION, according to the plat thereof recorded in Plat Book 1, Page 1 of the Public Records of Dade County, Florida;

AND

All that part of Tracts 1 and 2 lying East of the Easterly Right-of-Way line of Ingraham Highway, and all of Tracts 3 and 4, of S.H. RICHMOND'S SURVEY of the SW 1/4 of Section 35, Township 55 South, Range 40 East, according to the plat thereof recorded in Plat Book 1, Page 67 of the Public Records of Dade County, Florida;

AND

The North 1/2 of the North 1/2 of the South 1/2 of the SE 1/4 of the SW 1/4 and the North 1/2 of the North 1/2 of the SE 1/4 of the SW 1/4 of the SW 1/4, all in Section 35, Township 55 South, Range 40 East, also known as the North 1/2 of Tracts 5 and 6 of S.H. RICHMOND'S SURVEY of the SW 1/4 of said Section 35, according to the plat thereof recorded in Plat Book 1, Page 67 of the Public Records of Dade County, Florida;

AND

That part of the NW 1/4 of the SW 1/4 of the SW 1/4 lying East of the Easterly Right-of-Way line of Ingraham Highway in Section 35, Township 55 South, Range 40 East;

AND

All that part of the North 1/2 of the North 1/2 of the SW 1/4 of the SW 1/4 of the SW 1/4, in Section 35, Township 55 South, Range 40 East, lying East of the center line of the County Road, as shown on S.H. RICHMOND'S SURVEY of the SW 1/4 of Section 35, Township 55 South, Range 40 East, according to the plat thereof recorded in Plat Book 1, at Page 67, of the Public Records of Dade County, Florida;

AND

The South 1/2 of the North 1/2 of the SE 1/4 of the SW 1/4 of the SW 1/4 (South 1/2 of Lot 5) and the South 1/2 of the North 1/2 of the South 1/2 of the SE 1/4 of the SW 1/4 (South 1/2 of Lot 6) of S.H. RICHMOND'S SURVEY of the SW 1/4 of Section 35, Township 55 South, Range 40 East, according to the plat thereof recorded in Plat Book 1, at Page 67 of the Public Records of Dade County, Florida;

A portion of DOUGHERTY'S SUBDIVISION as recorded in Plat Book 1 at Page 1 and S.H. Richmond's Survey of the S.W. 1/4 of Section 35, Township 55 South, Range 40 East, as recorded in Plat Book 1 at Page 67, both the Public Records of Dade County, Florida being more particularly described as follows:

Commence at the intersection of the Easterly Right of Way line of Ingraham Highway with the Northerly line of Tract 3, said DOUGHERTY'S SUBDIVISION; thence run $S28^{\circ}06'20''W$, along said Easterly Right of Way line of Ingraham Highway, for a distance of 377.28 feet to a point; thence run $S61^{\circ}53'40''E$ for a distance of 102.97 feet to the POINT OF BEGINNING; thence run $S13^{\circ}57'55''W$ for a distance of 1050.00 feet to a point; thence run $S76^{\circ}02'05''E$ for a distance of 141.00 feet to a point; thence run $S50^{\circ}17'05''E$ for a distance of 675.00 feet to a point; thence run $N58^{\circ}12'55''E$ for a distance of 350.00 to a point of curvature of a circular curve to the left, having for its elements a central angle of $82^{\circ}45'00''$ and a radius of 180.00 feet; thence run Northeasterly and Northerly along the arc of said curve for a distance of 259.97 feet to a point of reverse curvature of a circular curve of the right, having for its elements a central angle of $38^{\circ}30'00''$ and a radius of 300.00 feet; thence run Northerly along the arc of said curve for a distance of 201.59 feet to the Point of Tangency; thence run $N13^{\circ}57'55''E$ for a distance of 145.00 feet to the Point of Curvature of a circular curve to the left, having for its elements a central angle of $49^{\circ}00'00''$ and a radius of 350.00 feet; thence run Northerly and Northwesterly along the arc of said curve for a distance of 299.32 feet to a point of reverse curvature of a circular curve to the right, having for its elements a central angle of $62^{\circ}00'00''$ and a radius of 190.00 feet; thence run Northwesterly and Northerly along the arc of said curve for a distance of 194.78 feet to a point of reverse curvature of a circular curve to the left, having for its elements a central angle of $17^{\circ}20'06''$ and a radius of 275.00 feet; thence run Northerly along the arc of said curve for a distance of 83.20 feet to a point; thence run $N76^{\circ}02'05''W$ for a distance of 768.50 feet to the POINT OF BEGINNING.

AND LESS

A portion of DOUGHERTY'S SUBDIVISION as recorded in Plat Book 1 at Page 1 and S.H. RICHMOND'S SURVEY of the S.W. 1/4 of Section 35, Township 55 South, Range 40 East, as recorded in Plat Book 1 at Page 67, both of the Public Records of Dade County, Florida being more particularly described as follows:

Commence at the intersection of the Easterly Right of Way line of Ingraham Highway with the Northerly line of Tract 3, said DOUGHERTY'S SUBDIVISION; thence run $N87^{\circ}39'08''E$ along the North line of said Tract 3 for a distance of 819.58 feet to the POINT OF BEGINNING; thence continue $N87^{\circ}39'08''E$ for a distance of 119.57 feet to a point on the "Mean High Water Line Elevation +1.50 NGVD" as established by JACK MUELLER & ASSOCIATES, INC. and approved by the State of Florida, Department of Natural Resources on May 9, 1984; thence run Southerly along said "Mean High Water Line Elevation +1.50 NGVD" for the next twenty-seven (27) courses; thence run $S70^{\circ}54'06''E$ for a distance of 17.22 feet to a point; thence run $S01^{\circ}06'22''E$ for a distance of 58.91 feet to a point; thence run $S10^{\circ}03'13''E$ for a distance of 54.68 feet to a point; thence run $S14^{\circ}09'36''E$ for a distance of 82.10 feet to a point; thence run $S20^{\circ}06'36''E$ for a distance of 59.25 feet to a point; thence run $S00^{\circ}31'24''W$ for a distance of 23.48 feet to a point; thence run $S65^{\circ}11'24''W$ for a distance of 15.63 feet to a point; thence run $S60^{\circ}11'13''W$ for a distance of 31.22 feet to a point; thence run $S19^{\circ}38'31''W$ for a distance of 107.85 feet to a point; thence run $S10^{\circ}08'17''W$ for a distance of 102.42 feet to a point; thence run $S16^{\circ}44'23''W$ for a distance of 105.82 feet to a point; thence run $S10^{\circ}42'37''W$

for a distance of 102.65 feet to a point; thence run $S14^{\circ}22'28''W$ for a distance of 104.15 feet to a point; thence run $S01^{\circ}06'18''W$ for a distance of 100.18 feet to a point; thence run $S02^{\circ}19'22''E$ for a distance of 100.00 feet to a point; thence run $S01^{\circ}08'34''E$ for a distance of 100.02 feet to a point; thence run $S03^{\circ}59'02''E$ for a distance of 100.04 feet to a point; thence run $S09^{\circ}44'50''E$ for a distance of 100.84 feet to a point; thence run $S07^{\circ}38'10''W$ for a distance of 101.54 feet to a point; thence run $S09^{\circ}13'42''W$ for a distance of 102.08 feet to a point; thence run $S10^{\circ}18'46''W$ for a distance of 102.49 feet to a point; thence run $S22^{\circ}20'49''W$ for a distance of 110.07 feet to a point; thence run $S09^{\circ}52'32''W$ for a distance of 102.32 feet to a point; thence run $S00^{\circ}41'05''E$ for a distance of 100.04 feet to a point; thence run $S00^{\circ}54'28''E$ for a distance of 100.03 feet to a point; thence run $S01^{\circ}33'41''W$ for a distance of 100.23 feet to a point; thence run $S07^{\circ}58'50''E$ for a distance of 66.77 feet to a point; thence, departing said "Mean High Water Line Elevation +1.50 NGVD", run $S87^{\circ}46'46''W$, along the South line of the North 1/2 of the South 1/2 of the South 1/2 of the South 1/2 of said Section 35, for a distance of 125.00 feet to a point; thence run $N03^{\circ}16'00''W$ for a distance of 461.00 feet to a point on a circular curve concave to the Northwest, a radial to said point bears $S31^{\circ}47'05''E$; thence run Northeasterly and Northerly along the arc of said curve, through a central angle of $82^{\circ}45'00''$ and a radius of 190.00 feet, for a distance of 259.97 feet to a point of reverse curvature of a circular curve concave to the East, having for its elements a central angle of $38^{\circ}30'00''$ and a radius of 300.00 feet; thence run Northerly along the arc of said curve for a distance of 201.59 feet to a Point of Tangency; thence run $N13^{\circ}57'55''E$ for a distance of 145.00 feet to a Point of Curvature of a circular curve to the left, having for its elements a central angle of $43^{\circ}00'00''$ and a radius of 350.00 feet; thence run Northerly and Northwesterly along the arc of said curve for a distance of 299.32 feet to a point of reverse curvature of a circular curve to the right, having for its elements a central angle of $52^{\circ}00'00''$ and a radius of 160.00 feet; thence run Northwesterly and Northerly along the arc of said curve for a distance of 194.78 feet to a point of reverse curvature of a circular curve to the left, having for its elements a central angle of $37^{\circ}00'00''$ and a radius of 275.00 feet; thence run Northerly along the arc of said curve for a distance of 177.59 feet to a point of reverse curvature of a circular curve to the right, having for its elements a central angle of $105^{\circ}00'00''$ and a radius of 120.00 feet; thence run Northerly and Northeasterly along the arc of said curve for a distance of 219.91 feet to a point of reverse curvature of a circular curve to the left having for its elements a central angle of $130^{\circ}00'00''$ and a radius of 120.00 feet; thence run Northeasterly, Northerly and Northwesterly along the arc of said curve for a distance of 376.99 feet to a point; thence run $N04^{\circ}57'55''E$, radial to the last described curve, for a distance of 127.34 feet to the POINT OF BEGINNING.

Containing 36.08 Acres More or Less.

Subject to any reservations, dedications or easements of record.

PARCEL "D"

LEGAL DESCRIPTION THIS PROPERTY:

All of Blocks 8 and 11, lying Southerly and Easterly of the County Road, also all of Blocks 9 and 10 of the SW 1/4 of said Section 35, according to Plat Book 1, at Page 87, of the Public Records of Dade County, Florida; and all of the S 1/2 of the N 1/2 of the SW 1/4 of the SW 1/4 of the SW 1/4 lying Easterly and Southerly of the County Road in said Section 35; and also all that part of the SE 1/4 of the SE 1/4 of the SE 1/4 of said Section 34, lying Southerly and Easterly of the County Road being in Dade County, Florida; also a strip of land 25 feet in width lying West of said Block 11 above mentioned and South of the Southerly line of the County Road;

AND

All that part of Blocks 7 and 11 of the SW 1/4 of the SW 1/4 of said Section 35, lying Northwesterly of the County Road as shown on the Plat of the SW 1/4 of said Section 35, surveyed and drawn by S.H. Richmond and filed in Plat Book 1 at Page 87, and lying Southeasterly of Ingraham Highway (Old Cutler Road) as same is currently laid out;

AND

All that part of the N 1/2 of the SW 1/4 of the SW 1/4 of the SW 1/4 of said Section 35, lying Northwesterly of the County Road as shown on the Plat filed in Plat Book 1, at Page 87, of the Public Records of Dade County, Florida, and lying Southeasterly of Ingraham Highway (Old Cutler Road) as same is currently laid out;

AND

That portion of the Easterly 1/2 of the County Road shown on said S RICHMOND'S SURVEY of the SW 1/4 of Section 35, Township 55 South, Range East, lying Westerly of Blocks 8 and 11 of said S.H. RICHMOND'S SURVEY and lying within the S 1/2 of the N 1/2 of the SW 1/4 of the SW 1/4 of said Section 35, LESS that portion thereof lying within the West 40 feet of the SW 1/4 of said Section 35.

AND

That portion of that certain parcel of land conveyed to Dade County by Warranty Deed from Julian S. Eaton and Ethelwynne Eaton, dated February 5, 1942 and recorded in Deed Book 2237 at Page 549, under Clerk's File No. R-22573, of the Public Records of Dade County, Florida, lying Southeasterly of a line 50 feet Southeasterly of and parallel with the following described centerline for Old Cutler Road; Commence at the Southeast corner of said Section 34; thence run N 89° 29' 05" W, along the South line of the SE 1/4 of said Section 34, for a distance of 151.46 feet to the Point of Beginning of the herein described centerline for Old Cutler Road; thence run N 31° 03' 37" E across the SE 1/4 of said Section 34 and across the SW 1/4 of said Section 35, for a distance of 914.42 feet, more or less, to a point on the North line of the N 1/2 of the SW 1/4 of the SW 1/4 of the SW 1/4 of said Section 35 and to the END of the herein described centerline for Old Cutler Road;

AND

That portion of the Westerly 1/2 of the County Road shown on said S.H. RICHMOND'S SURVEY of the SW 1/4 of Section 35, Township 55 South, Range 40 East, lying Easterly of Block 7 of said S.H. RICHMOND'S SURVEY, Easterly of that portion of Block 11 of said S.H. RICHMOND'S SURVEY, lying Northwesterly of said County Road and within the N 1/2 of the SW 1/4 of the SW 1/4 of the SW 1/4 of said Section 35, LESS that portion thereof lying within the West 40 feet of the SW 1/4 of said Section 35;

STATE OF FLORIDA)
) SS:
COUNTY OF DADE)

I, RICHARD P. BRINKER, Clerk of the Circuit Court in and for Dade County, Florida, and Ex-Officio Clerk of the Board of County Commissioners of said County, DO HEREBY CERTIFY that the above and foregoing is a true and correct copy of Resolution No. 2-30-85, adopted by the said Board of County Commissioners at its meeting held on February 7, 1985.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal on this 12th day of February, A. D. 19 85.

RICHARD P. BRINKER, Ex-Officio Clerk
Board of County Commissioners
Dade County, Florida

By *R. Brinker*
Deputy Clerk

SEAL



Board of County Commissioners
Dade County, Florida

RESOLUTION NO. 4-ZAB-270-85

The following resolution was offered by Mr. Murray Sisselman seconded by Mrs. Joyce Masso and upon poll of members present, the vote was as follows:

Thomas A. Conger	aye	Margaret Nelson	aye
Peter Goldring	absent	Mary Jean Risi	aye
Levi A. Johnson	aye	Murray Sisselman	aye
Jose A. Losa	aye	R. Jollivette Frazier	absent
Joyce Masso	aye		

WHEREAS, BURGER KING CORPORATION has applied for the following:

- (1) DELETION of an Agreement only as it affects the hereinafter described subject property; said Agreement being recorded in Official Record Book 7197, at Pages 498 through 516, on the 26th day of April, 1971, and pursuant to Resolution Z-89-70, passed and adopted by the Board of County Commissioners on the 16th day of April, 1970.
- (2) DELETION of an Agreement entered into between South Cutler Bay, Inc. and Dade County; said agreement being recorded in Official Record Book 8997 at Pages 1168 through 1170 on the 22nd day of May, 1975, and required pursuant to Resolution Z-196-74, passed and adopted by the Board of County Commissioners on the 23rd day of July, 1974.
- (3) DELETION of a Declaration of Restrictive Covenants entered into between Sun-Belt Corporation of America and Dade County; said Restrictive Covenants being recorded in Official Record Book 11198 at Pages 987 through 999 on the 28th day of August, 1981.

The purpose of the above requests is to remove these agreements from the official records of Dade County, and to release the subject property from the conditions therein, leaving the property under the current restrictions of the Declaration of Restrictive Covenants filed pursuant to Resolution Z-30-85 in Official Record Book 12428 at Pages 990 through 1010.

SUBJECT PROPERTY: PARCEL 1: All of Blocks 8 and 11, lying S/ly and E/ly of the County Road, and all of Blocks 9 and 10 of the SW 1/4 of Section 35, Township 55 South, Range 40 East, Plat book 1, Page 67; and all of the south 1/2, of the north 1/2, of the SW 1/4, of the SW 1/4, of the SW 1/4 lying E/ly and S/ly of the County Road in Section 35; Township 55 South, Range 40 East, and also all that part of the SE 1/4, of the SE 1/4, of the SE 1/4 of Section 34, Township 55 South, Range 40 East, lying S/ly and E/ly of the County Road; also a strip of land 25' in width lying west of the said aforementioned Block 11 and south of the S/ly line of the County Road.

PARCEL 2: All that part of Lots 7 and 11 of the SW 1/4 of the SW 1/4 of Section 35, Township 55 South, Range 40 East, lying NW/ly of the County Road as shown on the plat of the SW 1/4 of Section 35, Township 55 South, Range 40 East, surveyed and drawn by S. H. RICHMOND and filed in Plat book 1, Page 67, and lying SE/ly of Ingraham Highway (Old Cutler Road) as same is currently laid out.

PARCEL 3: All that part of the north 1/2 of the SW 1/4 of the SW 1/4 of the SW 1/4 of Section 35, Township 55 South, Range 40 East, lying NW/ly of the County Road as shown on the plat filed in Plat book 1, Page 67, and lying SE/ly of Ingraham Highway (Old Cutler Road) as same is currently laid out.

PARCEL 4: That portion of that certain parcel of land conveyed to Dade County by Warranty Deed from Julian S. Eaton and Ethelwynne Eaton, dated February 5, 1942 and recorded in Deed Book 2237 at Page 549, under Clerk's File Number R-22573, lying SE/ly of a line 50' SE/ly of and parallel with the following described centerline for Old Cutler Road; commence at the Southeast corner of Section 34, Township 55 South, Range 40 East; thence run N89°29'5"W along the south line of the SE 1/4 of said Section 34 for a distance of 151.64' to the Point of beginning of the herein described centerline for Old Cutler Road; thence run N31°3'37"E across the SE 1/4 of said Section 34 and across the SW 1/4 of Section 35, Township 55 South, Range 40 East, for a distance of 914.42', to a point on the north line of the north 1/2, of the SW 1/4, of the SW 1/4, of the SW 1/4 of said Section 35 and to the end of the herein described centerline for Old Cutler Road.

4 Feb-270-85

PARCEL 5: All of County Road shown on S.H. Richmond's Survey of the SW 1/4 of Section 35, Township 55 South, Range 40 East, Plat book 1, Page 67, lying between those lands shown as Parcels 1 through 4 herein.

AND: All riparian and littoral rights (if any) appurtenant to all of the foregoing described property, including but not limited to, all riparian and littoral rights east of the mean high water line, and in the interest (if any) in the foregoing described property up to the centerline of an road(s) or street(s) abutting any of the foregoing described property.

AND:

All that part of Tracts 3, 4, 5, 6, 7, 8, and 9, lying east of the E/ly right-of-way line of Ingraham Highway of DOUGHTERY'S SUBDIVISION, Plat book 1, Page 1 of the Public Records of Dade County, Florida;

AND:

All that part of Tracts 1 and 2 lying east of the E/ly Right-of-Way line of Ingraham Highway, and all of Tracts 3 and 4 of S.H. RICHMOND'S SURVEY of the SW 1/4 of Section 35, Township 55 South, Range 40 East, Plat book 1, Page 67;

AND:

The north 1/2 of the north 1/2 of the south 1/2 of the SE 1/4 of the SW 1/4 and the north 1/2 of the north 1/2 of the SE 1/4 of the SW 1/4 of the SW 1/4, all in Section 35, Township 55 South, Range 40 East, also known as the north 1/2 of Tracts 5 and 6 of S.H. RICHMOND'S SURVEY of the SW 1/4 of said Section 35, Plat book 1, Page 67;

AND:

That part of the NW 1/4 of the SW 1/4 of the SW 1/4 lying east of the E/ly right-of-way line of Ingraham Highway in Section 35, Township 55 South, Range 40 East;

AND:

All of that part of the north 1/2 of the north 1/2 of the SW 1/4 of the SW 1/4 of the SW 1/4 in Section 35, Township 55 South, Range 40 East, lying east of the center line of the County Road as shown on S.H. RICHMOND'S SURVEY of the SW 1/4 of Section 35, Township 55 South, Range 40 East, Plat book 1, Page 67;

AND:

All that part of the County Road as shown on S.H. RICHMOND'S SURVEY of the SW 1/4 of Section 35, Township 55 South, Range 40 East, Plat book 1, Page 67, included in the above described parcels, EXCEPT the portions thereof now a part of Ingraham Highway;

AND:

The south 1/2 of the north 1/2 of the SE 1/4 of the SW 1/4 of the SW 1/4 (the south 1/2 of Lot 5) and the south 1/2 of the north 1/2 of the south 1/2 of the SE 1/4 of the SW 1/4 (south 1/2 of Lot 6) of S.H. RICHMOND'S SURVEY of the SW 1/4 of Section 35, Township 55 South, Range 40 East, Plat book 1, Page 67; and all riparian and littoral rights (if any) appurtenant to all of the foregoing described property, including but not limited to, all riparian and littoral rights east of the mean high water line, as shown on the survey prepared by Jack Mueller & Associates, Inc., dated April 18, 1984, revised August 3, 1984, November 15, 1984 and December 21, 1984, and including the interest (if any) in the property up to the center line of any road(s) or street(s) abutting any of the foregoing described property.

LOCATION: The east side of Old Cutler Road between theoretical S.W. 177 Street and theoretical S.W. 184 Street, Dade County, Florida, and

WHEREAS, a public hearing of the Metropolitan Dade County Zoning Appeals Board was advertised and held, as required by law, and all interested parties concerned in the matter were heard, and

WHEREAS, upon due and proper consideration having been given to the matter, it is the opinion of this Board that the requested deletions would be in harmony with the general purpose and intent of the regulations and would conform with the requirements and intent of the Zoning Procedure Ordinance;

NOW THEREFORE BE IT RESOLVED by the Metropolitan Dade County Zoning Appeals Board, that the requested Deletion of an Agreement only as it affects the subject property; said Agreement being recorded in Official Record Book 7197, at Pages 498 through 516, on the 26th day of April, 1971, and pursuant to Resolution Z-89-70, Deletion of an Agreement entered into between South Cutler Bay, Inc. and Dade County; said agreement being recorded in Official Record Book 8997 at Pages 1168 through 1170 on the 22nd day of May, 1975, and required pursuant to Resolution Z-196-74 and Deletion of a Declaration of Restrictive Covenants entered into between Sun-Belt Corporation of America and Dade County; said Restrictive Covenants being recorded in Official Record Book 11198 at Pages 987 through 999 on the 28th day of August, 1981 be and the same are hereby approved.

The Zoning Director is hereby directed to make the necessary notations upon the maps and records of the Dade County Building and Zoning Department.

PASSED AND ADOPTED this 24th day of JULY, 1985.

Heard 7/24/85
Hearing No. 85-7-32
7/25/85 aa

RESOLUTION NO. 4-ZAB-143-86

The following resolution was offered by Mr. Jose A. Losa seconded by Mr. Levi A. Johnson and upon poll of members present, the vote was as follows:

Thomas A. Conger	aye	Margaret Nelson	aye
Peter Goldring	absent	Mary Jean Risi	aye
Levi A. Johnson	aye	Murray Sisselman	absent
Jose A. Losa	aye	R. Jollivette Frazier	aye
Joyce Masso	absent		

WHEREAS, BURGER KING CORPORATION has applied for the following:

- (1) UNUSUAL USE to permit the filling of a portion of an existing lake.

The applicant is requesting to fill underneath the proposed building site and provide a vertical bulkhead with a slope beginning 7'9" below the bulkhead cap, thence a minimum 3' wide shelf, thence a one foot vertical to two foot horizontal slope to the bottom of the existing lake.

Plans are on file and may be examined in the Zoning Department entitled "Burger King Corporation World Headquarters Site Sea Wall", consisting of six sheets, prepared by Bliss and Nyitray, Inc. Consulting Engineers, dated 3-21-86.

- (2) MODIFICATION of Condition #2 of Resolution 2-196-74, passed and adopted by the Board of County Commissioners on July 23, 1974 and amended by Resolution 2-30-85 passed and adopted by the Board of County Commissioners on the 7th day of February, 1985, as follows:

FROM: "2. That in the approval of the plan, the same be basically in compliance with that submitted for the hearing entitled 'Lake Modifications', as prepared by Post, Buckley, Schuh and Jernigan, Inc., dated last revised 1-31-85, consisting of 5 pages, and plan entitled 'Burger King World Headquarters: Site Plan', as prepared by Hellmuth, Obata and Kassabaum, Planners and Architects, consisting of one sheet (2A) dated last revised February 7, 1985."

TO: "2. That in the approval of the plan, the same be basically in compliance with that submitted for the hearing entitled 'Burger King Corporation World Headquarters Site Sea Wall', consisting of six sheets, prepared by Bliss and Nyitray, Inc., consulting engineers, dated 3-21-86."

The purpose of the request is to substitute new plans for the existing lake which indicates its current proposed shape, area to be filled underneath the building, new seawalls to be constructed and proposed new slope areas.

- (3) MODIFICATION of the Proffered Covenant paragraph of Resolution 2-30-85, passed and adopted by the Board of County Commissioners on the 7th day of February, 1985, as follows:

FROM: "BE IT FURTHER RESOLVED that the approval is predicated on the acceptance of the proffered Covenant and the Board does exercise its option to enforce the proffered Covenant wherein the same is more restrictive than applicable zoning regulations; said Covenant includes the revised site plan entitled 'Burger King World Headquarters', as prepared by Hellmuth, Obata, & Kassabaum, P.A., Planners and Architects dated January 7, 1985, on sheets 1, 3, 4, 5, 7, 8, 9, 10, 11, and 13-17, dated revised January 10, 1985, on cover sheet and sheet 2, and dated revised January 15, 1985, on sheet 6, and dated last revised January 30, 1985, on sheets 7A revised and 7B revised, a complete set of which is on file with the Dade County Building and Zoning Department.

TO: "BE IT FURTHER RESOLVED that the approval is predicated on the acceptance of the proffered Covenant and the Board does exercise its option to enforce the proffered Covenant wherein the same is more restrictive than applicable zoning regulations; said Covenant includes the revised site plan entitled 'Burger King World

Headquarters', as prepared by Hellmuth, Obata, & Kassabaum, P.A., Planners and Architects dated January 7, 1985, on sheets 1, 3, 4, 5, 7, 7a, 7b, 8, 9, 10, 11, and 13-16, dated revised January 10, 1985, on cover sheet; sheets 2 and 6 replaced by a sheet 1 entitled 'Site Dimensions & Statistics Computations' last dated Feb. 26, 1986; sheets 7a & 7b replaced by sheets 2 through 5 entitled 'Parking Layout/Tech Center/Training Center/Office' and dated Feb. 14, 1986, Sheet 17 dated Feb. 27, 1986; a complete set of which is on file with the Dade County Building and Zoning Department."

- (4) MODIFICATION of a Declaration of Restrictive Covenants recorded in Official Record Book 12428 at Pages 990 - 1010, accepted pursuant to Resolution Z-30-85, passed and adopted by the Board of County Commissioners on the 7th day of February, 1985, as follows:

FROM: "1. That the Development will be built in substantial compliance with the plans entitled 'Burger King World Headquarters', as prepared by Hellmuth, Obata, & Kassabaum, P.A., Planners and Architects dated January 7, 1985, on sheets 1, 3, 4, 5, 7, 7a, 7b, 8, 9, 10, 11, and 13-17, dated revised January 10, 1985, on cover sheet and sheet 2, and dated revised January 15, 1985, on sheet 6, and dated last revised January 30, 1985, on sheets 7A revised and 7B revised, a complete set of which is on file with the Dade County Building and Zoning Department."

TO: "1. That the Development will be built in substantial compliance with the plans entitled 'Burger King World Headquarters', as prepared by Hellmuth, Obata, & Kassabaum, P.A., Planners and Architects dated January 7, 1985, on sheets 1, 3, 4, 5, 7, 8, 9, 10, 11, and 13-16, dated revised January 10, 1985, on cover sheet; sheets 2 and 6 replaced by a sheet 1 entitled 'Site Dimensions & Statistics Computations' last dated Feb. 26, 1986; sheets 7a & 7b replaced by sheets 2 through 5 entitled 'Parking Layout/Tech Center/Training Center/Office' and dated Feb. 14, 1986, Sheet 17 dated Feb. 27, 1986; a complete set of which is on file with the Dade County Building and Zoning Department."

The purpose of the modification of resolution and agreement is to permit a revised site plan & parking plans which indicate 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.

The aforementioned plans are on file and may be examined in the Zoning Department.

SUBJECT PROPERTY: Tract "A" and "B" of BURGER KING WORLD HEADQUARTERS, Plat book 127, Page 86.

LOCATION: The east side of Old Cutler Road, between S.W. 177 Street and S.W. 184 Street, Dade County, Florida, and

WHEREAS, a public hearing of the Metropolitan Dade County Zoning Appeals Board was advertised and held, as required by law, and all interested parties concerned in the matter were heard, and

WHEREAS, upon due and proper consideration having been given to the matter, it is the opinion of this Board that the requested unusual use and modifications would be in harmony with the general purpose and intent of the regulations, would be compatible with the area and its development and would conform with the requirements and intent of the Zoning Procedure Ordinance;

NOW THEREFORE BE IT RESOLVED by the Metropolitan Dade County Zoning Appeals Board, that the requested Unusual Use to permit the filling of a portion of an existing lake, Modification of Condition #2 of Resolution Z-196-74, Modification of the Proffered Covenant paragraph of Resolution Z-30-85, and Modification of a Declaration of Restrictive Covenants recorded in Official Record Book 12428 at Pages 990-1010, accepted pursuant to Resolution Z-30-85 be and the same are hereby approved, subject to the following conditions:

1. That the revised Emergency Access plan satisfy the requirements of the Metro-Dade County Fire Department.
2. That the applicants comply with all conditions and requirements of the Department of Environmental Resources Management.
3. Building finishes shall be dark to enhance blending with vegetation and tree canopy and the architectural treatment for the primary office building shall provide for planter boxes and landscaping along the entire length of all four stories as well as the roof top on the building's east elevation to mitigate its visual impact.
4. That the applicant submit to the Planning Department for its review and approval a landscaping plan which indicates the type of plant material and size prior to the issuance of a building permit and to be installed prior to the issuance of a certificate of use and occupancy.

The Zoning Director is hereby directed to make the necessary notations upon the maps and records of the Dade County Building and Zoning Department and to issue all permits in accordance with the terms and conditions of this resolution.

PASSED AND ADOPTED this 30th day of APRIL, 1986.

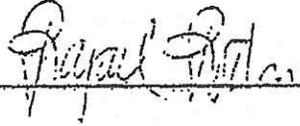
Heard 4/30/86
Hearing No. 86-4-28
Typed 5/2/86 aa

STATE OF FLORIDA)
 ;
COUNTY OF DADE)

I, Rafael Rodon, Director of the Metropolitan Dade County Building and Zoning Department, and Ex-Officio Secretary of the Metropolitan Dade County Zoning Appeals Board, DO HEREBY CERTIFY that the above and foregoing is true and correct copy of Resolution No. 4-ZAB-143-86 adopted by said Zoning Appeals Board at its meeting held on APRIL 30, 1986.

IN WITNESS WHEREOF, I have hereunto set my hand and seal on this 13th day of MAY, A.D. 1986.

Rafael Rodon, Ex-Officio Secretary
Metropolitan Dade County
Zoning Appeals Board

By: 

SEAL

RESOLUTION NO. Z-34-89

The following resolution was offered by Commissioner Barry D. Schreiber, seconded by Commissioner Charles Dusseau, and upon poll of members present the vote was as follows:

Barbara M. Carey	absent	Barry D. Schreiber	aye
Charles Dusseau	aye	Jorge (George) Valdes	aye
Joseph M. Gersten	aye	Sherman S. Winn	absent
Larry Hawkins	nay	Stephen P. Clark	absent
Harvey Ruvin	absent		

WHEREAAS, BURGER KING CORP., had applied for the following:

- (1) UNUSUAL USE to permit parking in a zone more restrictive than the use it serves; to wit: parking of cars in a GU district to serve an OPD district.

Plans are on file and may be examined in the Zoning Department entitled "Burger King Corporation World Headquarters," as prepared by Hellmuth, Obata & Kassabaum, Inc., dated 8-18-88 on sheets CL-1, CL-2, CL-3 & 2C.6-1. Plans may be modified at public hearing.

- (2) MODIFICATION of the Proffered Covenant paragraph of Resolution Z-30-85, passed and adopted by the Board of County Commissioners on the 7th day of February, 1985, as modified by Resolution 4-ZAB-143-86, passed and adopted by the Dade County Zoning Appeals Board on the 30th day of April, 1986, as follows:

FROM: "BE IT FURTHER RESOLVED that the approval is predicated on the acceptance of the proffered Covenant and the Board does exercise its option to enforce the proffered Covenant wherein the same is more restrictive than applicable zoning regulations; said Covenant includes the revised site plan entitled 'Burger King World Headquarters,' as prepared by Hellmuth, Obata & Kassabaum, P.A., Planners and Architects dated January 7, 1985, on sheets 1, 3, 4, 5, 7, 7a, 7b, 8, 9, 10, 11 and 13-16, dated revised January 10, 1985, on cover sheet; sheets 2 and 6 replaced by a sheet 1 entitled 'Site Dimensions & Statistics Computations' last dated Feb. 26, 1986; sheets 7a & 7b replaced by sheets 2 through 5 entitled 'Parking Layout/Tech Center/Training Center/Office' and dated Feb. 14, 1986, Sheet 17 dated Feb. 27, 1986; a complete set of which is on file with the Dade County Building and Zoning Department."

TO: "BE IT FURTHER RESOLVED that the approval is predicated on the acceptance of the proffered Covenant and the Board does exercise its option to enforce the proffered Covenant wherein the same is more restrictive than applicable zoning regulations; said Covenant includes the revised site plan entitled 'Burger King World Headquarters,' as prepared by Hellmuth, Obata & Kassabaum, P.A., Planners and Architects dated January 7, 1985, on sheets 1, 3, 4, 5, 7, 7a, 7b, 8, 9, 10, 11 and 13-16, dated revised January 10, 1985, on cover sheet; sheets 2 and 6 replaced by a sheet 1 entitled 'Site Dimensions & Statistics Computations' last dated Feb. 26, 1986; sheets 7a & 7b replaced by sheets 2 through 5 entitled 'Parking Layout/Tech Center/Training Center/Office' and dated Feb. 14, 1986, Sheet 17 dated Feb. 27, 1986; and additional sheets CL-1, CL-2, CL-3 and 2C.6-1, dated 8-18-88, a complete set of which is on file with the Dade County Building and Zoning Department."

- (3) MODIFICATION of a Declaration of Restrictive Covenants recorded in Official Record Book 12428 at Pages 990-1010, accepted pursuant to Resolution Z-30-85, passed and adopted by the Board of County Commissioners on the 7th day of February, 1985, and modified by Resolution 4-ZAB-143-86, passed and adopted by the Dade County Zoning Appeals Board on the 30th day of April, 1986, as follows:

FROM: "1. That the Development will be built in substantial compliance with the plans entitled 'Burger King World Headquarters,' as prepared by Hellmuth, Obata & Kassabaum, P.A., Planners and Architects dated January 7, 1985, on sheets 1, 3, 4, 5, 7, 8, 9, 10, 11 and 13-16, dated revised January 10, 1985, on cover sheet; sheets 2 and 6 replaced by a sheet 1 entitled 'Site

Dimensions & Statistics Computations' last dated Feb. 26, 1986; sheets 7a & 7b replaced by sheets 2 through 5 entitled 'Parking Layout/Tech Center/Training Center/Office' and dated Feb. 14, 1986, Sheet 17 dated Feb. 27, 1986; a complete set of which is on file with the Dade County Building and Zoning Department."

TO: "1. That the Development will be built in substantial compliance with the plans entitled 'Burger King World Headquarters,' as prepared by Hellmuth, Obata & Kassabaum, P.A., Planners and Architects dated January 7, 1985, on sheets 1, 3, 4, 5, 7, 8, 9, 10, 11 and 13-16, dated revised January 10, 1985, on cover sheet; sheets 2 and 6 replaced by a sheet 1 entitled 'Site Dimensions & Statistics Computations' last dated Feb. 26, 1986; sheets 7a & 7b replaced by sheets 2 through 5 entitled 'Parking Layout/Tech Center/Training Center/Office' and dated Feb. 14, 1986, Sheet 17 dated Feb. 27, 1986; and additional sheets CL-1, CL-2, CL-3 and 2C.6-1, dated 8-18-88, a complete set of which is on file with the Dade County Building and Zoning Department."

The purpose of the modification of resolution and agreement is to show additional surface parking in the area north of the north office building on the official development plans.

SUBJECT PROPERTY: Tract "A" of BURGER KING WORLD HEADQUARTERS, Plat book 127, Page 86.

LOCATION: 17777 Old Cutler Road, Dade County, Florida, and

WHEREAS, a public hearing of the Board of County Commissioners, Dade County, Florida, was advertised and held, as required by law, and all interested parties concerned in the matter were heard, and upon due and proper consideration having been given to the matter, it is the opinion of this Board that the requested unusual use and Modifications of Covenants would be compatible with the area and its development and would conform with the requirements and intent of the Zoning Procedure Ordinance and should be approved, subject to conditions;

NOW THEREFORE BE IT RESOLVED by the Board of County Commissioners, Dade County, Florida, that the application be approved, subject to the following conditions:

1. That an amended covenant be submitted in recordable form within 90 days of the public hearing approval of this application, and to submit the proposed amended Declaration of Restrictions for approval prior to recording.
2. That the applicant submit to the Planning Department for its review and approval a landscaping plan which indicates the type of plant material and size prior to the issuance of a building permit and to be installed prior to the issuance of a certificate of use and occupancy.

STATE OF FLORIDA)
) SS:
COUNTY OF DADE)

I, RICHARD P. BRINKER, Clerk of the Circuit Court in and for Dade County, Florida, and Ex-Officio Clerk of the Board of County Commissioners of said County, DO HEREBY CERTIFY that the above and foregoing is a true and correct copy of Resolution No. Z-34-89, adopted by the said Board of County Commissioners at its meeting held on February 23, 1989

IN WITNESS WHEREOF, I have hereunto set my hand and official seal on this 24th day of March, A. D. 19 89

RICHARD P. BRINKER, Ex-Officio Clerk
Board of County Commissioners
Dade County, Florida

By C. M. Spurlock
Deputy Clerk



This instrument prepared by:
and when recorded return to:
Jerry B. Proctor, Esq.
Bilzin Sumberg Baena Price & Axelrod LLP
2500 First Union Financial Center
Suite 2500
Miami, Florida 33131-5340

Exhibit 2

(Space Reserved for Clerk)

**DECLARATION OF RESTRICTIVE COVENANTS
IN LIEU OF UNITY OF TITLE**

KNOW ALL BY THESE PRESENTS that the undersigned Owner hereby makes, declares and imposes on the land herein described, these easements and covenants running with the title to the land, which shall be binding on the Owner, all heirs, successors and assigns, personal representatives, mortgagees, lessees, and against all persons claiming by, through or under them;

WHEREAS, Owner holds the fee simple title to the land in the Village of Palmetto Bay, Florida, in Miami-Dade County, Florida, described in Exhibit "A," attached hereto and made a part hereof, hereinafter called the "Property;"

WHEREAS, Owner intends to develop said property for:

- Business Use
- Office Use
- Residential Use

WHEREAS, Owner intends to create multiple ownerships within the Property to serve existing and future development, and/or future phases of development, and

WHEREAS, Owner may wish to convey portions of the property from time to time in fee simple, and/or may wish to offer units as condominiums, this instrument is executed in order to assure that the phased development of the property with future multiple ownership and multiple fee simple ownership, will not violate the Zoning Code of Miami-Dade County, as adopted by the Village of Palmetto Bay or the remaining requirements in the Declaration of Restrictive Covenants and the First Amendment to the Declaration of Restrictive Covenants.

Declaration of Restrictive Covenants
in Lieu of Unity of Title
Page 2

NOW THEREFORE, in consideration of the premises, Owner hereby agrees as follows:

1. The Property will be developed in substantial compliance with the site plan entitled, "Burger King World Headquarters", prepared by Hellmuth, Obata and Kassabaum, P.A., Planners and Architects, dated January 7, 1985, on sheets 1, 3, 4, 5, 7, 7A, 7B, 8, 9, 10, 11 and 13-17, dated revised January 10, 1985 on cover sheet and sheet 2, and dated revised January 30, 1985 on sheets 7A revised 7B revised. No modification shall be effected in said site plan without the written consent of the then owner(s) of the Property, and the submittal of an application to modify the plan or covenant at public hearing before the Village Council of Palmetto Bay, Florida.
2. If the Property is developed in phases, each phase will be developed in substantial accordance with the site plan.
3. In the event of multiple ownership subsequent to said site plan approval, each of the subsequent owners, mortgagees and other parties in interest shall be bound by the terms, provisions and conditions of this instrument. Owner further agrees that it will not convey portions of the Property to such other parties unless and until the Owner and such other party or parties shall have executed and mutually delivered in recordable form, and instrument to be known as an "Easement and Operating Agreement" which shall contain, among other things:
 - (i) easements in the common area of each parcel for ingress to and egress from other parcels;
 - (ii) easements in the common area of each parcel for the passage and parking of vehicles;
 - (iii) easements in the common area of each parcel for the passage and accommodation of pedestrians;
 - (iv) easements for access roads across the common area of each parcel to private roadways;
 - (v) easements for the installation, use, operation, maintenance, repair, replacement, relocation and removal of utility facilities in appropriate areas in each such parcel;
 - (vi) easements on each such parcel for construction of buildings and improvements in favor of each such other parcel;

Declaration of Restrictive Covenants
in Lieu of Unity of Title
Page 3

- (vii) easements upon each such parcel in favor of each adjoining parcel for the installation, use, maintenance, repair, replacement and removal of common construction improvements such as footings, supports and foundations;
- (viii) easements on each parcel for attachment of buildings;
- (ix) easements on each such parcel for building overhangs, other overhangs and projections encroaching upon such parcel from adjoining parcel such as, by way of example, marquees, canopies, lights, lighting devices, awnings, wing walls and the like;
- (x) appropriate reservation of rights to grant easements to utility companies;
- (xi) easements in favor of each such parcel for pedestrian and vehicular traffic over dedicated private ring roads and access roads; and
- (xii) appropriate agreements between the owners of the several parcels as to the obligation to maintain and repair all private roadways, parking facilities, common areas and the like.

The easement provisions or portions thereof may be waived by the Village Attorney of the Village of Palmetto Bay, if they are not applicable to the subject application. When executed, the Easement and Operating Agreement shall not be amended without the prior written approval of the Office of the Village Attorney of Palmetto Bay. Such Easement and Operating Agreement may contain such other provisions with respect to the operation, maintenance and development of the Property as to which the parties thereto may agree, all to the end that although the property may have several owners, it will be constructed, conveyed, maintained and operated in accordance with the approved site plan.

4. The provisions of this instrument shall become effective upon their recordation in the public records of Miami-Dade County, Florida, and shall continue in effect for a period of thirty (30) years after the date of such recordation, after which time they shall be extended automatically for successive periods of ten (10) years each, unless released in writing by the then owners of the Property and the Village Attorney, acting for and on behalf of the Village of Palmetto Bay, Florida, upon the demonstration and affirmative finding that the same is no longer necessary to preserve and protect the property for the purposes herein intended.
5. The provisions of this instrument may be amended or modified by a written instrument executed by the then Owner or Owners of the Property, with joinders by all mortgagees, if any. Should this Declaration of Restrictive Covenants be so

Declaration of Restrictive Covenants
in Lieu of Unity of Title
Page 4

amended, or modified, the Village Attorney, or his successor, shall forthwith execute a written instrument effectuating and acknowledging such amendment or modification. The provisions of this instrument may be released by a written instrument executed by the then Owner or Owners of the Property, with joinders by all mortgagees, if any, after public hearing. Should this Declaration of Restrictive Covenants be so released, after public hearing and approval of the Village Council of the Village of Palmetto Bay, the Village Attorney, or his successor, shall forthwith execute a written instrument effectuating and acknowledging such release.

6. Enforcement shall be by action against any parties or persons violating or attempting to violate any covenants. The prevailing party to any action or suit pertaining to or arising out of this Declaration shall be entitled to recover, in addition to costs and disbursements, allowed by law, such sum as the Court may adjudge to be reasonable for the services of his attorney. This enforcement provision shall be in addition to any other remedies available at law, in equity or both.
7. Invalidation of any of these covenants by judgment of Court shall not affect any of the other provisions, which shall remain in full force and effect.
8. All rights, remedies and privileges granted herein shall be deemed to be cumulative and the exercise of any one or more shall neither be deemed to constitute an election of remedies, nor shall it preclude the party exercising the same from exercising such other additional rights, remedies or privileges.
9. In the event of a violation of this Declaration, in addition to any other remedies available, the Village of Palmetto Bay is hereby authorized to withhold any future permits, and refuse to make any inspections or grant any approval, until such time as this Declaration is complied with.
10. This Declaration shall be recorded in the public records of Miami-Dade County at the Owner's expense.
11. This Declaration specifically incorporates 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, with the exception of the unity of title requirement, any inconsistencies between this Declaration and the prior documents, the Declaration of Restrictive Covenants and the First Amendment to the Declaration of

Declaration of Restrictive Covenants
in Lieu of Unity of Title
Page 6

EXHIBIT "A"

LEGAL DESCRIPTION

Tracts A and B, Burger King World Headquarters, Plat Book 127, Page 86, of the
Public Records of Dade County, Florida.

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RESOLUTION NO. 07-31

ZONING APPLICATION VPB-07-01

A RESOLUTION OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, RELATING TO ZONING; APPROVING THE APPLICATION OF THE VILLAGE OF PALMETTO BAY REQUESTING ZONING APPROVAL PURSUANT TO SECTION 33-303 OF THE MIAMI-DADE COUNTY CODE, AS ADOPTED BY THE VILLAGE, TO ALLOW FOR PUBLIC FACILITY PUBLIC USE AT THE PROPERTY KNOWN AS 17641 OLD CUTLER ROAD FOR A PUBLIC LIBRARY AND PUBLIC PARK; AND, PROVIDING AN EFFECTIVE DATE.

WHEREAS, the applicant made applications pursuant to Section 33-303 of the Miami-Dade County Code, as adopted by the Village for the ability to use the site for a public facility, as described in the Village's Planning and Zoning Recommendation to the Village Council of the Village of Palmetto Bay, which is attached to this resolution; and,

WHEREAS, the Village Council of the Village of Palmetto Bay conducted a quasi-judicial hearing on the application at Southwood Middle School on March 12th, 2007; and,

WHEREAS, the Mayor and Village Council finds, based on substantial competent evidence in the record, that the application for a public facility use is consistent with the Village of Palmetto Bay's comprehensive plan and the applicable land development regulations; and,

WHEREAS, based on the foregoing finding, the Mayor and Village Council determined to grant the application, as provided in this resolution.

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

Section 1. A hearing on the present applications was held on March 12th, 2007 in accordance with Ordinance No. 02-03, entitled "Quasi-Judicial Hearing Procedures." Pursuant to the hearing, the Village Council makes the following findings of fact, conclusions of law and order.

Section 2. Findings of fact.

1. The applicant is the Village of Palmetto Bay, 8950 SW 152nd Street, Palmetto Bay, Florida 33157. The property that is the subject of this zoning resolution is located at 17641 Old Cutler Road. It is currently zoned EU-2. The applicant, pursuant to section 33-303 of the Miami-Dade County Code, is seeking to place a public facility use at the site, to wit: a public library and a public park.

1 2. The property bears the following legal description of:

2 Beginning at a point on the East side of the County Road 187 ½ feet due South of
3 the South Boundary of the Town of Cutler; thence Southerly along said County
4 Road to a point 338 feet due South of said South Boundary of the Town of
5 Cutler, thence East 1000 feet to Biscayne Bay, thence Northeasterly along
6 Biscayne Bay and parallel to said County Road to a point 187 ½ feet South of the
7 South boundary line of the Town of Cutler, thence West 1000 feet to the Point of
8 Beginning together with riparian rights lying between above described land and
9 the channel of Biscayne Bay, said above described land being in the NE ¼ SW ¼
10 of Section 35, Township 55 South, Range 40 East, lying and being in Miami-
11 Dade County, Florida.

12 LESS THE FOLLOWING DESCRIBED PARCEL OF LAND

13 All that certain tract or parcel of land lying and being situated in Miami-Dade
14 County, State of Florida, Section 35, Township 55 South, Range 40 East and
15 being described as follows:

16 Commencing at the intersection of the Easterly Right of Way of Old Cutler Road and a
17 line 187.5 feet South of the South boundary of the Town of Cutler. Then go
18 N87°E39'08"E for 750 feet to the Point of Beginning. For the Northern boundary of the
19 Tract continued N87°39'08"E from the Point of Beginning for 169 feet, more or less, to
20 the mean high water line of Biscayne Bay and a point hereafter designated as Point A, for
21 the Western, Southern and Eastern boundaries, go S07°24'35"W from the Point of
22 Beginning for 152.71 feet to the South line of Tract 2, of DAUGHERTY'S
23 SUBDIVISION, as recorded in Plat Book 1 at Page 1 of the Public Records of Miami-
24 Dade County, Florida, then go N87°39'08"E for 152 feet, more or less, to the mean high
25 water line of Biscayne Bay then go Northerly along said mean high line to Point "A."

26 3. The Village Council adopts the portions of the cover sheet to, and the Village
27 recommendation, entitled Introduction, Zoning Hearings History, Comprehensive Plan, and
28 Neighborhood Characteristics as its findings of fact.

29 Section 3. Conclusions of law.

30 1. The Village Council adopts the portions of the Village recommendation, entitled
31 Pertinent Requirements/Standards, section 33-303, Miami-Dade County Code; the Analysis, and
32 Recommendations contained in the staff report as the Village Council's conclusions of law.

33 2. Pursuant to the procedure provided under section 33-303, the Village may
34 establish any governmental facility in any location in the Village, without regard to the zoning or
35 use classification of any particular site or location.

1 3. A governmental facility is defined to include, but is not limited to: public parks,
2 playgrounds and buildings, and structures supplementary and incidental to such uses; public
3 libraries; public buildings and centers; art galleries and convention halls.
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5 4. The Village Council may only authorize the erection, construction and operation
6 of the governmental facility(ies) by resolution following public hearing. The public hearing shall
7 be held upon at least fifteen (15) days' notice of the time and place of such hearing published in a
8 newspaper of general circulation in Miami-Dade County, which publication shall include the
9 time and place of hearing before the Village Council.
10

11 5. A courtesy notice containing general information as to the date, time, and place of
12 the hearing, the property location and general nature of the application may be mailed to the
13 property owners of record, within a radius of 300 feet of the property described in the
14 application, or such greater distance as the Community Development Director may prescribe;
15 provided, however, that failure to mail or receive such courtesy notice shall not affect any action
16 or proceeding taken hereunder.
17

18 6. To provide additional notice to the public, the property shall be posted by a sign
19 or signs indicating the action desired and the time and place of the public hearing thereon.
20 Failure to post such property shall not affect any action taken hereunder.
21

- 22 7. At the public hearing the Village Council shall consider, among other factors:
23 a. the type of function involved, the public need therefore;
24 b. the existing land use pattern in the area;
25 c. alternative locations for the facility; and
26 d. the nature of the impact of the facility on the surrounding property.
27

28 After considering these factors, the Village Council shall take such action as is necessary to
29 provide for and protect the public health, safety and welfare of the citizens and residents of the
30 Village.
31

32 8. In the event the Village Council authorizes the construction, erection, use or
33 operation of a governmental facility in accordance with the procedures delineated above, or in
34 the event the Council otherwise determines that Village owned property should be utilized by the
35 Village for a particular public purpose, the property, pursuant to the requirements of section 33-
36 303, shall be posted by a sign or signs conspicuously located thereon indicating the
37 governmental facility or use authorized for the property. Such sign or signs may be removed
38 upon the commencement of construction.
39

40 Section 4. Order.
41

42 a. The site plan shall be submitted to, and meet with the approval of, the Director,
43 after consultation with the Village Manager, upon the submittal of an application for a building
44 permit and/or Certificate of Use and Occupancy; said plan to include among other things, but not

1 be limited thereto, location of structure or structures, exits and entrances, drainage, wall, fences,
2 landscaping, etc.

3
4 b. In the approval of the plan, the plan shall be substantially in accordance with that
5 submitted for the hearing, and as attached hereto. Except as may be specified by any zoning
6 resolution applicable to the subject property, any future additions on the property which conform
7 to Zoning Code requirements will not require further public hearing action.

8
9 c. The use shall be established and maintained in accordance with the approved
10 plan.

11
12 d. The property shall be posted by a sign or signs conspicuously located thereon
13 indicating the governmental facility or use(s) authorized for the property. Such sign or signs may
14 be removed upon the commencement of construction.

15
16 e. This is a final order.

17
18 Section 5. Record.

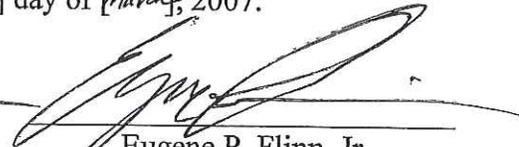
19
20 The record shall consist of the notice of hearing, the applications, documents submitted
21 by the applicant and the applicant's representatives to the Village of Palmetto Bay Department of
22 Community Development in connection with the applications, the Village recommendation and
23 attached cover sheet and documents, the testimony of sworn witnesses and documents presented
24 at the quasi-judicial hearing, and the tape and minutes of the hearing. The record shall be
25 maintained by the Village Clerk.

26
27 Section 6. This resolution shall take effect immediately upon approval.

28
29 PASSED and ADOPTED this [12th] day of [March], 2007.

30
31
32 Attest:


33 Meighan Pier
34 Village Clerk


35 Eugene P. Flinn, Jr.
36 Mayor

37 APPROVED AS TO FORM:

38
39 
40 Eve A. Boutsis,
41 Nagin Gallop Figueredo, P.A.
42 Office of Village Attorney
43
44

1 FINAL VOTE AT ADOPTION:
2
3 Council Member Ed Feller Yes
4
5 Council Member Paul Neidhart Yes
6
7 Council Member Shelley Stanczyk Yes
8
9 Vice-Mayor Linda Robinson Yes
10
11 Mayor Eugene P. Flinn Yes

1
2
3 **RESOLUTION NO. 07-70**

4 A RESOLUTION OF THE MAYOR AND VILLAGE COUNCIL OF THE
5 VILLAGE OF PALMETTO BAY, FLORIDA, RELATING TO ZONING;
6 APPROVING THE MODIFICATION APPLICATION OF 17777 OLD
7 CUTLER, LLC, ALSO KNOWN AS THE PALMETTO BAY VILLAGE
8 CENTER (PBVC), WHICH IS LOCATED AT 17777-18001 OLD CUTLER
9 ROAD, TO PROVIDE FOR A PARKING GARAGE WITH ROOF-TOP
10 AMENITIES AND TEMPORARY PARKING FACILITIES DURING
11 CONSTRUCTION OF THE PERMANENT PARKING STRUCTURE AND
12 MODIFICATION OF SITE PLAN AND COVENANT RELATING TO THE
13 SITE PLAN; PROVIDING FOR PUBLIC HEARING; AND PROVIDING AN
14 EFFECTIVE DATE.

15 WHEREAS, the applicant made applications for a modification of the existing site plan
16 tied to certain covenants in order to construct temporary parking during the construction of a
17 permanent parking structure within the Office Park District (OPD) as described in the staff report
18 of the Community Development Department of the Village of Palmetto Bay, which is attached to
19 this zoning resolution; and,
20

21 WHEREAS, the Village Council of the Village of Palmetto Bay conducted a quasi-
22 judicial hearing on the application at Southwood Middle School on June 18, 2007; and,
23

24 WHEREAS, the Mayor and Village Council finds, based on substantial competent
25 evidence in the record, that the application for a modification of the site plan and associated
26 covenants tying the OPD to a prior site plan, is consistent with the Village of Palmetto Bay's
27 Comprehensive Plan and the applicable land development regulations; and,
28

29 WHEREAS, based on the foregoing finding, the Mayor and Village Council determined
30 to grant the applications, as provided in this resolution.
31

32 NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND VILLAGE
33 COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, AS FOLLOWS:
34

35 Section 1. A public hearing on the present applications was held on June 18, 2007 in
36 accordance with ordinance. no. 02-03, entitled "Quasi-judicial hearing procedures." Pursuant to
37 the hearing, the Village Council makes the following findings of fact, conclusions of law and
38 order.
39

40 Section 2. Findings of fact.

- 41 1. The applicant, 17777 Old Cutler, LLC, which is also known as Palmetto Bay
42 Village Center ("PBVC") owns and operates the office park at the northeast

1 corner of SW 184th Street and Old Cutler Road, which property currently
2 maintains the address of 17777-18001 Old Cutler Road, Palmetto Bay, Florida.
3

4 2. The property is encumbered by several Declaration of Restrictive Covenants,
5 which covenants regulate certain uses of the property. These declarations are
6 attached and incorporated by reference as exhibit B.
7

8 3. The PBVC, specifically requested to modify a set of previously approved plans
9 under Resolution Z-34-89, in order to construct a 356-space parking structure
10 (97.5' in height) with roof top recreational amenities use where a surface parking
11 lot presently exists along with the construction of a temporary parking lot. See
12 Exhibit A.
13

14 4. On February 23, 1989, pursuant to Resolution Z-34-89, the Board of Miami Dade
15 County Commissioners approved, with conditions, the applicant's request of an
16 unusual use to permit a parking lot in a zone more restrictive than the use it
17 served; to wit parking of cars in a GU district to serve an Office Park District
18 (OPD) in conjunction with the Modification of Proffered Covenants and
19 Modification of Declaration of Restrictive Covenants via prior Resolution 4-
20 ZAB-143-86 as attached hereto.
21

22 5. Under an OPD, the developer is to delineate an open space character for buildings
23 whose principal uses are administrative, professional or research related. The
24 major objectives to be achieved by this district are to provide office complexes in
25 an open space environment, to provide freedom for the designer to take a creative
26 approach to the development of an office park and thereby to enhance the visual
27 quality of the Village. Under an OPD, the principal uses permitted are those
28 associated with office buildings for business, professional and secretarial uses that
29 cater to the provision of services. Retail and industrial activities are not permitted
30 as principal uses. Under an OPD, accessory uses are allowed as of right, provided
31 the accumulated total of all accessory uses does not exceed 15 percent of the total
32 gross interior square footage of the buildings proposed for the site, excluding
33 areas devoted to structured parking. Accessory uses may include personal
34 services, private clubs, print shops, recreational facilities including swimming
35 pools, and other similar uses.
36

37 6. The adopted 2005 Village of Palmetto Bay Future Land Use Plan designates the
38 subject property as designated for Village Mixed-Use (VMU), GU and Park Use.
39 The residential densities allowed in this category range from a minimum of 3.0
40 to a maximum of 14 units per gross acre.
41

42 7. VMU also permits non-residential uses such as office and retail with an average
43 floor area ratio (FAR) of 0.5; subject to the limits adopted as part of an approved

1 "Master Plan" (PBVC Charrette Advisory Committee Report dated September
2 2004).

3
4 8. The adopted 2005 Future Land Use Plan designates the easterly portion of the
5 subject property for environmentally protected parks and the westerly portion of
6 the property for parks and recreation. The remainder of the property is designated
7 VMU.

8
9 9. For a modification of a site plan and/or associated covenant, pursuant to Section
10 33-311(A)(7), of the Miami-Dade County Code, as adopted by the Village, the applicant
11 must demonstrate that the modification of the underlying Resolution and covenant would:

- 12
13 a. not generate excessive noise or traffic;
14 b. not tend to create a fire or other equally or greater dangerous hazard;
15 c. not provoke excessive overcrowding of people;
16 d. not tend to provoke a nuisance; and,
17 e. be compatible with the area concerned, when considering the necessity
18 and reasonableness of the modification, in relation to the present and future
19 development of the area concerned

20
21 10. Under the underlying OPD zoning district the maximum height of any structure is
22 100 feet. As part of the construction of the parking structure with recreational use, the
23 applicant is seeking to construct a temporary parking lot on that portion of the property
24 which is also zoned OPD in order to satisfy the existing parking needs being temporarily
25 displaced during the construction of the parking structure. The construction is contained
26 within the OPD district and does not affect the GU zoned areas of the PBVC. The
27 modification, if approved by the Village Council, shall also require a modification of the
28 associated declaration of restrictions, so that the attached site plans associated with the
29 declarations correctly reflect the construction, location (site plan) associated with the
30 parking structure and recreational roof top use.

31
32 11. The existing covenants for the PBVC, at page four, section 7, indicates that "the
33 [PBVC] will continue to maintain native vegetation on the portion of their property
34 located adjacent to Old Cutler Road and the north and south boundaries with the intent to
35 obscure any visibility of the office building from Old Cutler Road. All landscaping plans
36 will be submitted to the [Village] for approval prior to implementation." The proposed
37 97.5 foot high parking structure, according to Dover Kohl, the land planning consulting
38 firm hired by PBVC, does not impact the native vegetation view of Old Cutler Road, as
39 the structure is over 500 feet from Old Cutler Road and the property continues to be
40 buffered by the native vegetation required under the covenant. See attached Exhibit B.
41 Not only does the structure comply with covenant requirements, but, it is also consistent
42 with the height limitations as recommended in the Palmetto Bay Village Center Charrette
43 Advisory Committee Report dated September 2004.

1 12. As the PBVC is an OPD approved via Resolution, staff has confirmed that all
2 existing and proposed accessory uses for the entire OPD site comply with the provisions
3 of the Resolution and section 33-284.30, and are within the 15 percent cap on accessory
4 uses. The 15 percent cap provides the PBVC with 61,771.65 square feet of allowable
5 accessory uses. Including the modification to include the roof top recreational uses
6 (includes the entire roof deck), PBVC will have utilized approximately 55 percent of
7 allowable accessory use space.
8

9 Section 3. Conclusions of law.

10 1. Pursuant to Section 33-311(A)(7) of the Miami-Dade County Code, as adopted by
11 the Village, the applicant's request to modify the existing site plans to provide for a
12 parking structure, temporary parking during construction and roof-top amenities is hereby
13 granted. The declaration of restrictions which require compliance with prior site plan
14 shall be modified to include compliance with the attached site plan for a parking garage,
15 temporary parking and roof-top amenities.
16

17 2. The applicant has submitted a site plan, floor plans and elevations showing the
18 development of the proposed parking structure with recreational roof top amenities. The
19 proposed parking structure with recreational roof top amenities is consistent with the
20 existing use and is in accordance with the Village's adopted Comprehensive Plan and the
21 Declaration of Restrictive Covenants associated with the site.
22

23 3. The zoning code provides a required minimum level of parking. It does not
24 preclude a development from including additional parking from that beyond required by
25 zoning. The Village Council accepts the proffered covenant amending the site plan to
26 include the parking structure would allow the applicant to provide additional parking and
27 recreational amenities for the existing Office Park Complex.
28

29 4. The Land Use Map of the Comprehensive Plan designates this site for Village
30 Mixed-Use which would allow the construction of a parking structure with roof top
31 recreational amenities. (Remainder of property is designated Park Use and GU). The
32 parking structure does not add habitable or leaseable space, the Village Council finds that
33 it will not generate excessive noise or traffic, does not pose any greater fire hazard,
34 contribute to overcrowding of people, will not provoke a nuisance nor be incompatible
35 with the area concerned.
36

37 Section 4. Order.

38 Additional conditions.
39

40 The Village Council approves the modification request pursuant to 33-311(A)(7),
41 provided the following conditions are complied with:
42

1. The applicant, PBVC, executes and records the proffered covenant to modify the existing Declaration of Restrictions in order to reflect the modified site plan approved by the village council. The modified site plan shall be identified as: as prepared by GAIL BYRON BALDWIN ARCHITECTS Inc., consisting of 16 sheets, dated stamped received 5/25/2007. In no other way shall the existing covenants be modified or superseded.
2. The applicant must meet the minimum requirements of Chapter 24 of the Code of Miami-Dade County and comply with all DERM conditions as set forth in their memorandum pertaining to this application, once submitted.
3. The applicant must meet the minimum requirements of all other applicable departments/agencies as part of the building permit submittal process, including the Florida Department of Community Affairs.
4. The applicant shall relocate all existing trees affected by the proposed temporary parking areas and permanent parking structure to another location within the OPD site.
5. The applicant shall provide an additional grouping of native trees and landscaping at the northern boundary of the site to restore the visual buffer and lost canopy. The applicant shall submit a landscape plan to be reviewed and approved by the Village.
6. The color of the proposed parking structure shall be consistent with existing buildings on site.
7. Once the permanent parking structure is constructed the PBVC shall remove all evidence of the temporary parking area and restore the area to its pre-existing green condition.
8. The applicant shall provide improvements to the Old Cutler Bike Path for that portion of the path adjacent to the subject property, as recommended in the Old Cutler Bike Path Committee Report, accepted by the Village Council in May 2007. The applicant shall work with the Village as to the timing of construction of the Bike Path amenities, including lighting of same.

This is a final order.

Section 5. Record.

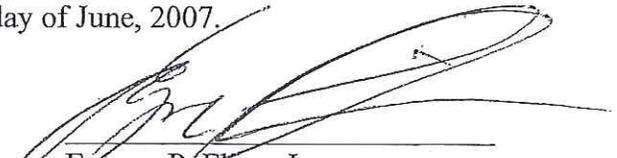
The record shall consist of the notice of hearing, the applications, documents submitted by the applicant and the applicant's representatives to the Village's Department of Community Development in connection with the applications, the county recommendation and attached

1 cover sheet and documents, the testimony of sworn witnesses and documents presented at the
2 quasi-judicial hearing, and the tape and minutes of the hearing. The record shall be maintained
3 by the Village Clerk.
4

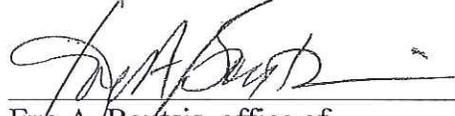
5 Section 6. This resolution shall take effect immediately upon approval.

6 PASSED and ADOPTED this 21st day of June, 2007.

7
8 Attest: 
9 Meighan Rader
10 Village Clerk


Eugene P. Flinn, Jr.
Mayor

11
12
13 APPROVED AS TO FORM:

14
15 
16 Eye A. Boutsis, office of
17 Village Attorney
18 Nagin Gallop & Figueredo, P.A.
19
20
21
22
23

24 FINAL VOTE AT ADOPTION:

- 25
26 Council Member Ed Feller YES
27
28 Council Member Paul Neidhart YES
29
30 Council Member Shelley Stanczyk YES
31
32 Vice-Mayor Linda Robinson YES
33
34 Mayor Eugene P. Flinn, Jr. YES
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RESOLUTION NO. 08-19

A RESOLUTION OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, RELATING TO ZONING; APPROVING THE MODIFICATION APPLICATION OF THE VILLAGE OF PALMETTO BAY AS PROPOSED EASEMENT HOLDER OF APPROXIMATELY 2.10 ACRES AND OF 17777 OLD CUTLER, LLC, ALSO KNOWN AS THE PALMETTO BAY VILLAGE CENTER (PBVC), WHICH IS LOCATED AT 17777-18001 OLD CUTLER ROAD, TO PROVIDE FOR A PARKING AREA AND CONSTRUCTION STAGING FOR THE VILLAGE'S LUDOVICI PARK AND PUBLIC LIBRARY; AND MODIFICATION OF SITE PLAN AND COVENANT RELATING TO THE SITE PLAN; PROVIDING FOR PUBLIC HEARING; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the applicant made applications for a modification of the existing site plan tied to certain covenants in order to provide a parking facility on the most Northern 2.10 acres, approximately, of the Palmetto Bay Village Center (PBVC) site to be used by the public in conjunction with the Village's Ludovici Park and Public Library as described in the staff report of the Community Development Department of the Village of Palmetto Bay, which is attached to this zoning resolution; and,

WHEREAS, 17777 Old Cutler, LLC, also known as the Palmetto Bay Village Center (PBVC) has agreed to provide the Village with a perpetual parking easement on approximately 2.10 acres of land to be used in conjunction with the Village's Ludovici Park and Public Library; and,

WHEREAS, prior to any such use, the modification of the approved site plan for the PBVC would require a modification to reflect the parking lot, and ensure compliance with the underlying Declaration of Restrictive Covenants, to wit: ensure the landscaping visual buffer along Old Cutler Road; and,

WHEREAS, the Village Council of the Village of Palmetto Bay conducted a quasi-judicial hearing on the application at Southwood Middle School on February 25, 2008; and,

WHEREAS, the Mayor and Village Council finds, based on substantial competent evidence in the record, that the application for a modification of the site plan and associated covenants tying the property to a prior site plan, is consistent with the Village of Palmetto Bay's Comprehensive Plan and the applicable land development regulations; and,

WHEREAS, based on the foregoing finding, the Mayor and Village Council determined to grant the applications, as provided in this resolution.

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

1 Section 1. A public hearing on the present applications was held on February 25, 2008,
2 in accordance with ordinance. no. 02-03, entitled "Quasi-judicial hearing procedures." Pursuant to
3 the hearing, the Village Council makes the following findings of fact, conclusions of law and order.
4

5 Section 2. Findings of fact.

- 6 1.. The applicants are the Village of Palmetto Bay and 17777 Old Cutler, LLC, which is
7 also known as Palmetto Bay Village Center ("PBVC"). PBVC owns and operates the
8 office park at the northeast corner of SW 184th Street and Old Cutler Road, which
9 property currently maintains the address of 17777-18001 Old Cutler Road, Palmetto
10 Bay, Florida.
- 11
- 12 2. The property is encumbered by several Declaration of Restrictive Covenants, which
13 covenants regulate certain uses of the property. These declarations are attached and
14 incorporated by reference as exhibit A.
- 15
- 16 3. The Village desires to construct a public park and library at a property adjacent to the
17 PBVC, at 17641 Old Cutler Road. The PBVC has agreed to provide a perpetual
18 easement to the Village to allow access to the Northernmost 2.10 acres of the PBVC
19 site to the general public and to the Village for a parking and access easement area.
20 However, prior to allowing any such access easement, the PBVC is required to seek a
21 modification of the existing site plan for the site, and seek zoning approval to allow
22 the parking use at the 2.10 acre area. As such, the PBVC, specifically requests to
23 modify a set of previously approved plans under Village of Palmetto Bay zoning
24 resolution 07-06 and Miami-Dade County zoning resolution Z-34-89, in order to
25 allow the Village to construct a surface parking area to be used by the general public
26 in conjunction with the public park and library. See Exhibit B. The proposed public
27 parking lot is within the OPD district approved by the Board of County
28 Commissioners on February 23,1989, pursuant to zoning resolution Z-34-89.
- 29
- 30 4. On February 23, 1989, pursuant to zoning resolution Z-34-89, the Board of Miami
31 Dade County Commissioners approved, with conditions, the applicant's request of
32 an unusual use to permit a parking lot in a zone more restrictive than the use it
33 served; to wit parking of cars in a GU district to serve an Office Park District (OPD)
34 in conjunction with the Modification of Proffered Covenants and Modification of
35 Declaration of Restrictive Covenants via prior Resolution 4-ZAB-143-86 as attached
36 hereto.
- 37
- 38 5. Under an OPD, the developer is to delineate an open space character for buildings
39 whose principal uses are administrative, professional or research related. The major
40 objectives to be achieved by this district are to provide office complexes in an open
41 space environment, to provide freedom for the designer to take a creative approach
42 to the development of an office park and thereby to enhance the visual quality of the
43 Village. Under an OPD, the principal uses permitted are those associated with
44 office buildings for business, professional and secretarial uses that cater to the
45 provision of services. Retail and industrial activities are not permitted as principal

1 uses. Under an OPD, accessory uses are allowed as of right, provided the
2 accumulated total of all accessory uses does not exceed 15 percent of the total gross
3 interior square footage of the buildings proposed for the site, excluding areas
4 devoted to structured parking. Accessory uses may include personal services, private
5 clubs, print shops, recreational facilities including swimming pools, and other similar
6 uses.
7

- 8 6. On June 18, 2007, the Village Council pursuant to Village zoning resolution 07-06,
9 approved, with conditions, the PBVC's request to modify a set of previously
10 approved plans that were authorized under Miami-Dade County zoning resolution
11 Z-34-89, in order to construct a 356-space parking structure (97.5' in height) with
12 roof top recreational amenities use where a surface parking lot presently exists along
13 with the construction of a temporary parking lot.
14
- 15 7. On March 12, 2007, pursuant to zoning resolution 07-31, the Village Council
16 pursuant to 33-303 of the Miami-Dade County Code, as adopted by the Village,
17 changed the use of the library and park site located at 17641 Old Cutler Road from
18 residential to allow a governmental facility to be constructed. This change of use was
19 found consistent with the Village's Comprehensive Plan and Future Land Use Map,
20 which designated the site for Parks and Recreation as well as Institutional and Public
21 Facility use. The Institutional and Public Facility designation entitles an area to be
22 used to construct, amongst other things, a library.
23
- 24 7. The adopted 2005 Village of Palmetto Bay Future Land Use Plan designates the
25 PBVC property as designated for Village Mixed-Use (VMU), GU and Park Use. The
26 residential densities allowed in this category range from a minimum of 3.0 to a
27 maximum of 14 units per gross acre. The 2.10 acres in question in this zoning
28 application are within the OPD district, adjacent to the Parks and Recreation
29 designated areas for the site.
30
- 31 8. The adopted 2005 Future Land Use Plan designates the easterly portion of the
32 subject property for environmentally protected parks and the westerly portion of the
33 property for parks and recreation. The remainder of the property is designated
34 VMU.
35
- 36 9. The Future Land Use Map specifically illustrates park and recreation areas.
37 Compatible parks continue to be encouraged in all residential land use categories and
38 may continue to be allowed in all other future land use categories. The siting and use
39 of future public and private parks and recreation areas shall be guided by the
40 Recreation and Open Space Element and the Capital Improvements Element of the
41 Comprehensive Plan. The maximum intensity for ancillary uses associated with the
42 Parks and Recreation designation shall not exceed a floor area ration (FAR) of 0.2.
43
- 44 10. The Village's Ludovici Park and Public Library received a change of use, to allow the
45 construction of the proposed Library and park
46

1 11. For a modification of a site plan and/or associated covenant, pursuant to Section 33-
2 311(A)(7), of the Miami-Dade County Code, as adopted by the Village, the applicant
3 must demonstrate that the modification of the underlying Resolution and covenant
4 would:

- 5
6 a. not generate excessive noise or traffic;
7 b. not tend to create a fire or other equally or greater dangerous hazard;
8 c. not provoke excessive overcrowding of people;
9 d. not tend to provoke a nuisance; and,
10 e. be compatible with the area concerned, when considering the necessity and
11 reasonableness of the modification, in relation to the present and future
12 development of the area concerned
13

14 12. The modification, if approved by the Village Council, shall require a modification of
15 the associated declaration of restrictions, so that the attached site plans associated with the
16 declarations correctly reflect the construction, location (site plan) associated with the
17 proposed public parking lot on approximately the northernmost 2.10 acres.
18

19 13. The existing covenants for the PBVC, at page four, section 7, indicates that "the
20 [PBVC] will continue to maintain native vegetation on the portion of their property located
21 adjacent to Old Cutler Road and the north and south boundaries with the intent to obscure
22 any visibility of the office building from Old Cutler Road. All landscaping plans will be
23 submitted to the [Village] for approval prior to implementation." The proposed parking lot
24 is not intended to not impact the native vegetation view of Old Cutler Road, and the Village
25 shall be required to comply with the underlying Declaration of Restrictions to ensure the
26 visual landscape buffer is maintained along the 2.10 acre areas by the Village. The remainder
27 of the landscape buffer along Old Cutler Road shall be the responsibility and obligation of
28 the PBVC. See attached Exhibit B.
29

30 Section 3. Conclusions of law.

31 1. Pursuant to Section 33-311(A)(7) of the Miami-Dade County Code, as adopted by
32 the Village, the applicant's request to modify the existing site plans to provide for a parking
33 lot along approximately the northernmost 2.10 acres for a public parking lot and public
34 access easement area is hereby granted. The declaration of restrictions which require
35 compliance with prior site plan shall be modified to include compliance with the attached
36 site plan.
37

38 2. The applicant has submitted a site plan for the surface parking lot. The proposed
39 parking lot is consistent with the existing use and is in accordance with the Village's adopted
40 Comprehensive Plan and the Declaration of Restrictive Covenants associated with the site.
41 The property shall comply with prior site plan approvals and all covenants and restrictions.
42

43 3. The zoning code provides a required minimum level of parking. It does not
44 preclude a development from including additional parking from that beyond required by
45 zoning, particularly as the parking area is to serve the Village's adjacent park and library at

1 the site 17641 Old Cutler Road. The Village Council accepts the proffered covenant
2 amending the site plan to include the parking lot would allow the applicant to provide
3 additional parking and recreational amenities for the entire Village community.
4

5 4. The Land Use Map of the Comprehensive Plan designates this site for Village
6 Mixed-Use which would allow the construction of a parking lot for the Village, as a large
7 portion of the PBVC is designated for Park Use and GU. The parking lot does not add
8 habitable or leaseable space and is a benefit to the community at large. Based upon the
9 foregoing, the Village Council finds that it will not generate excessive noise or traffic, does
10 not pose any greater fire hazard, contribute to overcrowding of people, will not provoke a
11 nuisance nor be incompatible with the area concerned.
12

13 Section 4. Order.

14 Additional conditions.
15

16 The Village Council approves the modification request pursuant to 33-311(A)(7), provided
17 the following conditions are complied with:
18

- 19 1. The applicant, PBVC, executes and records the proffered covenant to modify the
20 existing Declaration of Restrictions in order to reflect the modified site plan
21 approved by the Village Council, to include prior approvals and this approval. The
22 addition of the modified site plan shall be identified as: as prepared by Wolfberg
23 Alvares date stamped received October 31, 2007, and shall continue to include all
24 prior site plans identified in prior recorded declaration of restrictive covenants. In
25 no other way shall the existing covenants be modified or superseded.
26
- 27 2. The applicant must meet the minimum requirements of Chapter 24 of the Code of
28 Miami-Dade County and comply with all DERM conditions as set forth in their
29 memorandum pertaining to this application, once submitted.
30
- 31 3. The applicants must meet the minimum requirements of all other applicable
32 departments/agencies as part of the building permit submittal process, including the
33 Florida Department of Community Affairs.
34
- 35 4. The Village shall attempt to relocate all existing trees affected by the proposed
36 temporary parking areas and permanent parking structure to another location within
37 the OPD site.
38
- 39 5. The Village shall provide an additional grouping of native trees and landscaping at
40 the northern boundary of the site to restore the visual buffer and lost canopy. The
41 applicant shall submit a landscape plan to be reviewed and approved by the Village.
42

43 This is a final order.

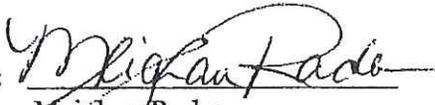
1
2 Section 5. Record.

3 The record shall consist of the notice of hearing, the applications, documents submitted by
4 the applicant and the applicant's representatives to the Village's Department of Community
5 Development in connection with the applications, the county recommendation and attached cover
6 sheet and documents, the testimony of sworn witnesses and documents presented at the quasi-
7 judicial hearing, and the tape and minutes of the hearing. The record shall be maintained by the
8 Village Clerk.
9

10 Section 6. This resolution shall take effect immediately upon approval.

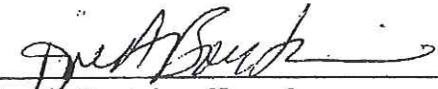
11 PASSED and ADOPTED this 3rd day of March, 2008.

12
13
14 Attest:


15 Meighan Rader
16 Village Clerk


17 Eugene P. Flinn, Jr.
18 Mayor

19 APPROVED AS TO FORM:

20
21 
22 Eve A. Boutsis, office of
23 Village Attorney
24 Nagin Gallop & Figueredo, P.A.
25

26
27 FINAL VOTE AT ADOPTION:

28
29 Council Member Ed Feller YES
30
31 Council Member Paul Neidhart YES
32
33 Council Member Shelley Stanczyk YES
34
35 Vice-Mayor Linda Robinson YES
36
37 Mayor Eugene P. Flinn, Jr. YES

ARCHITECTS
W
 ARCHITECTS
 1700 OLD CUTLER ROAD
 PALMETTO BEACH, FLORIDA 33411
 PHONE: (407) 851-1111
 FAX: (407) 851-1112
 WWW: WWW.WARCHITECTS.COM

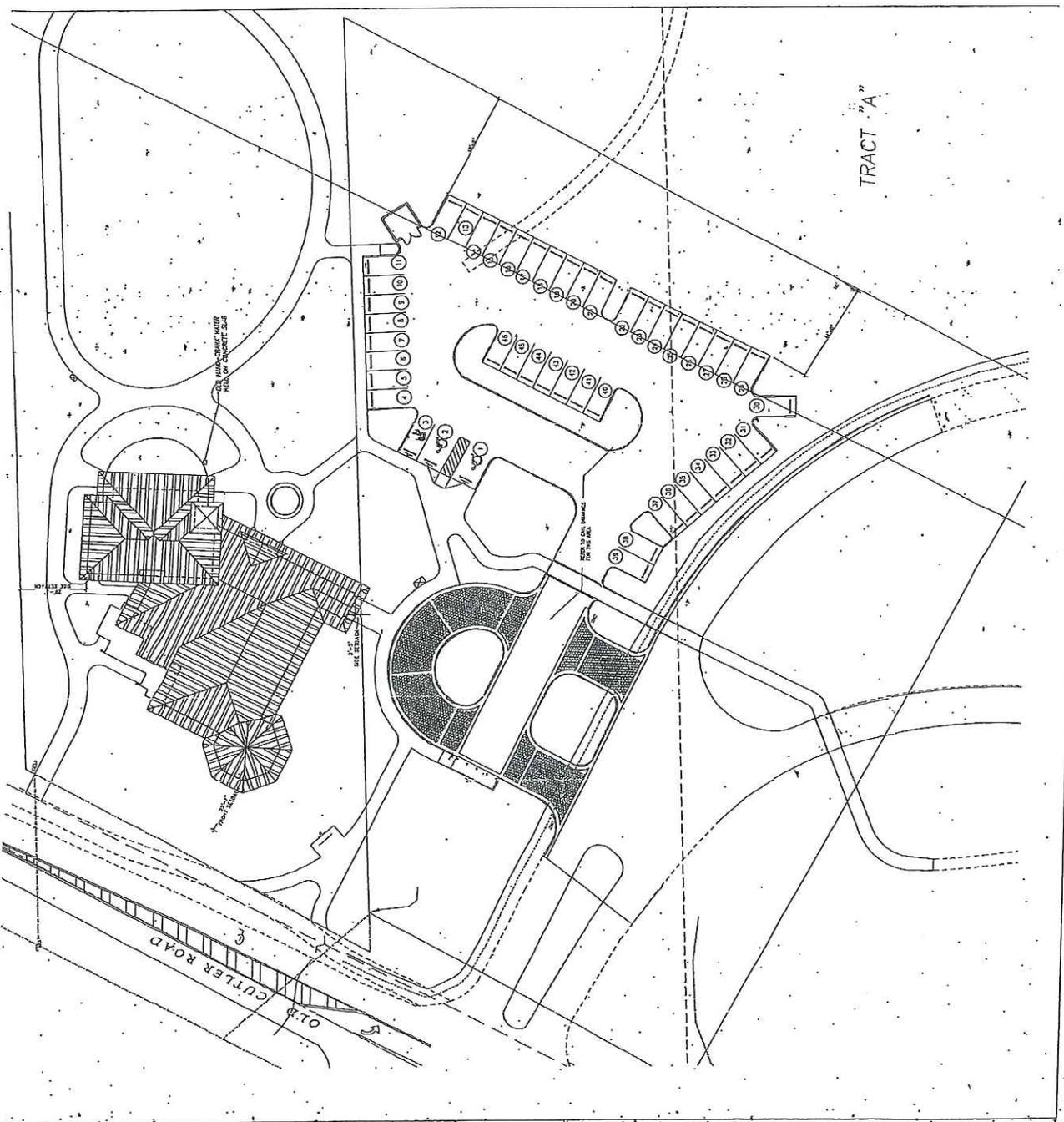


VILLAGE OF PALMETTO BAY LIBRARY
 1700 OLD CUTLER ROAD
 VILLAGE OF PALMETTO BAY, FLORIDA 33411

ISSUE DATE	12/31/24
ISSUE NO.	0017/00
PROJECT NO.	0017/00
DATE	
NO.	
DESCRIPTION	

DRAWN BY: [Name]
 CHECKED BY: [Name]
 PROJECT TITLE: [Title]
 SHEET NUMBER: A2.01
 OF 01

ARCHITECTURAL SITE PLAN
 SCALE: 1/4" = 1'-0"



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ORDINANCE NO. 08-09

AN ORDINANCE OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, RELATING TO THE VILLAGE'S CODE OF ORDINANCES, CHAPTER 30 ENTITLED "ZONING," CREATING SECTION 30-50.20, ENTITLED "VILLAGE MIXED USE" DISTRICT (VMU); WHICH SECTION SHALL BE PART OF THE VILLAGE'S LAND DEVELOPMENT CODE; AMENDING THE OFFICIAL ZONING MAP TO REFLECT THE CREATION OF THE VMU DISTRICT ON APPROXIMATELY 41.59 ACRES WITHIN 17777 - 18001 OLD CUTLER ROAD; AND ,REZONING THE DESIGNATED AREA TO THE "VILLAGE MIXED USE" DISTRICT; PROVIDING FOR DEFINITIONS, USES, GENERAL BUILDING REQUIREMENTS (DENSITY, HEIGHT, PARKING), AND PROCEDURES FOR ADMINISTRATIVE SITE PLAN REVIEW; PROVIDING FOR ORDINANCES IN CONFLICT, CODIFICATION, SEVERABILITY AND AN EFFECTIVE DATE.

WHEREAS, the Mayor and Village Council of the Village of Palmetto Bay pursuant to the Village's adopted Comprehensive Plan have pledged to develop a Land Development Code tailored to the needs of the Village's residents and properties; and,

WHEREAS, the Village has created Chapter 30 of the Village's Code of Ordinances entitled "Zoning," which Chapter shall be divided into divisions relating to separate subjects and which Chapter shall be considered the Village's Land Development Code; and,

WHEREAS, the Mayor and Village Council desire to create, consistent with the Village's Comprehensive Plan, a zoning district known as "Village Mixed Use," which provisions shall be found at Division 50, Section 20 of Chapter 30, entitled "Village Mixed Use" (VMU) District relating to the creation of a new zoning district within the Village to allow for a mixture of residential and commercial uses on a portion of the property known as the Palmetto Bay Village Center owned by 17777 Old Cutler Road, LLC; and,

WHEREAS, the Mayor and Village Council desire to amend the official zoning map to reflect the creation of the VMU district on approximately 41.59 acres within 17777 - 18001 Old Cutler Road; and,

WHEREAS, the VMU district provides for definitions, uses, general building requirements (density, height, parking), and procedures for administrative site plan review; and,

WHEREAS, the Village Mixed Use District is consistent with the Comprehensive Plan and in accordance with the Future Land Use Map, and,

WHEREAS, the Mayor and Village Council desire to adopt 30-50.20 as part of the Village's Land Development Code.

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

5 Section 1. The Village of Palmetto Bay hereby creates Section 30-50.20 of the
6 Village's Land Development Code, which shall read as follows:
7

8 * * *
9

10 **30-50.20 VMU, VILLAGE MIXED USE DISTRICT.**
11

12
13 (a) Purpose, Intent and Applicability.
14

15 The purpose of the Village Mixed Use District (VMU) is to offer residents and
16 visitors an expanded range of opportunities to live and work within the Village, by creating a
17 mixed-use development with the characteristics of a pedestrian oriented neighborhood that
18 promotes the health and well being of its residents by encouraging physical activity,
19 alternative transportation and greater social interaction. By enacting the VMU, the Village
20 shall:
21

22 (1) Create and preserve an interconnected system of green space to
23 protect Biscayne Bay;
24

25 (2) create an inviting mixed-use, pedestrian-friendly environment and a
26 new use predominately comprised of high-end housing for older persons;
27

28 (3) establish a postcard-quality town scene that will be a symbol of the
29 caliber, character and identity of the Village of Palmetto Bay; and
30

31 (4) protect and enhance scenic Old Cutler Road, minimizing any visual
32 impacts from proposed development.
33

34 The boundaries shown in attached Figure 1 shall constitute the Village Mixed Use District
35 boundary plan with all areas therein designated as zoned within the requirements of the
36 ordinance.
37

38 (b) No provision in this Section 30-50.20 shall be applicable to any property
39 lying outside the boundaries of the Village Mixed-Use District ("VMU").
40

41 (c) Definitions.
42

43 Terms used throughout this zoning district, under Section 30-50.20 shall take their
44 commonly accepted meaning unless otherwise defined in other Village Code provisions.
45 Terms requiring interpretation specific to this zoning district are as follows:
46

47 Grade: The established grade of the Property shall be established at the crown of
48 the public road, as defined by this division, adjoining the Property.

1
2 Property: The entire land (Figure 1) within the VMU District, regardless of
3 ownership.
4

5 Residential Building Type: one of the following residential building types permitted
6 in the VMU District: Rowhouses/Townhouses or Senior Housing (as hereinafter defined).
7

8 Rowhouses/Townhouses: a single-family attached dwelling unit of a group of two
9 (2) or more units each separated from the adjoining unit by a common party firewall or slab.
10 Each common party fire wall shall extend to the roof line or above the roof of units that it
11 serves or otherwise meet fire code separation requirements. Each Rowhouse/Townhouse
12 unit shall be serviced with separate utilities and shall otherwise be independent of any other
13 unit. Notwithstanding the above, these units may be stacked one over the other, and may be
14 placed above or beside a shared garage and/or storage area.
15

16 Senior Housing: attached dwelling units, intended to be "housing for older persons"
17 as such phrase is defined in Section 760.29 (4) Florida Statutes, which may also include
18 ancillary offices and dining and entertainment space; as well as medical and nursing services,
19 long term care, assisted living, continuing care, transitional or hospice uses which shall be
20 limited to use by residents of the Senior Housing. To the extent the provision of these
21 ancillary services requires the use of a separate bedroom apart from a resident's unit for
22 overnight stays, each such bedroom shall be considered a residential unit. Notwithstanding
23 the foregoing, the nursing and medical services to be provided as an accessory or ancillary
24 use to senior housing shall not allow for the establishment or creation within the VMU
25 district of a state licensed hospital or a "skilled nursing facility" as such term is defined by
26 section 1819 of the Social Security Act. Notwithstanding the preceding sentence, as an
27 exception thereto, ancillary nursing and medical services may serve, at any one time, no more
28 than 20 percent of the Senior Housing residents.
29

30 (d) Uses.
31

32 Uses are allowed in the VMU as provided for in this subsection. However, these
33 uses shall not be deemed or construed to prohibit a continuation of any structure, use or
34 occupancy in the VMU that were existing as of the date of the effective date of this
35 ordinance.
36

37 (1) Permitted Uses.
38

39 a. Residential uses. Residential uses are permitted in the VMU as
40 provided below in accordance with the Village's adopted Comprehensive Plan and
41 the Declaration of Restrictive Covenants and the First Amendment to the
42 Declaration of Restrictive Covenants recorded May 1, 1989 at Official Records Book
43 14089 at Pages 2349-52 and Official Records Book 12428 at Pages 923-1010, of the
44 Public Records of Miami-Dade County, Florida.

45 (i) Multi-family residential Rowhouses/Townhouses up
46 to 100 units
47

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(ii) Senior Housing, intended to comply with 760.29, Florida Statutes, in the form of multi-family condominiums or apartments up to 300 residential units

b. Mixed uses. The vertical or horizontal integration of two (2) or more of residential, business and office, and other permissible uses. Vertical integration allows any combination of primary uses. Horizontal integration allows any combination of parcels with different primary uses within the VMU. The following uses shall be permitted, either as a mixed use or on their own:

- i. auditoriums;
- ii. banks;
- iii. banquet, convention or meeting halls;
- iv. beauty parlors, spa services and barber shops;
- v. civic uses, except schools;
- vi. day care center and nursery;
- vii. dry cleaning, pick up and drop off only;
- viii. fire stations or substations;
- ix. medical and dental offices; professional and general business offices; government offices;
- x. health clubs and private clubs;
- xi. hotel;
- xii. museums;
- xiii. newsstands;
- xiv. public parks; preserve areas;
- xv. recreational facilities; entertainment amphitheatre or stages; tennis courts; court games; putting greens, swimming pools;
- xvi. restaurants, coffee houses, cafeterias, delicatessens;

xvii. rowhouses/townhouses;

xviii. retail uses and service convenience uses;

xix. senior housing; and

xx. shoe repair shops.

c. Additional Uses. Approval of additional uses other than as set forth in i. through xx. above would require Village Council approval of the use provided such uses would not have an unfavorable effect on the economy of the Village, would not generate or result in excessive noise or traffic, cause undue or excessive burden on public facilities, including water, sewer, solid waste disposal, recreation, transportation, streets, roads, highways or other such facilities which have been constructed or which are planned and budgeted for construction, are accessible by private or public roads, streets or highways, when considering the necessity for and reasonableness of such applied for use in relation to present and future development of the area concerned and the compatibility of the applied for use with such area and its development.

(2) 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 that was existing as of the date of the effective date of this ordinance.

(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. Non-residential 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.

b. Spaces. All buildings and building groups shall provide a minimum of ten (10) feet between each building or building groups

1 unless attached. Rowhouses/Townhouses shall provide a minimum of ten
2 (10) feet between building groups.
3

4 c. Building placement and buildable area:
5

6 i. Minimum lot width, depth and size for
7 Rowhouse/Townhouse: 24 feet wide by 30 feet deep. No
8 Rowhouse/Townhouse shall be smaller than 600 square feet, and the
9 average size of the Rowhouses/Townhouses in any grouping shall be
10 a minimum of 800 square feet.
11

12 ii. Maximum lot coverage: Maximum lot coverage shall
13 be 35 percent times gross lot area. The maximum lot coverage may
14 be calculated by measurement of the entire VMU district with lot
15 area coverage allocated by covenant or declaration of the property
16 owners within the Property. Areas covered by water features, access
17 roads, seawalls, sidewalks and other installations which are not
18 habitable building space shall be considered as open space in
19 calculations under this ordinance.
20

21 d. Allocation of development rights: All development rights
22 shall be allocated by covenant or declaration of the property owners within
23 the VMU. Development density shall be governed by height limitations,
24 maximum lot coverage, and residential unit density and not by any other
25 reference in the Land Development Code to floor area ratios, except for
26 non-residential uses which shall not exceed a floor area ratio of 0.5.
27

28 e. Density: Overall density for all residential units on the
29 Property, including Senior Housing facilities, shall be a minimum of 3.0 and a
30 maximum of 14.0 dwelling units per gross acre, all as consistent with the
31 Comprehensive Plan of the Village.
32

33 f. Covenant in lieu of unity of title: All property owners within
34 the VMU shall, notwithstanding any provision herein, be obliged to abide by
35 the conditions of any covenant in lieu of unity of title of record applicable to
36 the lands in the VMU.
37

38 g. Parking.
39

40 i. Multi-story parking garages, parking lots and on-street
41 parking on private roads shall count toward all parking requirements.
42 Individual parking garages for Rowhouses/Townhouses shall count
43 toward the parking requirement. Required parking for square footage
44 and uses added after the effective date of this Ordinance shall be:
45

46 ii. All permissible uses set forth herein, except
47 residential and medical not contained within a Senior Housing
48 facility: One (1) parking space for each 350 square feet, or portion

1 thereof, of net floor area, measured as the floor area less stairwells,
2 balconies, hallways, lobbies, elevator shafts and all vertical
3 penetrations.

4
5 iii. Multiple family dwelling units: One (1) parking space
6 for each bedroom, up to two (2) bedrooms, and then one (1) parking
7 space for every two (2) bedrooms thereafter.

8
9 iv. Senior Housing: A minimum of one (1) parking space
10 per dwelling unit, up to the first two (2) bedrooms, and then, a half-
11 space (.50) parking space for every bedroom thereafter.

12
13 v. Shared parking for non-residential uses may be
14 allowed by the Director to meet the code required parking
15 requirements, upon a review of the type of use, the level of projected
16 use and the hours of operation compared to other uses on the
17 Property.

18
19 vi. Medical: Other than medical uses which are contained
20 within any Senior Housing facility, one (1) parking space for each 200
21 square feet, or portion thereof, of net floor area, measured as the
22 floor area less stairwells, balconies, hallways, lobbies, elevator shafts
23 and all vertical penetrations.

24
25 (f) Signs.

26
27 Signage shall be permitted on the exterior of any structure, not to exceed five (5)
28 percent of the square footage area of the exterior facade of any structure. Monument signage
29 shall also be permitted, not to exceed ten (10) feet in height.

30
31 (g) Entrance Features.

32 Entrance features shall be permitted upon a showing that the location and means of
33 access do not create a visual obstruction that results in a traffic hazard, are complimentary in
34 character and scale to the development on the Property, and are maintained in a manner
35 acceptable to the Department.

36
37 (h) Hurricane Evacuation.

38 The property owner(s) shall create, enforce and implement a hurricane evacuation
39 plan for its residents. All costs associated with the plan's implementation shall be borne by
40 the master association which governs and enforces regulations applicable to all property
41 owners in the district. The Village shall bear no costs associated with hurricane evacuation
42 procedures required to be in full force and effect within the VMU.

1 (i) Non-conforming Structures, Uses, and Occupancies.

2
3 Nothing contained in this Section 30-50.20 shall be deemed or construed to prohibit
4 a continuation or restoration after casualty of a legal nonconforming structure, use or
5 occupancy in the VMU District that was existing as of the effective date of this ordinance.
6

7 (j) Review Procedure/Administrative Site Plan Review.

8
9 All applications for development approval within the VMU that are not otherwise
10 permitted as nonconforming uses or structures shall comply with the requirements of
11 Sections 30-30.5 and this section and with the site plan review criteria contained therein.
12 Developments shall be processed and approved administratively or by Village Council
13 action, as applicable, as follows:

14
15 (1) Administrative site plan review.

16
17 a. The Department shall review plans, including all materials
18 required under Section 30-30.5 for completeness and compliance with the
19 provisions of Sections 30-30.5 and 30-50.20, and for compliance with the site
20 plan review criteria provided therein, including but not limited to traffic
21 analysis.
22

23 b. This requirement shall be in addition to any declaration or
24 covenant effecting the Property that imposes greater or different standards
25 of review, including but not limited to any Covenant in Lieu of Unity of Title
26 requiring public hearing and compliance with existing site plans absent such
27 hearing and Village Council action, administrative review, notice and public
28 meetings and hearings; and/or all other existing or future restrictions, which
29 shall remain in full force and effect.
30

31 c. Conflicts. Conflicts with other sections, divisions and
32 regulations. This section shall govern the VMU district in the event of
33 conflicts with other zoning, subdivision or landscape regulations of this code.
34

35 (k) Public access to the general public of the VMU District's walking paths,
36 trails, path around the existing lagoon, and bike paths shall be provided during
37 daylight hours, with all parties utilizing said designated areas holding harmless the
38 owners within the VMU and entering at their own risk. This public access shall
39 provide a network of spaces available to the general public and interconnect the
40 green spaces of the VMU District to the remainder of Village. Public access to this
41 network of walkways and trails is consistent with the Village's Comprehensive Plan
42 and more specifically, pages 3 and 9 of the underlying charrette report approving the
43 creation of the VMU District. In no manner may residents trespass on other areas
44 of the VMU District which are not within the above designated areas and the owners
45 of property within the VMU district may develop reasonable regulations relating to
46 the manner, and extent of use of the public access walkways, paths, and trails,
47 provided that the above referenced hours shall not be modified except in the case of
48 emergency involving public safety or the establishment of special events that require

1 limited access during the duration of the event. The VMU property owners shall be
2 entitled to reconfigure the walkways and trails subject to public access. so long as
3 interconnection to the remainder of the Village is preserved.
4

5 * * *

6 Section 2. All ordinances or parts of ordinances in conflict with the provisions
7 of this ordinance are repealed.

8
9 Section 3. This ordinance shall be codified and included in the Code of
10 Ordinances.

11
12 Section 4. If any section, clause, sentence, or phrase of this ordinance is for any
13 reason held invalid or unconstitutional by a court of competent jurisdiction, the holding shall
14 not affect the validity of the remaining portions of this ordinance.

15
16 Section 5. This ordinance shall take effect immediately.

17
18 PASSED AND ENACTED this 9th day of June, 2008. (*executed July 16, 2008*)

19
20 First Reading: May 12th, 2008

21
22 Second Reading: June 9, 2008

23
24
25 Attest: *Meighan Rader*
26 Meighan Rader,
27 Village Clerk

Linda M. Robinson
Eugene P. Flinn, Jr.,
Mayor (Vice Mayor Robinson in his absence)

28
29
30 APPROVED AS TO FORM:

31
32 *J. A. Boutsis*
33 Eye A. Boutsis,
34 Nagin Gallop Figueredo, P.A.
35 Office of Village Attorney

36
37
38 FINAL VOTE AT ADOPTION:

39
40 Council Member Ed Feller YES
41
42 Council Member Paul Neidhart YES
43
44 Council Member Shelley Stanczyk YES
45
46 Vice-Mayor Linda Robinson YES
47
48 Mayor Eugene P. Flinn, Jr. YES

EXACTA

COMMERCIAL LAND SURVEYORS

L.B. 7551

1035 STATE ROAD 7, SUITE 315-23, WELLINGTON, FL 33414

TEL. No. 561-314-0769 FAX No. 561-314-0770

RECORDING AREA

SKETCH OF A PORTION OF TRACTS "A" & "B" BURGER KING WORLD HEADQUARTERS, P.B. 127, PG 86, D.C.R.

CURVE	RADIUS	ARC LENGTH	CHORD LENGTH	CHORD BEARING	DELTA ANGLE
C5	116.91'	29.08'	29.01'	S83°25'34"E	14°15'06"
C6	52.68'	69.23'	64.35'	S35°14'33"E	75°17'29"
C7	52.27'	57.52'	54.66'	S34°19'12"W	63°02'29"
C8	181.21'	177.00'	170.05'	S16°10'07"E	55°57'47"
C9	183.40'	131.00'	128.23'	S17°22'40"E	40°55'26"
C10	162.36'	103.13'	101.40'	S24°22'22"W	36°23'33"
C11	229.96'	75.73'	75.39'	S52°00'11"W	18°52'05"
C12	52.50'	27.73'	27.41'	N55°52'57"E	30°16'07"
C13	116.02'	76.84'	75.44'	N12°21'54"E	37°56'52"
C14	498.45'	182.52'	181.50'	N02°52'51"E	20°58'50"
C15	309.63'	131.92'	130.93'	N25°34'37"E	24°24'41"
C16	555.99'	176.86'	176.12'	N21°56'05"E	18°13'33"
C17	289.00'	182.41'	179.39'	N29°33'22"E	36°09'46"
C18	709.44'	167.48'	167.09'	N37°25'19"E	13°31'33"
C19	199.86'	207.63'	198.42'	N01°47'37"W	59°31'23"
C20	363.84'	116.78'	116.28'	N52°30'14"W	18°23'22"

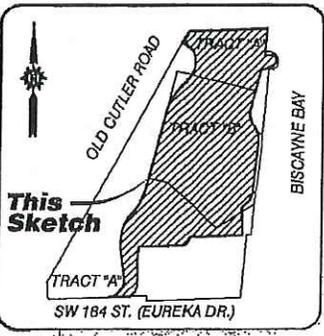
LEGEND:

- D.C.R. MIAMI-DADE COUNTY RECORDS
- C5 CURVE NUMBER 5
- P.B. PLAT BOOK
- PG. PAGE
- P.O.B. POINT OF BEGINNING

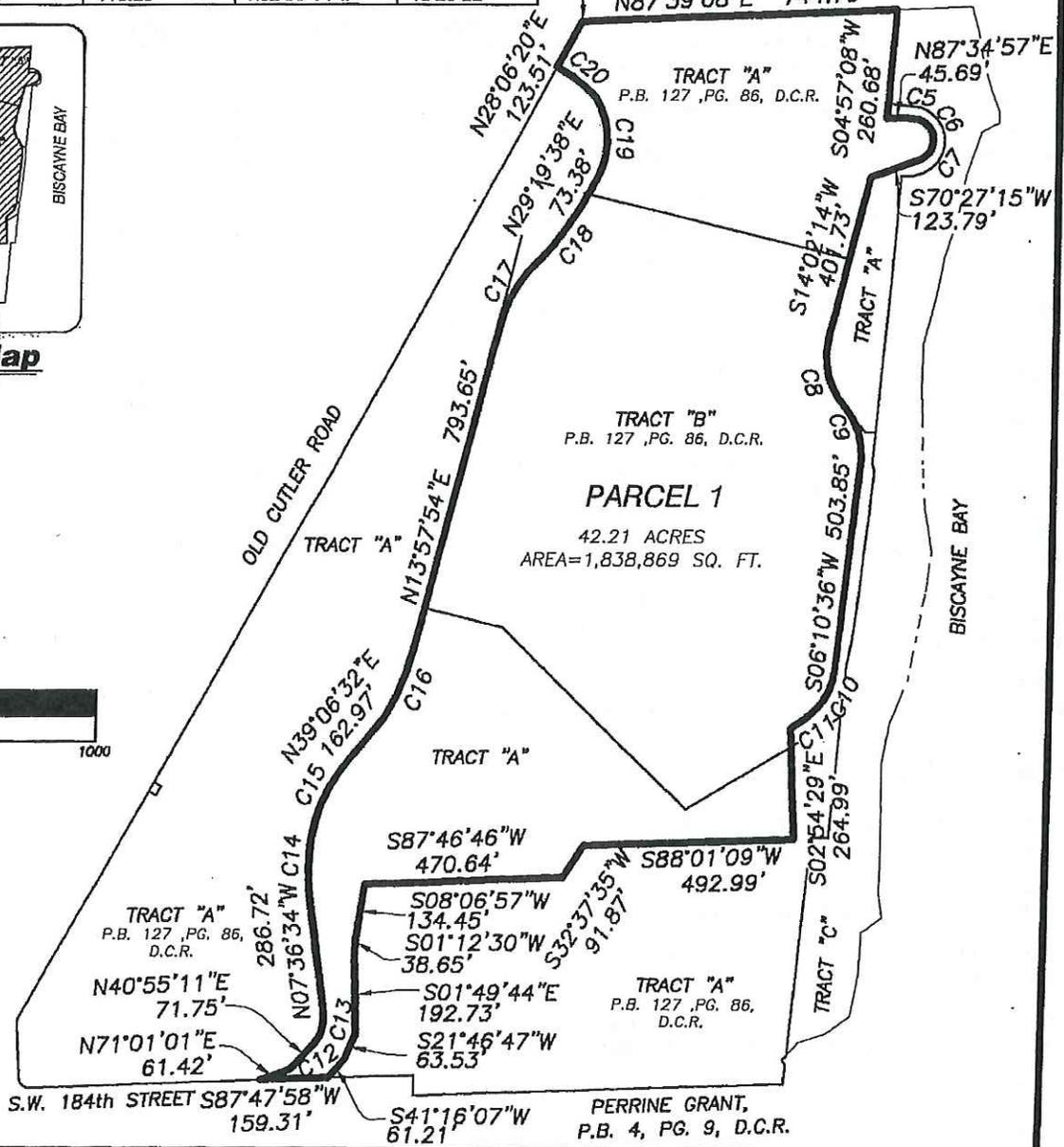
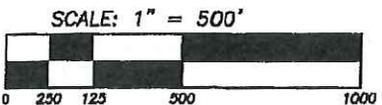
DOUGHERTY'S SUBDIVISION,

P.O.B. P.B.1, PG. 1, D.C.R.

N87°39'08"E 744.70'



Location Map
NOT TO SCALE



SHEET 1 OF 3

FLO0603-0224B

EXACTA

COMMERCIAL LAND SURVEYORS

L.B. 7551

1035 STATE ROAD 7, SUITE 315-23, WELLINGTON, FL 33414

TEL. No. 561-314-0769 FAX No. 561-314-0770

RECORDING AREA

SKETCH OF A PORTION OF TRACTS "A" & "B" BURGER KING WORLD HEADQUARTERS, P.B. 127, PG 86, D.C.R.

LEGAL DESCRIPTION:

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

BEGINS AT THE NORTHWEST CORNER OF TRACT "A" OF SAID BURGER KING WORLD HEADQUARTERS PLAT;

THENCE N.87°39'08"E., ALONG THE NORTH LINE OF SAID TRACT "A" AS SHOWN ON SAID BURGER KING WORLD HEADQUARTERS PLAT, A DISTANCE OF 744.70 FEET TO A POINT ON THE EAST LINE OF SAID TRACT "A";

THENCE S.04°57'08"W., ALONG SAID EAST LINE AND THE SOUTHERLY PROJECTION THEREOF, A DISTANCE OF 260.68 FEET;

THENCE N.87°34'57"E., A DISTANCE OF 45.69 FEET TO A POINT ON THE ARC OF A NON-TANGENT CURVE CONCAVE TO THE SOUTH HAVING A CHORD BEARING OF S.83°25'34"E.;

THENCE EASTERLY AND SOUTHEASTERLY ALONG THE ARC OF SAID CURVE, TO THE RIGHT, HAVING A RADIUS OF 116.91 FEET AND A CENTRAL ANGLE OF 14°15'06" FOR AN ARC DISTANCE OF 29.08 FEET TO A POINT OF COMPOUND CURVATURE OF A NON-TANGENT CURVE CONCAVE TO THE SOUTHWEST HAVING A CHORD BEARING OF S.35°14'33"E.;

THENCE SOUTHEASTERLY AND SOUTHERLY ALONG THE ARC OF SAID CURVE, TO THE RIGHT, HAVING A RADIUS OF 52.68 FEET AND A CENTRAL ANGLE OF 75°17'29" FOR AN ARC DISTANCE OF 69.23 FEET TO A POINT OF COMPOUND CURVATURE OF A NON-TANGENT CURVE CONCAVE TO THE NORTHWEST HAVING A CHORD BEARING OF S.34°19'12"W.;

THENCE SOUTHERLY AND SOUTHWESTERLY ALONG THE ARC OF SAID CURVE, TO THE RIGHT, HAVING A RADIUS OF 52.27 FEET AND A CENTRAL ANGLE OF 63°02'29" FOR AN ARC DISTANCE OF 57.52 FEET TO A POINT ON A NON-TANGENT LINE;

THENCE S.70°27'15"W., A DISTANCE OF 123.79 FEET;

THENCE S.14°02'14"W., A DISTANCE OF 401.73 FEET TO A POINT ON THE ARC OF A NON-TANGENT CURVE CONCAVE TO THE NORTHEAST HAVING A CHORD BEARING OF S.16°10'07"E.;

THENCE SOUTHERLY AND SOUTHEASTERLY ALONG THE ARC OF SAID CURVE, TO THE LEFT, HAVING A RADIUS OF 181.21 FEET AND A CENTRAL ANGLE OF 55°57'47" FOR AN ARC DISTANCE OF 177.00 FEET TO A POINT OF REVERSE CURVATURE OF A NON-TANGENT CURVE CONCAVE TO THE SOUTHWEST, HAVING A CHORD BEARING OF S.17°22'40"E.;

THENCE SOUTHEASTERLY AND SOUTHERLY ALONG THE ARC OF SAID CURVE, TO THE RIGHT, HAVING A RADIUS OF 183.40 FEET AND A CENTRAL ANGLE OF 40°55'26" FOR AN ARC DISTANCE OF 131.00 FEET TO A POINT ON A NON-TANGENT LINE;

THENCE S.06°10'36"W., A DISTANCE OF 503.85 FEET TO A POINT ON THE ARC OF A NON-TANGENT CURVE CONCAVE TO THE NORTHWEST, HAVING A CHORD BEARING OF S.24°22'22"W.;

THENCE SOUTHERLY AND SOUTHWESTERLY ALONG THE ARC OF SAID CURVE, TO THE RIGHT, HAVING A RADIUS OF 162.36 FEET AND A CENTRAL ANGLE OF 36°23'33" FOR AN ARC DISTANCE OF 103.13 FEET TO A POINT OF COMPOUND CURVATURE OF A TANGENT CURVE TO THE NORTHWEST, HAVING A CHORD BEARING OF S.52°00'11"W.;

THENCE SOUTHWESTERLY ALONG THE ARC OF SAID CURVE, TO THE RIGHT, HAVING A RADIUS OF 229.96 FEET AND A CENTRAL ANGLE OF 18°52'05" FOR AN ARC DISTANCE OF 75.73 FEET TO A POINT ON A NON-TANGENT LINE;

THENCE S.02°54'29"E., A DISTANCE OF 264.99 FEET;

THENCE S.88°01'09"W., A DISTANCE OF 492.99 FEET;

THENCE S.32°37'35"W., A DISTANCE OF 91.87 FEET;

THENCE S.87°46'46"W., A DISTANCE OF 470.64 FEET;

THENCE S.08°06'57"W., A DISTANCE OF 134.45 FEET;

THENCE S.01°12'30"W., A DISTANCE OF 38.65 FEET;

THENCE S.01°49'44"E., A DISTANCE OF 192.73 FEET;

THENCE S.21°46'47"W., A DISTANCE OF 63.53 FEET;

THENCE S.41°16'07"W., A DISTANCE OF 61.21 FEET TO A POINT ON THE SOUTH LINE OF SAID TRACT "A";

THENCE S.87°47'58"W., ALONG SAID SOUTH LINE, A DISTANCE OF 159.31 FEET;

THENCE N.71°01'01"E., A DISTANCE OF 61.42 FEET TO A POINT ON THE ARC OF A NON-TANGENT CURVE CONCAVE TO THE NORTHWEST HAVING A CHORD BEARING OF N.55°52'57"E.;

SHEET 2 OF 3

SKETCH NO.
FLO0805-0224B

EXACTA

COMMERCIAL LAND SURVEYORS

L.B. 7551

1035 STATE ROAD 7, SUITE 315-23, WELLINGTON, FL 33414

TEL. No. 561-314-0769 FAX No. 561-314-0770

RECORDING AREA

LEGAL DESCRIPTION: (CONTINUED)

THENCE NORTHEASTERLY, ALONG THE ARC OF SAID CURVE, TO THE LEFT, HAVING A RADIUS OF 52.50 FEET AND A CENTRAL ANGLE OF 30°16'07" FOR AN ARC DISTANCE OF 27.73 FEET TO A POINT ON A NON-TANGENT LINE;

THENCE N.40°55'11"E., A DISTANCE OF 71.75 FEET TO A POINT ON THE ARC OF A NON-TANGENT CURVE CONCAVE TO THE NORTHWEST, HAVING A CHORD BEARING OF N.12°21'54"E.;

THENCE NORTHEASTERLY AND NORTHERLY, ALONG THE ARC OF SAID CURVE, TO THE LEFT, HAVING A RADIUS OF 116.02 FEET AND A CENTRAL ANGLE OF 37°56'52" FOR AN ARC DISTANCE OF 76.84 FEET TO A POINT ON A NON-TANGENT LINE;

THENCE N.07°36'34"W., A DISTANCE OF 286.72 FEET TO A POINT ON THE ARC OF A TANGENT CURVE CONCAVE TO THE EAST;

THENCE NORTHERLY, ALONG THE ARC OF SAID CURVE, TO THE RIGHT, HAVING A RADIUS OF 498.45 FEET AND A CENTRAL ANGLE OF 20°58'50" FOR AN ARC DISTANCE OF 182.52 FEET TO A POINT OF COMPOUND CURVATURE OF A TANGENT CURVE CONCAVE TO THE SOUTHEAST;

THENCE NORTHERLY AND NORTHEASTERLY ALONG THE ARC OF SAID CURVE, TO THE RIGHT, HAVING A RADIUS OF 309.63 FEET AND A CENTRAL ANGLE OF 24°24'41" FOR AN ARC DISTANCE OF 131.92 FEET TO A POINT ON A NON-TANGENT LINE;

THENCE N.39°06'32"E., A DISTANCE OF 162.97 FEET TO A POINT ON THE ARC OF A NON-TANGENT CURVE CONCAVE TO THE NORTHWEST, HAVING A CHORD BEARING OF N.21°56'05"E.;

THENCE NORTHEASTERLY AND NORTHERLY, ALONG THE ARC OF SAID CURVE, TO THE LEFT, HAVING A RADIUS OF 555.99 FEET AND A CENTRAL ANGLE OF 18°13'33" FOR AN ARC DISTANCE OF 176.86 FEET TO A POINT ON A NON-TANGENT LINE;

THENCE N.13°57'54"E., A DISTANCE OF 793.65 FEET TO A POINT ON THE ARC OF A NON-TANGENT CURVE, CONCAVE TO THE SOUTHEAST, HAVING A CHORD BEARING OF N.29°33'22"E.;

THENCE NORTHERLY AND NORTHEASTERLY ALONG THE ARC OF SAID CURVE, TO THE RIGHT, HAVING A RADIUS OF 289.00 FEET AND A CENTRAL ANGLE OF 36°09'46" FOR AN ARC DISTANCE OF 182.41 FEET TO A POINT OF REVERSE CURVATURE OF A NON-TANGENT CURVE CONCAVE TO THE NORTHWEST, HAVING A CHORD BEARING OF N.37°25'19"E.;

THENCE NORTHEASTERLY ALONG THE ARC OF SAID CURVE, TO THE LEFT, HAVING A RADIUS OF 709.44 FEET AND A CENTRAL ANGLE OF 13°31'33" FOR AN ARC DISTANCE OF 167.48 FEET TO A POINT ON A NON-TANGENT LINE;

THENCE N.29°19'38"E., A DISTANCE OF 73.38 FEET TO A POINT ON THE ARC OF A NON-TANGENT CURVE, CONCAVE TO THE WEST, HAVING A CHORD BEARING OF N.01°47'37"W.;

THENCE NORTHEASTERLY, NORTHERLY AND NORTHWESTERLY, ALONG THE ARC OF SAID CURVE, TO THE LEFT, HAVING A RADIUS OF 199.86 FEET AND A CENTRAL ANGLE OF 59°31'23" FOR AN ARC DISTANCE OF 207.63 TO A POINT OF COMPOUND CURVATURE OF A NON-TANGENT CURVE CONCAVE TO THE SOUTHWEST;

THENCE NORTHWESTERLY ALONG THE ARC OF SAID CURVE, TO THE LEFT, HAVING A RADIUS OF 363.84 FEET AND A CENTRAL ANGLE OF 18°23'22" FOR AN ARC DISTANCE OF 116.78 FEET TO A POINT ON A NON-TANGENT LINE. SAID POINT ALSO BEING ON THE WEST LINE OF SAID TRACT "A";

THENCE N.28°06'20"E, ALONG SAID WEST LINE, A DISTANCE OF 123.51 FEET TO THE POINT OF BEGINNING. SAID LANDS SITUATE WITHIN MIAMI-DADE COUNTY, FLORIDA CONTAINING 42.21 ACRES (1,838,869 SQUARE FEET), MORE OR LESS.

SURVEY NOTES:

1. THE BEARINGS SHOWN HEREON ARE BASED ON S.87°47'58"W. ALONG THE SOUTH LINE OF THE SOUTHWEST ONE-QUARTER (SW 1/4) OF SECTION 35-55-40, LYING WITHIN MIAMI-DADE COUNTY, FLORIDA.
2. THE PROPERTY SHOWN HEREON WAS NOT ABSTRACTED FOR OWNERSHIP, RIGHTS-OF-WAY OF OTHER MATTERS OF RECORD BY EXACTA, A LAND SURVEYING COMPANY. THIS SKETCH DOES NOT REPRESENT A FIELD SURVEY (THIS IS NOT A SURVEY).
3. THE LEGAL DESCRIPTION SHOWN HEREON WAS AUTHORED BY EXACTA COMMERCIAL SURVEYORS, INC. WITHOUT THE BENEFIT OF A TITLE SEARCH AND BASED ON SKETCH PROVIDED BY THE CLIENT.

FILE: C:\Exacta Commercial surveyors\Grouper Financial\FL0803.0329 BK HQ S&D\0805-0224B.dwg

REVISIONS	DATE	BY

DATE OF SKETCH:	DRAWN BY	CHECKED BY	FIELD BOOK
07/07/08	JDLR	SF	N/A

CERTIFICATE:

THIS IS TO CERTIFY THAT THE SKETCH & LEGAL DESCRIPTION SHOWN HEREON IS ACCURATE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF. I FURTHER CERTIFY THAT THIS SKETCH AND LEGAL DESCRIPTION MEETS THE MINIMUM TECHNICAL STANDARDS SET FORTH BY THE FLORIDA BOARD OF PROFESSIONAL SURVEYORS AND MAPPERS IN CHAPTER 61G17-6, FLORIDA ADMINISTRATIVE CODE, PURSUANT TO SECTION 472.07, FLORIDA STATUTES.

JAVIER DE LA ROCHA

PROFESSIONAL SURVEYOR AND MAPPER NO. 8080 - STATE OF FLORIDA

SEAL

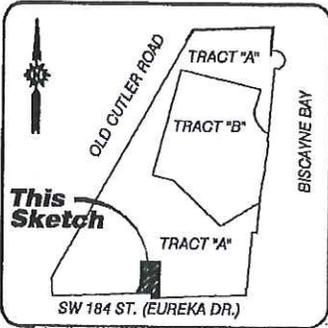
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SHEET 3 OF 3

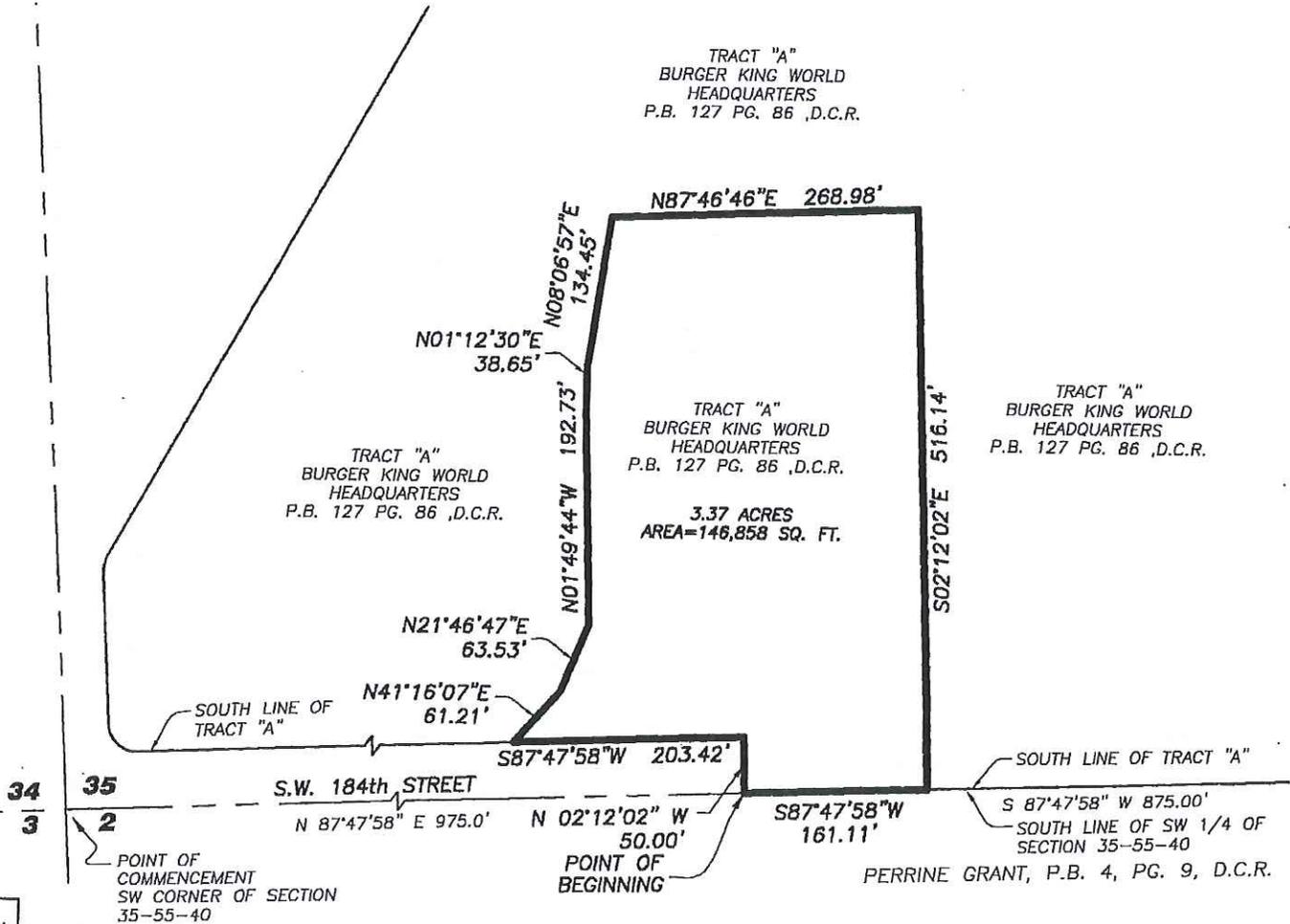
SKETCH OF A PORTION OF TRACT "A"
BURGER KING WORLD HEADQUARTERS, P.B. 127, PG 86, D.C.R.
PARCEL 2

LEGEND:

- D.C.R. MIAMI-DADE COUNTY RECORDS
- P.B. PLAT BOOK
- PG. PAGE
- P.O.B. POINT OF BEGINNING



Location Map
 NOT TO SCALE



SKETCH NO.
 FLO0805-0224

EXACTA

COMMERCIAL LAND SURVEYORS

L.B. 7551

1035 STATE ROAD 7, SUITE 315-23, WELLINGTON, FL 33414

RECORDING AREA

LEGAL DESCRIPTION OF A PORTION OF TRACT "A" BURGER KING WORLD HEADQUARTERS, P.B. 127, PG 86, D.C.R. PARCEL 2

LEGAL DESCRIPTION:

A PARCEL OF LAND BEING A PORTION OF TRACT "A", BURGER KING WORLD HEADQUARTERS, ACCORDING TO THE PLAT THEREOF RECORDED IN PLAT BOOK 127, PAGE 86, OF THE PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA AND A PORTION OF SECTION 35, TOWNSHIP 55 SOUTH, RNGE 40 EAST. SAID PARCEL BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE SOUTHWEST CORNER OF SECTION 35, TOWNSHIP 55 SOUTH, RANGE 40 EAST, LYING WITHIN MIAMI-DADE COUNTY, FLORIDA;

THENCE N.87°47'58"E., ALONG THE SOUTH LINE OF SAID SECTION 35, A DISTANCE OF 975.00 FEET TO THE SOUTHERLY LIMITS OF SAID TRACT "A". SAID POINT ALSO BEING THE POINT OF BEGINNING;

THENCE N.02°12'02"W., ALONG SAID SOUTHERLY LIMITS, A DISTANCE OF 50.00 FEET;

THENCE S87°47'58"W., ALONG SAID SOUTHERLY LIMITS, A DISTANCE OF 203.42 FEET;

THENCE N.41°16'07"E., DEPARTING SAID SOUTHERLY LIMITS, A DISTANCE OF 61.21 FEET;

THENCE N.21°46'47"E., A DISTANCE OF 63.53 FEET;

THENCE N.01°49'44"W., A DISTANCE OF 192.73 FEET;

THENCE N.01°12'30"E., A DISTANCE OF 38.65 FEET;

THENCE N.08°06'57"E., A DISTANCE OF 134.45 FEET;

THENCE N.87°46'46"E., A DISTANCE OF 268.98 FEET;

THENCE S.02°12'02"E., A DISTANCE OF 516.14 FEET TO THE SOUTH LINE OF SAID TRACT "A";

THENCE S.87°47'58"W., ALONG SAID SOUTHERLY LIMITS, A DISTANCE OF 161.11 FEET TO THE POINT OF BEGINNING.

SAID LANDS SITUATE WITHIN MIAMI-DADE COUNTY, FLORIDA CONTAINING 3.37 ACRES (146,858 SQUARE FEET, MORE OR LESS).

SURVEY NOTES:

1. THE BEARINGS SHOWN HEREON ARE BASED ON S.87°47'58"W. ALONG THE SOUTH LINE OF THE SOUTHWEST ONE-QUARTER (SW 1/4) OF SECTION 35-55-40, LYING WITHIN MIAMI-DADE COUNTY, FLORIDA.
2. THE PROPERTY SHOWN HEREON WAS NOT ABSTRACTED FOR OWNERSHIP, RIGHTS-OF-WAY OF OTHER MATTERS OF RECORD BY EXACTA, A LAND SURVEYING COMPANY. THIS SKETCH DOES NOT REPRESENT A FIELD SURVEY (THIS IS NOT A SURVEY).
3. THE LEGAL DESCRIPTION SHOWN HEREON WAS AUTHORED BY EXACTA COMMERCIAL SURVEYORS, INC. WITHOUT THE BENEFIT OF A TITLE SEARCH AND BASED ON SKETCH PROVIDED BY THE CLIENT.

FILE: C:\Exacta Commercial surveyors\Grouper Financial\FL0803.0329 BK HQ S&D\0805-0224 Sketch & Description B.dwg

REVISIONS	DATE	BY	CERTIFICATE:
REVISE BOUNDARY LIMITS	6-16-08	JDLR	
REVISE BOUNDARY LIMITS	7-7-08	JDLR	
DATE OF SKETCH: 06/02/08			THIS IS TO CERTIFY THAT THE SKETCH & LEGAL DESCRIPTION SHOWN HEREON IS ACCURATE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF. I FURTHER CERTIFY THAT THIS SKETCH AND LEGAL DESCRIPTION MEETS THE MINIMUM TECHNICAL STANDARDS SET FORTH BY THE FLORIDA BOARD OF PROFESSIONAL SURVEYORS AND MAPPERS IN CHAPTER 61G17-6, FLORIDA ADMINISTRATIVE CODE, PURSUANT TO SECTION 472.07, FLORIDA STATUTES.
DRAWN BY: JDLR			
CHECKED BY: SF			JAMIER DE LA ROCHA PROFESSIONAL SURVEYOR AND MAPPER NO. 6080 - STATE OF FLORIDA
FIELD BOOK: N/A			

SKETCH: FLO05-0224

SEAL
NOT VALID UNLESS SEALED HERE WITH AN EMBOSSED SURVEYOR'S SEAL

SHEET 2 OF 2

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RESOLUTION NO. 09-41

ZONING APPLICATION [08-003]

A RESOLUTION OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, RELATING TO ZONING; APPROVING THE APPLICATION OF MIAMI-DADE FIRE RESCUE AND PALMETTO BAY VILLAGE CENTER, WHICH IS LOCATED AT 17777-18001 OLD CUTLER ROAD, FOR SITE PLAN MODIFICATION AND AMENDMENT TO DECLARATION OF RESTRICTIVE COVENANTS IN LIEU OF UNITY OF TITLE; PROVIDING FOR PUBLIC HEARING; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the applicants made applications for the issuance of a declaration of restrictive covenants in lieu of unity of title, as described in the staff report of the Village Attorney as presented to Planning and Zoning Department of the Village of Palmetto Bay, which is attached to this resolution; and,

WHEREAS, on April 13, 2009, the Village Council of the Village of Palmetto Bay conducted a quasi-judicial hearing on the application at the Deering Estate, 16701 SW 72 Avenue, Palmetto Bay, Florida; and,

WHEREAS, the underlying 2006 declaration of restrictions in lieu of unity of title and pursuant to section 33-303, Miami-Dade County Code, the applicants, 17777 Old Cutler Road, LLC, d/b/a Palmetto Bay Village Center (PBVC) and the Miami-Dade Fire Rescue Department are required to hold a public hearing to modify the underlying site plan for the property; and,

WHEREAS, the Mayor and Village Council finds, based on substantial competent evidence in the record, that the application for the amendment of the attached declaration of restrictive covenants in lieu of unity of title, which is consistent with the Village of Palmetto Bay's comprehensive plan and the applicable land development regulations; and,

WHEREAS, based on the foregoing finding, the Mayor and Village Council determined to grant the applications, as provided in this resolution.

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

Section 1. A public hearing on the present application was held on April 13, 2009, in accordance with ordinance. no. 02-03, entitled "Quasi-judicial hearing procedures." Pursuant to the hearing, the Village Council makes the following findings of fact, conclusions of law and order.

Section 2. Findings of fact.

1 1. The applicant, 17777 Old Cutler Road, LLC, d/b/a Palmetto Bay Village Center
2 ("PBVC") owns and operates the office park at the northeast corner of SW 184th Street and
3 Old Cutler Road, which property currently maintains the address of 17777-18001 Old Cutler
4 Road, Palmetto Bay, Florida. The co-applicant, Miami-Dade County Fire Rescue shall own
5 the facility and land and provide fire rescue services from the proposed site, upon approval
6 of the Village Council of the underlying request.

7
8 2. The property is encumbered by a 1985 Declaration of Restrictive Covenants, which
9 covenants regulate certain uses of the property.

10
11 3. Section 33-257 of the Miami-Dade County Code, which code section was adopted by
12 the Village Council on May 5, 2003, authorized the Village to replace the "unity of title"
13 requirement contained in the 1985 Declaration of Restrictive Covenants with the 2006
14 Declaration of Restrictive Covenants in Lieu of Unity of Title, which allowed the property to
15 have multiple owners under a master operating agreement, and compliance with the
16 remainder of the 1985 restrictions.

17
18 4. The Palmetto Bay Village Center (PBVC) structures were originally constructed
19 within an Office Park District (OPD), which land and construction was tied to a detailed
20 declarations of restrictions ("the 1985 restrictions"). All the relevant land use restriction
21 portions of the 1985 restrictions remain in full force and effect; of particular interest are the
22 Old Cutler Road view restriction precluding view of the office buildings (the three specific
23 former Burger King Buildings); and the 75% resident approval of all those properties within
24 500 feet of the PBVC to any application by the property owner to change zoning for the
25 purposes of residential construction on Tract II and B (along the far south/east portion of
26 the site and the far west area adjacent to most of the Old Cutler Road tree area). Please
27 note, the proposed fire station is not within Tract II or B.

28
29 5. Previously, in 2006, the Village revised one of the 1985 restrictions, solely as to the
30 unity of title requirement. The Village allowed there to be more than one owner of the
31 PBVC site, provided the specific "declaration of restrictions in lieu of unity of title"
32 (hereinafter "2006 restrictions") were complied with by all property owners. These 2006
33 restrictions, incorporated all the remaining 1985 restrictions (particularly the two most
34 relevant provisions listed above as to view from Old Cutler and development preconditions
35 as to Tract II or B). The 2006 restrictions simply allowed the land to be separated. It
36 requires all owners are to comply with the underlying 1985 restrictions. The 2006
37 restrictions also specifically tied the property to a specific site plan (which through
38 subsequent public hearings has been amended). Pursuant to the 2006 restrictions, the only
39 way to amend the site plan is by public hearing. The 2006 restrictions also require a Master
40 Easement and Operation agreement, amongst the owners to ensure maintenance of
41 property, roadways, easements, and, of course, maintain compliance with the 1985
42 restrictions.

43
44 6. The Village, subsequent to the 2006 restrictions, has held two different public
45 hearings to modify the 2006 restrictions – solely to allow the approved PBVC site plan to be

1 modified. These two revisions include: the allowance of easement and parking area on
2 PBVC for the use of the Ludovici Park and Public Library; and the allowance for PBVC to
3 build a parking garage.
4

5 7. Thereafter, on June 9, 2008, the Village enacted the VMU District for most of the
6 PBVC. The VMU District covers 41.59 acres of the approximately 80 acres of the PBVC
7 property (17777 – 18001 Old Cutler Road). The zoning ordinance incorporates by reference
8 the underlying 1985 restrictions (approved under the 1985 Office Park Development zoning
9 resolution for the former Burger King site), and specifically states that the more restrictive
10 sections of either the zoning ordinance or the 1985 restrictions would apply to the
11 underlying property. In short, this ordinance rezoned the Palmetto Bay Village Center
12 property from Office Park District (OPD) to the VMU District. The VMU does not include
13 Tract II or B, which remains consistent with the relevant 1985 restrictions. It also
14 incorporates, by specific reference the Old Cutler restriction on view of the three former
15 Burger King office buildings.
16

17 8. The VMU District, as enacted, contemplates administrative site plan review of
18 permitted uses. In other words, permitted uses within the District do not require a public
19 hearing. Under the VMU District, fire stations or sub-stations, are permitted as allowable, as
20 of right, use within the District.
21

22 9. This matter is before the Village Council, for public hearing, due to the underlying
23 2006 restrictions, which ties the entire affected property to a specific site plan. The relevant
24 portion of that document provides that the applicant, PBVC, must request a public hearing
25 in order to be able to modify its site plan. Therefore, the request to install the fire station on
26 the property must be approved at a public hearing, to modify the site plan referenced in the
27 2006 restrictions.
28

29 10. To reconcile the 2006 restrictions and the intent of the VMU district, the request for
30 the Council to consider is as follows: to approve the site plan modification to approve the
31 inclusion of the fire station and to modify the 2006 restriction, solely as to the site plan
32 public hearing section – to conform to the intent of the VMU ordinance. In other words,
33 the VMU ordinance, which incorporates the 1985 restrictions, allows certain permitted uses,
34 without public hearing. These permitted uses include fire stations or sub-stations, which
35 should be reviewed administratively by the Planning and Zoning Department.
36

37 11. However, as the 2006 restriction is more stringent, tying the property to a site plan,
38 every zoning application, even an “as of right” permitted use under VMU would require a
39 public hearing. Again, this is because the entire 41.59 acres VMU district is tied to the 2006
40 restriction, public hearing site plan requirement. In order to reconcile the VMU District
41 administrative review process and the 2006 restrictions requirement, it is the request to
42 change the site plan language to reflect the intent that permitted uses under the VMU district
43 do not require a public hearing, and may proceed with administrative review. However, all
44 other requests, including any modifications to any of the declaration of restriction provisions
45 would require a public hearing. This modification of the 2006 restrictions would reconcile

1 the intent of the Council and continue to ensure compliance with the 1985 restrictions. It
2 would also allow continued force of the remaining provisions of the 2006 restrictions as to
3 the duties and obligations of the individual owners of the property.
4

5 12. Miami-Dade Fire Rescue has also requested that it be provided an exemption from
6 the Master Easement and Operation requirement of the 2006 restrictions. The Fire Rescue
7 property and use, accepts that it will have to ensure compliance with the remaining
8 provisions of the 2006 restrictions, and will have to execute cross-easements for access,
9 utilities, etc. The Fire Department has agreed to individually covenant to maintain
10 landscaping and ensure its own compliance with the 1985 restrictions, but, does not want to
11 be tied to the Master Operation documents. In other words, the Fire Department is
12 concerned with the possible assessment against them for remainder of the lands' (land
13 owners') compliance with the 1985 covenants and other general expenses relating to
14 remainder of the property. The operations agreement would operate as a Common Area
15 Maintenance (CAM) type cost that the Fire Department is seeking a waiver from by the
16 Village Council.
17

18 13. The site plan modification under the 2006 restrictions requires a public hearing for a
19 modification. As the specific use would be an allowed use under VMU, this is a unique
20 situation, in that the new zoning district has superseded the prior review criteria of 33-311 of
21 the Miami-Dade County Code, as to site plan modifications. Additionally, as the fire station
22 is a government facility, it can be reviewed as a governmental use under 33-303. Therefore,
23 in evaluating the application for a change of use, Section 33-303, of the Miami-Dade County
24 Code, as adopted by the Village, provides that the Village Council take into consideration,
25 among other factors:
26

- 27 a. the type of function involved, the public need therefore;
- 28 b. the existing land use pattern in the area;
- 29 c. alternative locations for the facility; and
- 30 d. the nature of the impact of the facility on the surrounding property.
31

32 14. The subject 80 +/- acre property known as the Palmetto Bay Village Center, is
33 located on the east side of Old Cutler Road, between theoretical S.W. 177th Street and
34 theoretical S.W. 184th Street, Palmetto Bay, Florida. The applicant is requesting to modify a
35 set of plans that were previously approved, after public hearing.
36

37 15. The applicants desires to modify the plans to allow for the construction of a two-
38 story, three-bay c.b.s, fire rescue station containing approximately 10,000 sq. ft., designed to
39 accommodate up to twelve (12) firefighters/paramedics, 24 hours a day, 7 days a week. The
40 fire station is to be built on approximately 1.08 acres within the Palmetto Bay Village Center
41 approximately 200 feet East of Old Cutler Road and just northwest of Building B. The
42 modification, if approved by the Village Council, shall also require a modification of the
43 associated declaration of restrictions, so that the attached site plans associated with the
44 declarations correctly reflect the construction, location (site plan) associated with the
45 proposed fire rescue station.

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16. The properties to the North are developed with single family residences and are zoned EU-2, Estate Single Family District. The property immediately adjacent to the North is the site of the Village's public library and Ludovici Park. The Village Site obtained a 33-303, government use designation in 2007. The properties to the west are zoned, EU-1, Estate Single Family Residential and EU-2, Estate Single Family Residential District. A portion of the eastern boundary of the property is designated environmentally protected land and belongs to Biscayne National Park.

17. The applicants have submitted a site plan, floor plans and elevations showing the development of the proposed fire rescue station. The Village Council takes notice of staff comment that the fire rescue station is consistent with the existing use and is in accordance with the Village's adopted Comprehensive Plan and the 1985 Declaration of Restrictive Covenants associated with the site.

18. The existing covenants at PBVC, at page four, section 7, indicates that "the [PBVC] will continue to maintain native vegetation on the portion of their property located adjacent to Old Cutler Road and the north and south boundaries with the intent to obscure any visibility of the [Burger King] office building from Old Cutler Road. All landscaping plans will be reviewed and approved prior to by the Village's Department of Planning and Zoning."

19. The Village Council takes note that the Village and Miami-Dade County have sought to provide a location for a fire station within Palmetto Bay for over six years. The stations serving the Village of Palmetto Bay include Station No. 50 located at 9798 Hibiscus Street and Station No. 4 located 9201 SW 52 Street. There is a public need for a fire station. The existing land use pattern in the area is predominantly residential, with the PBVC office complex adjacent to the specific site for the fire station. Alternative locations have been sought for the fire station, including within the front buffer area, west of the VMU and on the southern border. The Village Council in approving the VMU District rejected any use of these areas, and continued enforcement of the provisions in the 1985 Covenant. The Fire Department has also attempted to purchase land in the neighboring municipality of the Town of Cutler Bay, to no avail.

20. The Village Council is specifically aware that there currently do not appear to be alternative sites available for the fire station. Miami-Dade County has the funds appropriated to construct the station. The impact to surrounding properties would be favorable as they would be able to more readily obtain fire department services. This site would not impact environmental wetlands nor require a wetland permit (as the alternative sites may have required).

The public hearing was opened and the following persons testified:

Scott W. Mendelsberg, Assistant Director Budget, Planning and Grants, Miami-Dade Fire Rescue Department spoke in favor of the application. Also in attendance were Carlos Heredia,

1 Planning Section Supervisor, Miami-Dade Fire Rescue Department; Scott Silver, PBVC, 17777 Old
2 Culter Road, LLC.; Angel Lamela, Architect and Facility Manager, Miami-Dade Fire Rescue
3 Department. Station proposed is to be Green, Silver LEED Certified.
4

5 Henry Clifford of the Village's Fire Service Committee spoke in favor of the site
6 recommended.
7

8 Beth Kibbler, resident, supported the application.
9

10
11 Section 3. Conclusions of law.

12 The site plan modification is granted, pursuant to Section 33-303 for "Government Uses"
13 and 33-257 of the Miami-Dade County Code, as is the applicants' request to amend
14 Paragraphs 1 and 3, as reflected in the attached declaration of restriction in lieu of unity of
15 title is hereby granted. The revised declaration of restrictions in lieu of unity of title is
16 attached as exhibit 1 to this resolution and incorporated by reference into this resolution.
17 The modification would be in keeping with the basic intent and purpose of the zoning and
18 land use regulations, is in character with the existing use of the property, and consistent with
19 the Village's Comprehensive Plan.
20

21 Section 4. Order.

22 The applicants' request pursuant to the underlying 2006 declaration of restrictions in lieu of
23 unity of title authorized under 33-257 and 33-303 of the Miami-Dade County Code of
24 Ordinances, as adopted by the Village to provide a fire rescue station that will serve the
25 municipalities of Palmetto Bay and Cutler Bay is approved, with conditions:
26

27 Additional conditions.
28

- 29 1. The plans entitled "Proposed Fire Station No. 62" as prepared by Miami Dade Fire
30 Rescue Facilities and Construction, Architect, Angle H. Lamela, consisting of 2 sheets, dated
31 stamped received March 20, 2009 are approved.
32
- 33 2. The applicants shall meet the minimum requirements of Chapter 24 of the Code of
34 Miami-Dade County.
35
- 36 3. The applicants shall meet the minimum requirements of all other applicable
37 departments/agencies as part of the building permit submittal process.
38
- 39 4. The applicants shall relocate all existing trees affected by the proposed fire rescue station
40 on site.
41

- 1 5. The proposed structure shall be compatible in architectural design with that of the
2 adjacent public library and shall make every effort to incorporate green building
3 elements.
4
- 5 6. The applicants shall incorporate energy efficient outdoor lighting fixtures that are
6 compatible or similar in design with that of the adjacent public library
7
- 8 7. The applicants shall provide a space for the collection and storage of recyclables
9
- 10 8. The applicants shall provide roof location and install conduit from the electrical room
11 for future Photovoltaic System (PV) installation. A minimum of 300 sq. ft. or larger of
12 roof area in a south or west direction shall be dedicated and clear of vent pipes and other
13 obstructions to allow for the installation of a future PV system.
14
- 15 9. The applicants shall install Energy Star Appliances that use 10-50% less energy and water
16 than standard models.
17
- 18 10. The applicants shall provide an Indoor Air Quality Management Plan on the
19 construction drawings that, at minimum includes protecting ducts during construction
20 and changing the filters and vacuuming the ducts prior to occupancy.
21
- 22 11. The applicants shall provide secure bike parking in accordance with section 30-70.11 of
23 the Village of Palmetto Bay Land Development Code.
24
- 25 12. The applicants shall work with the Art in Public Places Advisory Board in addressing its
26 Art in Public Places requirement. Miami-Dade County funding requirement for art in
27 public places, should be added to the Village's requirement, for the Village's
28 disbursement in relation to creation of one art piece.
29
- 30 13. The attached covenant shall be executed by the applicants, which covenant requires the
31 following: modification of Paragraph 1 to the existing 2006 covenant, which would state
32 as follows: "No modification shall be effected to the underlying property without the
33 consent of the then owners of the Property, and the submittal of an application to
34 modify the plan in compliance with the permitted uses listed in the Village's Mixed Use
35 (VMU) District, for administrative review. Any conditional uses or other modifications
36 other than those as-of-right, permitted uses, including but not limited to any covenant
37 modifications would require approval of the then owners of the property, and the
38 submittal of the application at public hearing before the Village Council of the Village of
39 Palmetto Bay, Florida."
40
- 41 14. Paragraph 3, relating to an "Easement and Operating Agreement" for the property
42 would provide an exception for the Miami-Dade County Fire Department site, allowing
43 the Fire Department to opt out of the Operating Agreement. The Fire Department
44 would be required to execute mutual ingress, egress, utility, pedestrian and vehicular

1 traffic and construction easements and individually covenant to maintain the landscaping
2 within the site plan area and individually comply with the 1985 restrictions, as applicable.
3

4 15. The applicants' project does not require Chapter 360, Florida Statutes, review for
5 Regional Impact. On March 26, 2009, staff has conferred with Mike McDaniel, Chief,
6 Office of Comprehensive Planning with Florida Department of Community Affairs. A
7 fire station is not within the review criteria for a Regional Impact Determination.
8

9 16. The applicants shall seek to install a stop light at entrance of theoretical SW 177th Street
10 for exiting of Fire Department.
11

12 Section 5. Record.

13 The record shall consist of the notice of hearing, the application, documents submitted by
14 the applicants and the applicants' representatives to the Miami-Dade County Department of
15 Planning and Zoning in connection with the applications, the county recommendation and attached
16 cover sheet and documents, the testimony of sworn witnesses and documents presented at the
17 quasi-judicial hearing, and the tape and minutes of the hearing. The record shall be maintained by
18 the Village Clerk.
19

20 Section 6. This resolution shall take effect immediately upon approval.

21 PASSED and ADOPTED this 13th day of April, 2009.

22 Attest:

23 Meighan Rader
24 Meighan Rader
25 Village Clerk

Eugene P. Flinn, Jr.
Eugene P. Flinn, Jr.
Mayor

26 APPROVED AS TO FORM:

27 Eve A. Boutsis
28 Eve A. Boutsis, office of
29 Village Attorney
30
31

32 FINAL VOTE AT ADOPTION:

33
34 Council Member Ed Feller YES
35
36 Council Member Howard Tendrich YES
37
38 Council Member Shelley Stanczyk YES
39
40 Vice-Mayor Brian W. Pariser YES
41
42 Mayor Eugene P. Flinn, Jr. YES

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RESOLUTION NO. 09-96

ZONING APPLICATION VPB-09-0_

A RESOLUTION OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, RELATING TO ZONING; APPROVING THE APPLICATION OF THE VILLAGE OF PALMETTO BAY REQUESTING ZONING APPROVAL PURSUANT TO SECTION 33-303 OF THE MIAMI-DADE COUNTY CODE, AS ADOPTED BY THE VILLAGE, TO ALLOW FOR SIGNAGE ASSOCIATED WITH THE 2007 APPROVAL OF A PUBLIC FACILITY PUBLIC USE AT THE PROPERTY KNOWN AS 17641 OLD CUTLER ROAD FOR A PUBLIC LIBRARY AND PUBLIC PARK; AND, PROVIDING AN EFFECTIVE DATE.

WHEREAS, in 2007, the applicant made applications pursuant to Section 33-303 of the Miami-Dade County Code, as adopted by the Village for the ability to use the site for a public facility – for a Public Library and the Ludovici Park; and,

WHEREAS, the original application neglected to address permanent signage for the library and park; and,

WHEREAS, the Village Council of the Village of Palmetto Bay conducted a quasi-judicial hearing on the application at The Deering Estate on November 19, 2009; and,

WHEREAS, the Mayor and Village Council finds, based on substantial competent evidence in the record, that the application to modify the public facility use application to include signage is consistent with the Village of Palmetto Bay's comprehensive plan and the applicable land development regulations; and,

WHEREAS, based on the foregoing finding, the Mayor and Village Council determined to grant the application, as provided in this resolution.

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

Section 1. A hearing on the present applications was held on November 19, 2009, in accordance with the Village's "Quasi-Judicial Hearing Procedures" Ordinance. Pursuant to the hearing, the Village Council makes the following findings of fact, conclusions of law and order.

Section 2. Findings of fact.

1. The applicants are the Village of Palmetto Bay, 8950 SW 152nd Street, Palmetto Bay, Florida 33157; and 17777 Old Cutler Road LLC, d/b/a Palmetto Bay Village Center. The property that is the subject of this zoning resolution is located at 17641 Old Cutler Road and the northern most 2.1 acres of 17777 Old Cutler Road, received a public facility use designation in 2007. the northern most 2.1 acres of 17777 Old Cutler Road LLC's parcel contains an access and parking easement agreement in favor of the Village's Library, and contains the median area in

1 which the proposed government use sign (joint use signage) would be located. The applicants,
2 pursuant to section 33-303 of the Miami-Dade County Code, is seeking to modify the 2007
3 government use facility application to include signage for the public library, public park, and the
4 Palmetto Bay Village Center, along the northern entry to the Palmetto Bay Village Center, which
5 entryway is the vehicular access point to the Village's library and park.
6

7 2. The property bears the following legal description of:

8 A portion of tract "A" of "Burger King Work Headquarters" according to the
9 plat thereof as recorded in plat book 127 at page 86 of the public records of
10 Miami-Dade County, Florida, more particularly described as follows:

11 Commence at the intersection of S.W. 176th Street and Old Cutler Road, said
12 point being the beginning of a curve to the right, of which the radius point lies
13 N64°41'14"W, a radial distance of 2,864.93 feet; thence Southwesterly along the
14 arc, through a central angle of 02°48'48", a distance of 140.67 feet to a point of
15 tangency; thence S28°07'34"W for a distance of 249.44 feet along the centerline
16 of Old Cutler Road; thence run N87°39'08"E for a distance of 40.61 feet to a
17 point on the easterly right-of-way line of Old Cutler Road, said point being the
18 point of beginning; then continue N87°38'29"E for a distance of 399.14 feet
19 along the South boundary line of Track 2 (plat book 1 - page 1); thence
20 S28°07'34"W for a distance of 366.42 feet; thence N61°52'26"W for a distance of
21 344.00 feet said point being coincident to a point on the easterly right-
22 -of-way of Old Cutler Road; thence along the easterly right-of-way line of Old Cutler Road
23 N28°07'34"E for a distance of 164.00 feet to the point of beginning.

24 Containing 91,282.64 square feet or 2.10 acres, more or less.

25
26 3. The Village Council adopts the portions of the cover sheet to, and the Village
27 recommendation, entitled Introduction, Zoning Hearings History, Comprehensive Plan, and
28 Neighborhood Characteristics as its findings of fact.
29

30 Section 3. Conclusions of law.
31

32 1. The Village Council adopts the portions of the Village recommendation, entitled
33 Pertinent Requirements/Standards, section 33-303, Miami-Dade County Code; the Analysis, and
34 Recommendations contained in the staff report as the Village Council's conclusions of law.
35

36 2. Pursuant to the procedure provided under section 33-303, the Village may amend
37 the established governmental facility use for the underlying location, without regard to the zoning
38 or use classification of any particular site or location.
39

40 3. A governmental facility is defined to include, but is not limited to: public parks,
41 playgrounds and buildings, and structures supplementary and incidental to such uses; public
42 libraries; public buildings and centers; art galleries and convention halls. Signage may be
43 provided as part of the government facility. However, the original application did not provide
44 signage for the library or park. Within the easement area, the Palmetto Bay Village Center has a
45 permitted and existing sign. That sign is recommended for removal and replacement. The

1 attached plans reflect the proposed joint use signage. Due to the Village's easement agreement,
2 the Village is entitled to place a sign within the northern entry way to the Palmetto Bay Village
3 Center. Through the government facility use process, the Village approved the signage proposed,
4 including the joint use portion of same.
5

6 4. The Village Council may only authorize the erection, construction and operation
7 of the governmental facility(ies) by resolution following public hearing. The public hearing shall
8 be held upon at least fifteen (15) days' notice of the time and place of such hearing published in a
9 newspaper of general circulation in Miami-Dade County, which publication shall include the time
10 and place of hearing before the Village Council.
11

12 5. A courtesy notice containing general information as to the date, time, and place of
13 the hearing, the property location and general nature of the application may be mailed to the
14 property owners of record, within a radius of 300 feet of the property described in the
15 application, or such greater distance as the Community Development Director may prescribe;
16 provided, however, that failure to mail or receive such courtesy notice shall not affect any action
17 or proceeding taken hereunder.
18

19 6. To provide additional notice to the public, the property shall be posted by a sign
20 or signs indicating the action desired and the time and place of the public hearing thereon. Failure
21 to post such property shall not affect any action taken hereunder.
22

23 7. At the public hearing the Village Council shall consider, among other factors:

- 24 a. the type of function involved, the public need therefore;
- 25 b. the existing land use pattern in the area;
- 26 c. alternative locations for the facility; and
- 27 d. the nature of the impact of the facility on the surrounding property.
28

29 After considering these factors, the Village Council shall take such action as is necessary to
30 provide for and protect the public health, safety and welfare of the citizens and residents of the
31 Village.
32

33 Section 4. Order.
34

35 a. The site plan shall be submitted to, and meet with the approval of, the Director,
36 after consultation with the Village Manager, upon the submittal of an application for a building
37 permit; said plan to include among other things, but not be limited thereto, location of the
38 proposed sign, landscaping, etc.
39

40 b. In the approval of the plan, the plan shall be substantially in accordance with that
41 submitted for the hearing, and as attached hereto. Except as may be specified by any zoning
42 resolution applicable to the subject property, any future additions on the property which conform
43 to Zoning Code requirements will not require further public hearing action.
44

45 c. The use shall be established and maintained in accordance with the approved
46 plan.
47

1 d. The Mayor and Village Council accepted the Planning & Zoning Directors
2 updated memorandum dated November 18, 2009, in which the copy for the sign was modified to
3 reflect the following language "The Edward and Arlene Feller Community Room and
4 Amphitheater at Ludovici Park." ON November 2, 2008, the Mayor and Council, via Resolution
5 no.: 09-95 had officially renamed the community room and amphitheater and therefore, the copy
6 for the signage of the site was modified accordingly.

7
8 e. The Mayor and Council requested the co-applicant, the Palmetto Bay Village
9 Center (PBVC) to place LED lighting and investigate the possibility of Solar lighting for the co-
10 located signage. The manager of the PBVC agreed to the condition.

11
12 f. This is a final order.

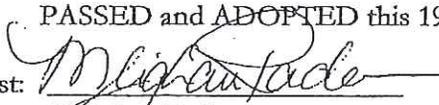
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14 Section 5. Record.

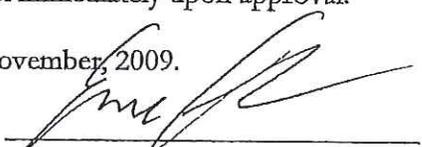
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16 The record shall consist of the notice of hearing, the applications, documents submitted
17 by the applicant and the applicant's representatives to the Village of Palmetto Bay Department of
18 Planning and Zoning in connection with the applications, the Village recommendation and
19 attached cover sheet and documents, the testimony of sworn witnesses and documents presented
20 at the quasi-judicial hearing, and the tape and minutes of the hearing. The record shall be
21 maintained by the Village Clerk.

22
23 Section 6. This resolution shall take effect immediately upon approval.

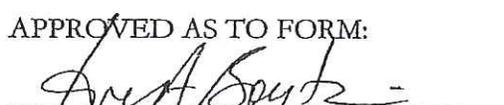
24
25 PASSED and ADOPTED this 19th day of November, 2009.

26
27 Attest:

28 
29 Meighan Rader
30 Village Clerk

31 
32 Eugene P. Flinn, Jr.
33 Mayor

34 APPROVED AS TO FORM:

35 
36 Eve A. Boutsis,
37 Office of Village Attorney

38 FINAL VOTE AT ADOPTION:

39 Council Member Ed Feller YES
40
41 Council Member Howard Tendrich YES
42
43 Council Member Shelley Stanczyk YES
44
45 Vice-Mayor Brian W. Pariser YES
46
47 Mayor Eugene P. Flinn, Jr. YES

RESOLUTION

VILLAGE CENTER TRANSFER OF DEVELOPMENT RIGHTS

VPB-16-005

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RESOLUTION NO. _____

A RESOLUTION OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, PURSUANT TO SECTION 30-30.15, ENTITLED TRANSFER OF DEVELOPMENT RIGHTS (TDR); TRANSFERRING 85 RESIDENTIAL UNITS FROM 17901 OLD CUTLER ROAD, AS MORE PARTICULARLY DESCRIBED AT ATTACHMENT A; TO 17777 OLD CUTLER ROAD, AS MORE PARTICULARLY DESCRIBED AT ATTACHMENT B; AND ACCEPTING BY THE VILLAGE, AS A CONDITION THEREOF, THE OWNERSHIP OF PARCELS OF APPROXIMATELY 40± ACRES, AS MORE PARTICULARLY DESCRIBED AT ATTACHMENT C, FOR PUBLIC FACILITIES, PARKS, AND CONSERVATION PURPOSES; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Applicant, 17777 Old Cutler Road, LLC, made an application to transfer the development rights of 85 residential units from 17901 Old Cutler Road (sender site), as more particularly described at Attachment A, to 17777 Old Cutler Road (receiver site), as more particularly described at Attachment B; and

WHEREAS, the sender site is a 22± acre parcel of undeveloped land which contains wetlands, pine up-lands, and native fauna and vegetation; and the receiver site is over 40± acres and is developed with office buildings and is permitted to have multifamily uses; and

WHEREAS, in transferring the development right to the receiver property the applicant has offered and intends to deed the property together with other lands of approximately 40± acres, as more particularly described at Attachment C, to the Village of Palmetto Bay; and

WHEREAS, by transferring the development rights from the sender site and deeding the land to the Village of Palmetto Bay, it becomes available for a passive park and conservation area with only minor ancillary structures, and the north 1 ½ acres of the 22± parcel, can be made available to locate a much needed fire rescue facility; and

WHEREAS, the request is consistent with and in furtherance of the recognized purpose of the TDR program including the creation to additional opens space, preservation of environmentally sensitive lands, and public facilities; and

WHEREAS, the applicant has agreed to transfer approximately 40± acres of land for the purpose of providing for parks, conservation, and public facilities; and

WHEREAS, once development rights are transferred, they are not available for private development on the sender site; and

WHEREAS, the Village Council of the Village of Palmetto Bay conducted a quasi-judicial hearing on the application at Village Hall, 9705 East Hibiscus Street, on _____, 2016 and _____, 2016; and

1
2 **WHEREAS**, the Mayor and Village Council finds, based on substantial competent evidence
3 in the record, that the application for the transfer of development rights is consistent with the
4 Village of Palmetto Bay's Comprehensive Plan and the applicable Land Development Regulations;
5 and,
6

7 **WHEREAS**, based on the foregoing finding, the Mayor and Village Council determined to
8 grant the application, as provided in this resolution.
9

10 **NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND VILLAGE**
11 **COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, AS FOLLOWS:**
12

13 **Section 1. Quasi-judicial.** A public hearing on the present applications was held on
14 _____, 2016, in accordance with the Village's "Quasi-judicial Hearing Procedures".
15 Pursuant to the testimony and evidence presented during the hearing, the Village Council makes the
16 following findings of fact, conclusions of law and final order.
17

18 **Section 2. Recitals.** The above recitals are true and correct and incorporated herein by
19 this reference.
20

21 **Section 3. Findings of fact.**
22

23 1. The transfer of development rights is consistent with the Village's Comprehensive
24 Plan, as further specified in the Analysis Section of the Village's Staff report.
25

26 2. The rules that govern transfer of development rights are at Section 30-30.15 of the
27 Land Development Regulations. A review of that Code, as evidenced in the analysis of staff, which
28 is incorporated by reference into this resolution, and after hearing the applicant and applicant's
29 experts, the Village Council found the request consistent with those criteria.
30

31 3. The Village adopts and incorporates by reference the Planning & Zoning
32 Department staff report, which expert report is considered competent substantial evidence.
33

34 4. The applicant has agreed to all conditions in the section entitled Order.
35

36 5. The Village Council had no substantive disclosures regarding ex-parte
37 communications and the applicant raised no objections as to the form or content of any disclosures
38 by the Council.
39

40 **Section 4. Conclusions of law.**
41

42 The transfer of development rights application was reviewed pursuant to Section 30-30.15(f)
43 of the Village of Palmetto Bay's Code of Ordinances, and was found to be conditionally consistent.
44

45 **Section 5. Order.**
46

1 The Village Council grants the transfer of developments request with the following conditions:
2

3 1. The applicant shall provide sealed surveys that accurately depict the sender site,
4 receiver, and land dedication site, prior to the transfer of the 85 residential units. Said surveys will
5 be deemed acceptable for purposes of transferable rights and land dedication upon staff
6 determination that they are generally reflective of the Attachments A, B and C, of the Resolution.
7

8 2. As part of the land dedication process, and prior to transfer of the 85 residential
9 units, the lands involved shall comply with Chapter 28, Subdivisions, of the Miami-Dade County
10 Code of Ordinances, and/or record any other legal instrument deemed necessary to ensure clear
11 title.
12

13 3. The approved Resolution shall be recorded to the titles of all lands involved.
14

15 4. Prior to transfer of the 85 residential units The Village shall receive clear title to the
16 dedicated lands as generally described in Attachment C of the Resolution and as further depicted in
17 the survey submitted and accepted pursuant to condition of 2 of this recommendation.
18

19 5. All previous conditions, approvals, covenants and resolutions shall remain in effect
20 unless otherwise altered by the granting of this request and any conditions assigned therein.
21

22 This is a final order.
23

24 **Section 6. Record.**
25

26 The record shall consist of the notice of hearing, the applications, documents submitted by
27 the applicant and the applicants' representatives to the Village of Palmetto Bay Department of
28 Planning and Zoning in connection with the applications, the county recommendation and attached
29 cover sheet and documents, the testimony of sworn witnesses and documents presented at the
30 quasi-judicial hearing, and the tape and minutes of the hearing. The record shall be maintained by
31 the Village Clerk.
32

33 **Section 7. Effective date.**
34

35 This resolution shall take effect immediately upon approval.
36

37 PASSED and ADOPTED this ____ day of _____, 2016.
38
39
40

41 Attest: _____
42 Meighan Alexander
43 Village Clerk
44

Eugene Flinn
Mayor

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

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Dexter W. Lehtinen
Village Attorney

FINAL VOTE AT ADOPTION:

Council Member Karyn Cunningham _____
Council Member Tim Schaffer _____
Council Member Larissa Siegel Lara _____
Vice-Mayor John DuBois _____
Mayor Eugene Flinn _____

This Resolution was filed in the Office of the Village Clerk on this ____ day of _____, 2016.

Meighan Alexander
Village Clerk

ATTACHMENT A

Sender Site

VILLAGE CENTER TRANSFER OF DEVELOPMENT RIGHTS
VPB-16-005

ATTACHMENT B

Receiver Site

VILLAGE CENTER TRANSFER OF DEVELOPMENT RIGHTS
VPB-16-005

Attachment B

Receiver Site



ATTACHMENT C

Donation Site

VILLAGE CENTER TRANSFER OF DEVELOPMENT RIGHTS
VPB-16-005

Attachment C

Donation Site



APPLICATION

VILLAGE CENTER TRANSFER OF DEVELOPMENT RIGHTS

VPB-16-005

February 12, 2016

Mr. Darby Delsalle, AICP, Director
Department of Planning and Zoning
Village of Palmetto Bay
9705 East Hibiscus Street
Palmetto Bay, Florida 33157

Re: Zoning Application
Transfer of Development Rights
Applicant: 17777 Old Cutler Road, LLC
Folio Numbers: 33-5035-013-0020 and 33-5035-013-0010

Dear Mr. Delsalle:

Our Firm represents 17777 Old Cutler Road, LLC ("Applicant"), owner of the Office Park Development and surrounding acreage at 17777 and 18001 Old Cutler Road (the "Property"). The Property contains zoning designations of VMU (Village Mixed Use) and I (Interim). The zoning designations were created after the incorporation of the Village of Palmetto Bay and incorporate concepts espoused in the 1985 Development Order issued for the property which granted Development Order rights to develop a large office park development with ancillary retail facilities in the eastern property area (the "Office Park Area") and to maintain a visual buffer area with limited development on the area now zoned "I" located closest to Old Cutler Road (the "Environmentally Sensitive Area"). In conjunction with this Development Order, the major points of access were concentrated in the north and south border areas of the Property, with the central area along Old Cutler Road free of any vehicular access and consisting of significant landscaping and pedestrian paths.

The Applicant hereby requests zoning approval for a transfer of Development Rights to permanently disallow residential development in the Environmentally Sensitive Area, and to transfer 85 additional residential units to the Office Park Area in a manner that will be consistent with the Village's Comprehensive Plan, compatible with the surrounding area, and in keeping with the planning principles originally approved in 1985 for the Property. Specifically, the Applicant requests that the Village's determination in the attached letter dated January 26, 2016, be implemented

through the transfer of Development Rights from the Environmentally Sensitive Area to the Office Park Area. This transfer of Development Rights is consistent with Ordinance Numbers 2015-16 and 2015-17, adopted by unanimous vote of the Mayor and Village Council on December 7, 2015 (the "Approved TDR Legislation"). The Approved TDR Legislation created a means of transferring Development Rights away from environmentally sensitive lands by facilitating appropriate redevelopment and revitalization in a limited, compatible manner for more developable properties. The legislation's most significant goal is to increase the availability of open space and publicly owned park space for the benefit of the Village. In addition, two ordinances are proposed:

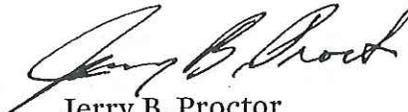
1. Amendment of the Land Use Element of the Village's Comprehensive Plan to amend the descriptions for the Property to reflect the current approved residential density for the Property, and to recognize that development of the Office Park Area may include the additional units granted by a transfer of Development Rights approved by the Village Council. By virtue of the specific submittal of this application, this transfer would be permitted from the area zoned VMU in the Office Park Area, and the development of residential units would be prohibited in the Environmentally Sensitive Area.
2. Ordinance amending the VMU District to reflect the ability to develop up to 85 additional units in the Office Park Area, which may include multi-family residential development, row houses or townhouses, and/or senior living housing, in accordance with past policy decisions of the Village Council. This ordinance reflects that up to 2 additional stories of building height may be developed in accordance with the provisions of Ordinance Numbers 2015-16 and 2015-17.

We believe that this Application and the accompanying legislation will provide the permanent continuation of the existing buffer space along Old Cutler Road, will allow for compatible development on the remainder of the Property, and will provide additional open space that will benefit the quality of life for Village residents.



Thank you for your consideration of this Application.

Sincerely,



Jerry B. Proctor

JBP\wp
cc Ed Silva, Village Manager
Dexter Lehtinen, Esq., Village Attorney
Scott Silver
Tom Dotzenrod
Steve Devinney



ZONING HEARING (ZH) APPLICATION
Village of Palmetto Bay, Department of Planning and Zoning

LIST ALL FOLIO #S: 33-5035-013-0020, 33-5035-013-0010 Date Received _____

1. NAME OF APPLICANT (Owner(s) of record of the property or lessee. If applicant is a lessee, an executed 'Owner's Sworn-to-Consent' and copy of a valid lease for 1 year or more is required. If the applicant is a corporation, trust, partnership, or like entity, a 'Disclosure of Interest' is required).
17777 Old Cutler Road, LLC

2. APPLICANT'S MAILING ADDRESS, TELEPHONE NUMBER:

Mailing Address: 18001 Old Cutler Road, #600
City: Palmetto Bay State: FL Zip: 33157 Phone#: 305-377-8802

3. OWNER'S NAME, MAILING ADDRESS, TELEPHONE NUMBER:

Owner's Name (Provide name of ALL owners): 17777 Old Cutler Road, LLC
Mailing Address: 18001 Old Cutler Road, #600
City: Palmetto Bay State: FL Zip: 33157 Phone#: 305-377-8802

4. CONTACT PERSON'S INFORMATION:

Name: Company: Jerry B. Proctor, Esq., Bilzin Sumberg Baena Price & Axelrod LLP
1450 Brickell Avenue, 23rd Floor
City: Miami State: FL Zip: 33131 Cell Phone#: _____
Phone#: 305-350-2361 Fax#: 305-351-2250 E-mail: jproctor@bilzin.com

5. LEGAL DESCRIPTION OF ALL PROPERTY COVERED BY THE APPLICATION

(Provide complete legal description, i.e., lot, block, subdivision name, plat book & page number, or metes and bounds. Include section, township, range. If the application contains multiple rezoning requests, a legal description for each requested zone must be provided. Attach separate sheets as needed and clearly label (identify) each legal description attached. In addition to paper version it is requested that lengthy metes and bounds descriptions be provided on diskette or compact disc in Microsoft Word or compatible software.)

See attached survey

6. ADDRESS OR LOCATION OF PROPERTY (For location, use description such as NE corner of, etc.)

17777 Old Cutler Road

7. **SIZE OF PROPERTY** (in acres): _____ (divide total sq. ft. by 43,560 to obtain acreage)

8. **DATE** property acquired leased: Oct., 2003 9. **Lease term:** _____ years
(month & year)

10. **IS CONTIGUOUS PROPERTY OWNED BY THE SUBJECT PROPERTY OWNER(S)?**

NO YES

If yes, provide complete legal description of said contiguous property.

11. Is there an option to purchase or lease the subject property or property contiguous thereto.

NO YES

(If yes, identify potential purchaser or lessee and complete 'Disclosure of Interest' form)

12. **PRESENT ZONING CLASSIFICATION:** VMU, I

13. **APPLICATION REQUESTS** (Check all that apply and describe nature of the request in space provided)

District Boundary (zone) Changes [Zone(s) requested]: _____
(Provide a separate legal description for each zone requested)

Unusual Use: _____

Use Variance: _____

Non-Use Variance: _____

Alternative Site Development: Option: _____

Special Exception: _____

Modification of previous resolution/plan: _____

Modification of Declaration of Covenant: _____

Approval of Transfer of Development Rights for up to 85 residential units

14. Has a public hearing been held on this property within the eighteen (18) months?

NO YES

If yes, provide applicant's name, date, purpose and result of hearing, and resolution number: _____

15. Is this application a result of a violation notice? NO YES (If yes, give name to whom the violation notice was served and describe the violation: _____)

16. Describe structures on the property: Office Park

17. Is there any existing use on the property? NO YES (If yes, what use and when established?)

Use: Office Park Year: 1988

Planning Staff Use Only

Base Fee	Reviewed and Accepted by	Date
Receipt No.	Deemed Complete By	Date



VILLAGE OF PALMETTO BAY

January 26, 2016

Scott Silver,
17777 Old Cutler Road, LLC
18001 Old Cutler Road, Suite 600
Palmetto Bay, Florida 33157

Re: Front 22 Acres of 17777 & 18001 Old Cutler Road.

Mr. Silver:

The following is in response to your letter dated January 11, 2016 as it pertains to your request for a "building rights" determination for the front 22 net acres of land locate at 17777 & 18001 Old Cutler Road. Based on the analysis provided below, it appears the property enjoys a potential zoning development right of 85 residential units.

The property in question is presently zoned Interim (I) with a land use designation of Parks and Recreation (PR). The I zoning category was applied to the property when the Village adopted its own land development regulations in 2009. It was previously zoned Government Use (GU) under Miami-Dade County's zoning provisions. The PR designation was applied in 2005 when the Village adopted its Comprehensive Plan and corresponding Future Land Use Map (FLUM). Chapter 163 of the Florida Statutes requires zoning to be consistent with land use. Although the I zoning category is consistent with a PR designation, it may be considered awkward in the context of the private ownership of land.

The PR land use designation is fairly restrictive with regard to permitted uses and development standards. Residential and commercial uses would not be permitted within this designation. The I zoning district (or for that matter the GU district) does not preclude them. The 2005 action establishing the PR designation appeared to anticipate an eventual park amenity; however the land was never acquired by a governmental entity, nor was the property owner required to build one. Its continued private ownership has thus allowed the question to linger of the land's ultimate permitted use. For private development to occur on the property, be it residential or commercial, the land use designation must change accordingly.

9705 East Hibiscus Street, Palmetto Bay, FL 33157
Tel: (305) 259-1234 ♦ www.palmettobay-fl.gov

The Village's I zoning category mirrors Miami-Dade County's GU category. Both districts essentially provided for the concept of "trending of development." As applied, determination of use and intensity within an I or GU district is based on the zoning of adjacent lands. If the surrounding properties vary in intensity, the "trending of development" would fall somewhere in between that permitted within the adjacent zones. Typically, a determination would be applied to the property and then be followed by a rezoning request consistent with the identified uses and intensity.

Given the above, a determination of "building rights" is reviewed under the context of the land's ownership by a private entity and its potential usage as governed by the I zoning district.

The majority of the lots west of the property are zoned One Acre Estate Single-Family District (E-1). The E-1 district permits one unit per acre. One lot is zoned Five Acre Estate Single-Family District (E-2) and two (2) other lots are zoned Estate Modified Single-Family District. The E-2 permits one (1) unit per five (5) acres and the EM district permits roughly three (3) units per acre. The overall density works out to approximately one (1) unit per acre. The lands to the north and east are zoned Village Mixed Use (VMU). The VMU zoned land is approximately 41.59 acres and is permitted to have mid-rise office uses and up to 400 residential units of varying types. Overall residential density works out to approximately the 9.61 units per acre. The resulting trend of residential development would be approximately Five (5) units per acre.

The land in question is subject to a declaration of restrictive covenant that requires the property to provide and maintain landscaping to visual obscure from Old Cutler Road, the more intense multi-family and office uses permitted within the VMU zoning district on the east side. The covenant was proffered as a clear attempt to buffer and protect the low density residential neighborhoods on the west side from the more intense office and multi-family residential uses permitted on the east side property. Given the intent, it is not unreasonable to conclude the covenant would have also resulted in a restriction of commercial development within the 22 acres. It does not appear that the covenant restricts all development on the land in question, however the landscape element in and of itself would logically result in a diminished area available for development. That form of development would most likely be low density residential. In this context, it is assumed that it would take a strip of land of approximately five (5) acres in area immediately adjacent to Old Cutler Road to accomplish the needed landscaping screen. That leaves approximately 17 of the 22 net acres that may be contemplated for potential residential development.

In applying the assumptions described herein, it appears the building right potential for the 22 net acres would be 85 homes.

If you have any additional question please contact this office at 305-259-1234.

17777 Old Cutler Road, LLC
18001 Old Cutler Rd, Suite 600
Palmetto Bay, FL 33157
O: 305-377-8802 | F: 305-377-8804

January 11, 2016

Mr. Darby DeSalle
Director
Planning & Zoning Dept.
9705 E Hibiscus St
Palmetto Bay, FL 33157

Please provide me with the determination of development rights letter as to the land parcel bounded by the VMU District on the East and Old Cutler Road on the West encompassing approximately 22 net acres.

Regards,

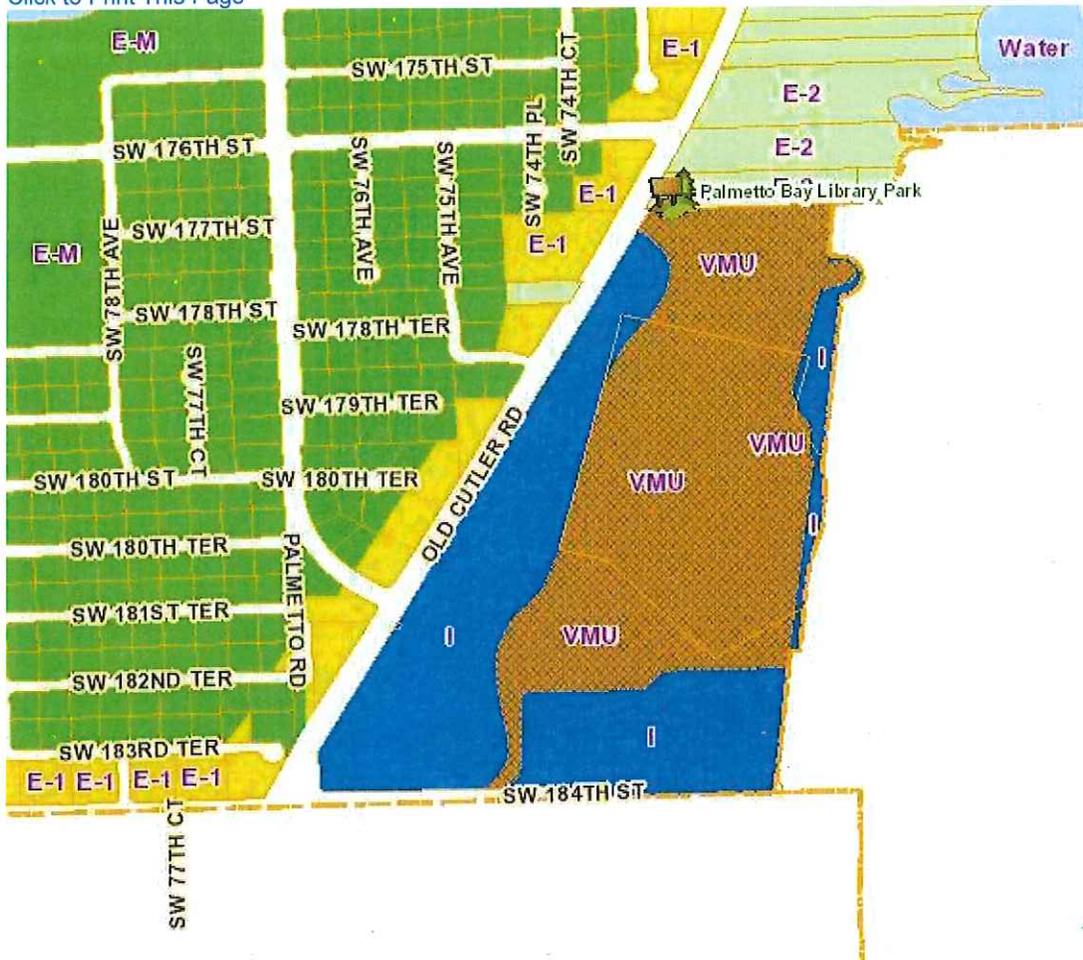


Scott Silver
Authorized Rep

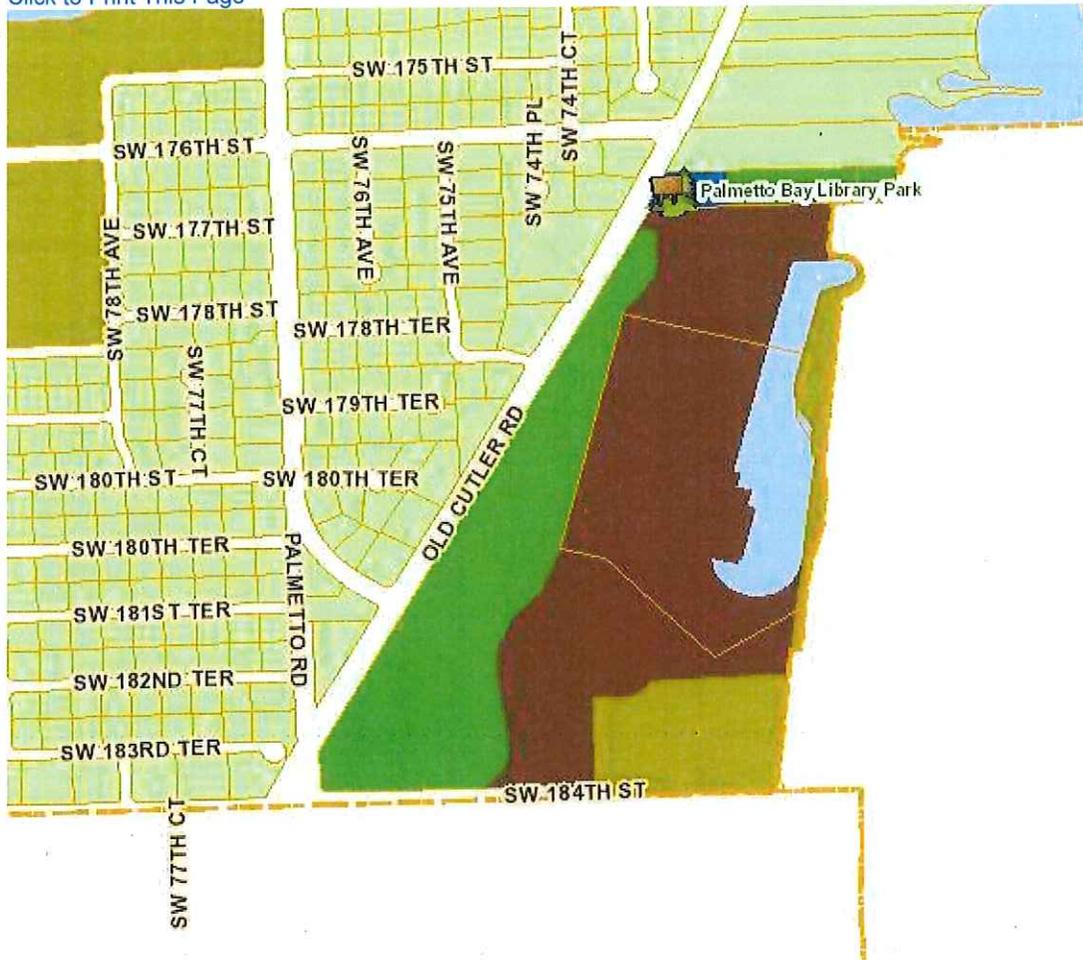
ZONING & LAND USE MAPS

VILLAGE CENTER TRANSFER OF DEVELOPMENT RIGHTS
VPB-16-005

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STAFF REPORT

VILLAGE CENTER LAND USE AMENDMENT



Village of Palmetto Bay

To: Mayor and Village Council

Date: March 7, 2016

From: Edward Silva, Village Manager

Re: VMU Land Use
First Reading

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 POLICY 1.1.3 OF THE VILLAGE'S COMPREHENSIVE PLAN LAND USE CATEGORY, "VILLAGE MIXED-USE", TO INCLUDE ALL PERMITTED RESIDENTIAL USES TO BE CLASSIFIED AS MULTIPLE FAMILY, AND TO PROVIDE A NOTATION REGARDING TRANSFER OF DEVELOPMENT RIGHTS CONSISTENT WITH POLICY 1.1.14 OF THE COMPREHENSIVE PLAN; PROVIDING FOR ORDINANCES IN CONFLICT, CODIFICATION, SEVERABILITY AND AN EFFECTIVE DATE.

BACKGROUND

The specific lands subject to this request are those located on the property commonly known as the "Village Center" and bear the land use designation of Village Mixed-Use (VMU). This particular request, however, is part of larger initiative by the Village of Palmetto Bay to secure certain surplus lands within the larger Village Center site that would serve to expand park lands within the Village of Palmetto Bay, preserve unique pineland and wetland resources, secure permanent parking facilities for the Village's adjacent library, and provide a site for a future fire station in the southeast quadrant of the Village. As part of the property owner's request to transfer the development rights (TDR) of 22± acres of land adjacent to Old Cutler Road, the Village will receive 40± acres of land that will serve the objectives identified above. To achieve that aim, the Village of Palmetto Bay is requesting a modification to the VMU land use provisions which would have the effect of classifying all of the permitted residential uses on the VMU portion of the property as "Multifamily", and ensure that the property is eligible to participate in the TDR program.

COMPREHENSIVE PLAN AMENDMENTS – PROCEDURALLY

This request is part of a companion ordinance that also modifies the under lying zoning provision of the same name, and a Resolution which authorizes the TDR of 85 units onto the VMU site. This amendment includes a change to the list of permitted units on lands that

exceed 10 acres and is therefore considered a large-scale request. 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 ordinance. 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. The TDR resolution is to be presented at the same meeting the two ordinances are to be heard for first reading. Staff recommends tabling this item so that it may be considered in tandem with the two ordinances. However, staff recommends the Village first act on the TDR resolution item prior to rendering a final decision on both ordinances.

ANALYSIS

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 of this report is hereby incorporated by reference into this analysis.

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

Analysis: The following Goals, Objectives and Policies (GOP) were identified as relating to this request. Each GOP is provided with a brief analysis. A final finding is provided at the end of this criterion.

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: See Background Section of this report. This request is part of a larger initiative that seeks to secure certain surplus lands within the larger Village Center site that would serve to expand park lands within the Village of Palmetto Bay, preserve unique pineland and wetland resources, secure permanent parking facilities for the Village's adjacent library, and provide a site for a future fire station in the southeast quadrant of the Village. By securing the surplus land at the Village Center, these objectives become achievable.

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 and the Background Section of this report. The proposed amendment removes any development potential from the front 22± acres of the larger Village Center property that fronts Old Cutler Road. Further, this application, taken in the context of the broader initiative, provides for increased parkland, environmental protection, and the need to find a location for a fire rescue facility in the southeast quadrant of the Village.

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 and the Background Section of this report. This application is part of a broader initiative which seeks to add park land to the Village thus having the effect of protecting the lush flora and fauna of the Village. As part of a separate application, the Village will acquire over 40 acres of land, much of which is still in its original natural state.

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

Analysis: See Policy 1.5.4 above.

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 UIA¹ 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

¹ 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.

service exists, parallel roadways within a half-mile shall operate at no greater than 150% of their capacity; and

Analysis: See Background Section of this report. The proposed amendment does not increase density above that already permitted within the Land Use Element of the Village's Comprehensive Plan.

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

Analysis: Please see Policy 2A.1.1 above.

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: Please see Policy 2A.1.1 above.

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.

- 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: Please see Policy 2A.1.1 above. 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.

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: Please see Policy 2A.1.1 above. 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.

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 and Policy 1.5.4 above, and Background Section of this report.

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 Goal 1 and Policy 1.5.4 above, and Background Section of this report.

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

Analysis: See Goal 1 and Policy 1.5.4 above, and Background Section of this report.

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: See Goal 1 and Policy 1.5.4 above, and Background Section of this report. This request is part of a larger initiative that will result in adding approximately 40± acres of parkland to the Village.

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 an 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: Please see Policy 2A.1.1 above and the Background Section of this report. The application does not increase density above that already permitted by the current land use designation. Actual school concurrency will be measured at the time of site plan application is made for residential units.

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: Please see Policy 2A.1.1 above and the Background Section of this report. 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: Conditionally consistent provided the 40± acres of surplus land within the Village Center's larger property is deeded to the Village of Palmetto Bay.

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: This request, taken in the context of the larger initiative identified in the Background Section of this report, provides the Village of Palmetto Bay the opportunity to expand the amount of park lands within its jurisdiction, preserve unique pineland and wetland resources, secure permanent parking facilities for the Village's adjacent library, and provide a site for a future fire station in the southeast quadrant of the Village. The request does not increase the overall density of the property beyond that already permitted by the existing land use provision.

Finding: Conditionally consistent provided the 40± acres of surplus land within the Village Center's larger property is deeded to the Village of Palmetto Bay.

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: See Criteria 1 and 2 above and the Background Section of this report. The proposal does not change the overall density of the Village Center property. As part of a larger initiative, the request works to ensure the front 22± acres of land adjacent to Old Cutler Road remains undeveloped, provided however, that land is deeded to the Village of Palmetto Bay.

Finding: Conditionally consistent provided the 40± acres of surplus land within the Village Center's larger property is deeded to the Village of Palmetto Bay.

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: See Criteria 3 above and the Background Section of this report. Preservation of the front 22± acres will ensure a continued buffer is maintained along Old Cutler Road protecting the single family homes on the west side from the Village Center on the east.

Finding: Conditionally consistent provided the 40± acres of surplus land within the Village Center's larger property is deeded to the Village of Palmetto Bay.

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: Please see Criteria 1 through 4 and the Background Section of the report. The request does not increase the overall density of the property beyond that already permitted by the existing land use provision. The request, as part of a larger initiative, will result in the preservation of a natural landscape buffer to those lands west of property in question.

Finding: Conditionally consistent provided the 40± acres of surplus land within the Village Center's larger property is deeded to the Village of Palmetto Bay.

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

Analysis: Please see Criteria 1 through 4 and the Background Section of the report.

Finding: Conditionally consistent provided the 40± acres of surplus land within the Village Center's larger property is deeded to the Village of Palmetto Bay.

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 the VMU land use category meets the requirements of Section 163.3161, Florida Statutes, as amended.

Finding: Consistent.

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

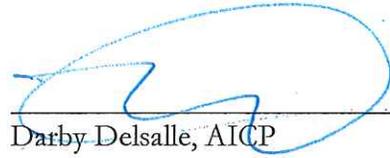
Finding: Decision for the Village Council.

FISCAL/BUDGETARY IMPACT

No budgetary impact is anticipated at this time. Any future programming of acquired lands shall be considered through the regular budgetary process.

RECOMMENDATION

Staff recommends conditionally approval provided the 40± acres of surplus land within the Village Center's larger property is deeded to the Village of Palmetto Bay.



Darby Delsalle, AICP
Director of Planning and Zoning

ORDINANCE

VILLAGE CENTER LAND USE AMENDMENT

ORDINANCE NO. _____

1
2
3
4 AN ORDINANCE OF THE MAYOR AND VILLAGE COUNCIL OF THE
5 VILLAGE OF PALMETTO BAY, FLORIDA, ACTING IN ITS CAPACITY AS
6 THE MAYOR AND VILLAGE COUNCIL AND AS THE LOCAL PLANNING
7 AGENCY, AMENDING POLICY 1.1.3 OF THE VILLAGE'S
8 COMPREHENSIVE PLAN LAND USE CATEGORY, "VILLAGE MIXED-
9 USE", TO INCLUDE ALL PERMITTED RESIDENTIAL USES TO BE
10 CLASSIFIED AS MULTIPLE FAMILY, AND TO PROVIDE A NOTATION
11 REGARDING TRANSFER OF DEVELOPMENT RIGHTS CONSISTENT
12 WITH POLICY 1.1.14 OF THE COMPREHENSIVE PLAN; PROVIDING FOR
13 ORDINANCES IN CONFLICT, CODIFICATION, SEVERABILITY AND AN
14 EFFECTIVE DATE.
15

16
17 **WHEREAS**, in 2008, the Mayor and Village Council created the Land Use Designation
18 Village Mixed Use (VMU), which provided for a range of permitted uses and development
19 intensities for certain lands within the Village; and
20

21 **WHEREAS**, the newly created VMU district provided for up to 400 residential units of
22 which 300 were identified as "Senior Living Facility" and 100 were identified as "Multifamily
23 Residential"; and
24

25 **WHEREAS**, Senior Living Facility is not clearly defined as to the nature of the
26 development pattern be it single family or multifamily residential; and
27

28 **WHEREAS**, for clarity of desired development form, the Policy 1.1.3 of the
29 Comprehensive Plan is to be amended to reflect a total of up to 400 permitted multifamily
30 residential uses of which 300 may be allocated for a senior living facility; and
31

32 **WHEREAS**, for purposes of consistency throughout the Village's Comprehensive Plan a
33 note is added to reflect the VMU land use designation's eligibility to participate in Transfer of
34 Development Rights program as provided for at Policy 1.1.14; and
35

36 **WHEREAS**, this ordinance is being considered as part of a broader Transfer of
37 Development Rights initiative that seeks to conserve certain lands surrounding the VMU zoned
38 property, as more specifically addressed pursuant to Resolution No. _____.
39

40 **WHEREAS**, pursuant to Section 163.3174, *Florida Statutes* the Village Council has been
41 designated as the Local Planning Agency for the Village; and
42

43 **WHEREAS**, on _____, 2016, the Local Planning Agency recommended approval
44 the proposed ordinance; and
45

- Commercial – incidental and supporting uses
- Office – up to 315,000 square feet (including ancillary uses).
- Any increase in commercial square footage or residential units approved by Transfer of Development rights pursuant to applicable Code.

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

* * *

Section 3. Conflicting Provisions. 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 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. 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 6. Effective Date. This ordinance shall only take effect once the conditions of companion Resolution No. _____ have been fulfilled.

PASSED and ENACTED this _____ day of _____, 2016.

First Reading: _____

Second Reading: _____

Attest: _____

Meighan Alexander
Village Clerk

Eugene Flinn
Mayor

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

1
2
3 _____
4 Dexter W. Lehtinen
5 Village Attorney
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13 FINAL VOTE AT ADOPTION:
14
15 Council Member Karyn Cunningham _____
16
17 Council Member Tim Schaffer _____
18
19 Council Member Larissa Siegel Lara _____
20
21 Vice-Mayor John DuBois _____
22
23 Mayor Eugene Flinn _____

STAFF REPORT

VILLAGE CENTER ZONING AMENDMENT



Village of Palmetto Bay

To: Honorable Mayor and Village Council

Date: March 7, 2016

From: Edward Silva, Village Manager

Re: VMU Zoning
First Reading

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 INCLUDE ALL PERMITTED RESIDENTIAL USES TO BE CLASSIFIED AS MULTIPLE FAMILY; TO ADJUST MAXIMUM PERMITTED HEIGHT FOR ALL BUILDINGS TO BE 85 FEET; AND TO PROVIDE A NOTATION THAT THE VMU ZONING DISTRICT IS ELIGIBLE TO PARTICIPATE IN SECTION 30-30.15 TRANSFER OF DEVELOPMENT RIGHTS; PROVIDING FOR ORDINANCES IN CONFLICT, CODIFICATION, SEVERABILITY AND AN EFFECTIVE DATE.

BACKGROUND

The specific lands subject to this request are those located on the property commonly known as the "Village Center" and bear the zoning designation of Village Mixed-Use (VMU). This particular request, however, is part of larger initiative by the Village of Palmetto Bay to secure certain surplus lands within the larger Village Center site that would serve to expand park lands within the Village of Palmetto Bay, preserve unique pineland and wetland resources, secure permanent parking facilities for the Village's adjacent library, and provide a site for a future fire station in the southeast quadrant of the Village. As part of the property owner's request to transfer the development rights (TDR) of 22± acres of land adjacent to Old Cutler Road, the Village will receive approximately 40± acres of land that will serve the objectives identified above. To achieve that aim, the Village of Palmetto Bay is requesting a modification to the VMU zoning provisions which would have the effect of classifying all of the permitted residential uses on the VMU portion of the property as "Multifamily", and ensure that the property is eligible to participate in the TDR program. The amendment also establishes one height standard for all building within the VMU at 85 feet, which is the current maximum permitted height for certain structures; and it corrects certain citation errors that occurred during the last time the provisions were codified.

ZONING AND COMPREHENSIVE PLAN INTER-RELATIONSHIP – PROCEDURALLY

This request is part of a companion ordinance that also modifies the under lying land use provisions of the same name, and a Resolution which authorizes the TDR of 85 units onto

the VMU site. Because the amendment includes a change of the list of permitted units on lands that exceed 10 acres, and is part of a comprehensive plan amendment, it is therefore considered a large-scale request. 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 ordinance. 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. The decision regarding the companion comprehensive plan item must then be transmitted to Florida Department of Economic Opportunity (DEO) Pursuant to Section 163.3161, Florida Statutes. Second reading of the zoning ordinance cannot be held until the DEO completes its review. 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 both of the Village's ordinances would go into effect upon adoption at the second public hearing. The TDR resolution is to be presented at the same meeting the two ordinances are to be heard for first reading. Staff recommends tabling this item so that it may be considered in tandem with the two ordinances. However, staff recommends the Village first act on the TDR resolution item prior to rendering a final decision on both ordinances.

ANALYSIS

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

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

Analysis: The following Goals, Objectives and Policies (GOP) were identified as relating to this request. Each GOP is provided with a brief analysis. A final finding is provided at the end of this criterion.

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: See Background Section of this report. This request is part of a larger initiative that seeks to secure certain surplus lands within the larger Village Center site that would serve to expand park lands within the Village of Palmetto Bay, preserve unique pineland and wetland resources, secure permanent parking facilities for the Village's adjacent library, and provide a site for a future fire station in the southeast quadrant of the

Village. By securing the surplus land at the Village Center, these objectives become achievable.

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 and the Background Section of this report. The proposed amendment removes any development potential from the front 22± acres of the larger Village Center property that fronts Old Cutler Road. Further, this application, taken in the context of the broader initiative, provides for increased parkland, environmental protection, and the need to find a location for a fire rescue facility in the southeast quadrant of the Village.

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 and the Background Section of this report. This proposed ordinance is part of a broader initiative which seeks to add park land to the Village thus having the effect of protecting the lush flora and fauna of the Village. As part of a separate application, the Village will acquire approximately 40± acres of land, much of which is still in its original natural state.

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

Analysis: See Policy 1.5.4 above.

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 UIA¹ 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

¹ 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.

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: See Background Section of this report. The proposed amendment does not increase density above that already permitted within the Land Use Element of the Village's Comprehensive Plan. Level of service impacts will be evaluated at the time of site plan review.

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

Analysis: Please see Policy 2A.1.1 above.

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: Please see Policy 2A.1.1 above.

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.

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: Please see Policy 2A.1.1 above. 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 building permitting.

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: Please see Policy 2A.1.1 above. 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.

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 and Policy 1.5.4 above, and Background Section of this report.

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 Goal 1 and Policy 1.5.4 above, and Background Section of this report.

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

Analysis See Goal 1 and Policy 1.5.4 above, and Background Section of this report.

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: See Goal 1 and Policy 1.5.4 above, and Background Section of this report. This request is part of a larger initiative that will result in adding approximately 40± acres of parkland to the Village.

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 an 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: Please see Policy 2A.1.1 above and the Background Section of this report. The proposed ordinance does not increase density above that already permitted by the current land use designation. Actual school concurrency will be measured at the time of site plan application is made for residential units.

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: Please see Policy 2A.1.1 above and the Background Section of this report. 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: Conditionally consistent provided the 40± acres of surplus land within the Village Center's larger property is deeded to the Village of Palmetto Bay.

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

Analysis: See Criteria 1 and the Background Section of this report. The proposed amendment does not conflict with the other requirements of Chapter 30.

Finding: Consistent.

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

Analysis: Please see Criteria 1 and the Background Section of the report. This request, taken in the context of the larger initiative identified in the Background Section of this report, provides the Village of Palmetto Bay the opportunity to expand the amount of park lands within its jurisdiction, preserve unique pineland and wetland resources, secure permanent parking facilities for the Village's adjacent library, and provide a site for a future fire station in the southeast quadrant of the Village. The request does not increase the overall density of the property beyond that already permitted by the existing land use provision.

Finding: Conditionally consistent provided the 40± acres of surplus land within the Village Center's larger property is deeded to the Village of Palmetto Bay.

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: See Criteria 1 and 2 above and the Background Section of this report. The proposal does not change the overall density of the Village Center property. As part of a larger initiative, the request works to ensure the front 22± acres of land adjacent to Old Cutler Road remains undeveloped, provided however, that land is deeded to the Village of Palmetto Bay.

Findings: Conditionally consistent provided the 40± acres of surplus land within the Village Center's larger property is deeded to the Village of Palmetto Bay.

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: See Criteria 1, 3, 4, and the Background Section of this report. The proposal does not add any additional units than that which may be grantable under existing law.

Finding: Conditionally consistent provided the 40± acres of surplus land within the Village Center's larger property is deeded to the Village of Palmetto Bay.

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: Analysis: See Criteria 1, 3, 4, and the Background Section of this report. The proposal does not add any additional units than that which may be grantable under existing law.

Finding: Conditionally consistent provided the 40± acres of surplus land within the Village Center's larger property is deeded to the Village of Palmetto Bay.

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: See Criteria 1, 3, and 4, and the Background Section of this report. Preservation of the front 22± acres will ensure a continued buffer is maintained along Old Cutler Road protecting the single family homes on the west side from the Village Center on the east.

Finding: Conditionally consistent provided the 40± acres of surplus land within the Village Center's larger property is deeded to the Village of Palmetto Bay.

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 Criteria 1 through 4 and the Background Section of the report. The request does not increase the overall density of the property beyond that already permitted by the existing land use provision. The request, as part of a larger initiative, will result in the preservation of a natural landscape buffer to those lands west of property in question.

Finding: Conditionally consistent provided the 40± acres of surplus land within the Village Center's larger property is deeded to the Village of Palmetto Bay.

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: See Criteria 1 through 4, and the Background Section of this report.

Finding: Conditionally consistent provided the 40± acres of surplus land within the Village Center's larger property is deeded to the Village of Palmetto Bay.

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.

FISCAL/BUDGETARY IMPACT

No budgetary impact is anticipated at this time. Any future programming of acquired lands shall be considered through the regular budgetary process.

RECOMMENDATION

Staff recommends conditionally approval provided all of the conditions of the Resolution No. _____ is fulfilled and the 40± acres of surplus land within the Village Center's larger property is deeded to the Village of Palmetto Bay.



Darby Delsalle, AICP
Director of Planning and Zoning

ORDINANCE

VILLAGE CENTER ZONING AMENDMENT

1 Records Book 14089 at Pages 2349-52 and Official Records Book 12428 at
2 Pages 923-1010, of the Public Records of Miami-Dade County, Florida, and
3 the Amended Declaration of Restrictive Covenants in Lieu of Unity of Title
4 recorded Official Resources Book 27101 at Pages 2672-2678 of the public
5 Records of Miami-Dade County, Florida.

- 6 i. ~~Multi-family residential rowhouses/townhouses up to 100 units.~~
- 7 ii. ~~Senior housing, intended to comply with F.S. § 760.29, in the form of~~
8 ~~multi-family condominiums or apartments up to 300 residential units~~

9
10 * * *

11
12 (e) *General requirements.* These requirements shall not be deemed or construed to prohibit a
13 continuation or restoration after casualty of any structure, use or occupancy in the VMU
14 District that was existing as of the date of the effective date of this section.

15
16 (1) *Buildings.*

- 17 a. *Heights.* All height restrictions herein are deemed as consistent with the intent
18 of the previously enacted Village of Palmetto Bay Comprehensive Plan which
19 established parameters for this VMU District. Furthermore, all height
20 restrictions must remain in conformity with any existing deed restrictions,
21 declarations, or covenants in effect as to any lands within the VMU District.
22 ~~Multi-family rowhouse/townhouse units shall not exceed 70 feet above grade~~
23 ~~in height. Multi-family senior housing facilities shall not exceed 85 feet above~~
24 ~~grade in height. Nonresidential~~ All buildings shall be no higher than 85 feet
25 above grade in height. This shall not preclude, above such height restrictions,
26 bonuses granted by a Transfer of Development Right, antennae, elevator and
27 roof equipment, stairway roof access and railings or similar safety barrier, as
28 long as said structures are not visible from the property line of the VMU
29 District at Old Cutler Road.

30
31 * * *

- 32 e. *Density.* Overall density for all residential units on the property, including
33 senior housing facilities, shall be a minimum of 3.0 and a maximum of
34 14.0 dwelling units per gross acre, all as consistent with the comprehensive
35 plan of the village. Residential density calculations pursuant to the
36 preceding sentence shall be calculated based upon the entire land area
37 zoned VMU, regardless of any non-residential development within the
38 VMU. Additional units may be developed in accordance with an approved
39 Transfer of Development Rights.

40
41 * * *

42
43 (i) *Nonconforming structures, uses, and occupancies.* Nothing contained in this section 30-
44 50.2019 shall be deemed or construed to prohibit a continuation or restoration after
45 casualty of a legal nonconforming structure, use or occupancy in the VMU District that
46 was existing as of the effective date of this division.

1
2 (j) *Review procedure/administrative site plan review.* All applications for development approval
3 within the VMU District that are not otherwise permitted as nonconforming uses or
4 structures shall comply with the requirements of section 30-30.5 and this section and with
5 the site plan review criteria contained therein. Developments shall be processed and
6 approved administratively or by village council action, as applicable, as follows:

7 (1) *Administrative site plan review.*

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

13
14 **Section 3. Companion TDR Resolution.** The provisions of the ordinance are offered
15 and approved contingent upon the owner(s) of those lands zoned VMU fulfill all conditions of the
16 companion TDR Resolution No ____.

17
18 **Section 4. Conflicting Provisions.** The provisions of the Code of Ordinances of the
19 Village of Palmetto Bay, Florida and all ordinances or parts of ordinances in conflict with the
20 provisions of this ordinance are hereby repealed.

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

27
28 **Section 6. Codification.** It is the intention of the Village Council and it is hereby
29 ordained the provisions of this Ordinance shall become and be made part of the Code of
30 Ordinances of the Village of Palmetto Bay, Florida, that sections of this Ordinance may be
31 renumbered or re-lettered to accomplish such intentions, and that the word "Ordinance" shall be
32 changed to "Section" or other appropriate word.

33
34 **Section 7. Effective Date.** This ordinance shall only take effect once the conditions of
35 companion Resolution No. _____ have been fulfilled.

36
37 **PASSED and ENACTED** this _____ day of _____, 2016.

38
39
40 First Reading: _____

41
42 Second Reading: _____

43
44
45
46 Attest: _____

1 Meighan Alexander
2 Village Clerk

Eugene Flinn
Mayor

3
4 APPROVED AS TO FORM AND LEGAL SUFFICIENCY FOR THE
5 USE AND RELIANCE OF THE VILLAGE OF PALMETTO BAY ONLY:
6

7
8 _____
9 Dexter W. Lehtinen
10 Village Attorney

11
12 FINAL VOTE AT ADOPTION:

13
14 Council Member Karyn Cunningham _____

15
16 Council Member Tim Schaffer _____

17
18 Council Member Larissa Siegel Lara _____

19
20 Vice-Mayor John DuBois _____

21
22 Mayor Eugene Flinn _____
23



To: Honorable Mayor and Village Council

Date: March 7, 2016

From: Edward Silva, Village Manager

Re: 13650 SW 82 Court
Rezoning – 1st Reading

AN ORDINANCE OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, RELATING TO ZONING; AMENDING THE OFFICIAL ZONING MAP; CHANGING .98 ACRES (+/-), FROM E-1 ESTATE SINGLE FAMILY TO E-M ESTATE MODIFIED SINGLE FAMILY DISTRICT; FOR THE PROPERTY LOCATED AT 13650 SW 82ND COURT BEARING FOLIO 33-5022-000-0191, IN PALMETTO BAY, FLORIDA; PROVIDING FOR ORDINANCES IN CONFLICT, CODIFICATION, SEVERABILITY, AND AN EFFECTIVE DATE.

UPDATE SINCE FIRST READING:

This item was heard during First Reading on February 1, 2016 however, the item was continued for the Regular Council Meeting scheduled on March 7, 2016. During First Reading, the Village Council did not vote to approve or deny the item. Instead the Village Council requested the item to be advertised in a manner similar to a typical zoning application request (ex. site plan, plat, variance, etc.) prior to First Reading occurring. Attached are copies of the postings, mailings, and advertising that were completed for this item (Attachment A). The same procedure will be followed again prior to returning the item for Second Reading. The remainder of the report regarding this item was submitted on February 1, 2016. A copy of the previous report is included (Attachment B).

RECOMMENDATION:

Approval is recommended.

Attachments:

- (A) Postings, mailings, and advertising
- (B) Report submitted on February 1, 2016 Regular Council Meeting

Darby Delsalle, AICP
Director of Planning and Zoning

Manager's Report
for
13650 SW 82 Court Rezoning

ATTACHMENT A



VILLAGE OF PALMETTO BAY NOTICE OF PUBLIC HEARING FOR A PROPOSED ZONING DISTRICT BOUNDARY CHANGE

The Village of Palmetto Bay shall conduct a public hearing to consider an item on first reading on Monday, March 7, 2016, at 7:00 p.m. The hearing shall be held at Village Hall, 9705 East Hibiscus Street, Council Chambers, Palmetto Bay, FL 33157. Discussion and public input will be welcome concerning the following items that may be of interest to your immediate neighborhood.

John Andrew Smith submitted an application for the property, located at 13650 SW 82nd Court (Folio 33-5022-000-0191) is requesting the following:

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 .98 ACRES (+/-), FROM E-1 ESTATE SINGLE FAMILY DISTRICT TO E-M ESTATE MODIFIED; FOR THE PROPERTY LOCATED AT 13650 SW 82ND COURT BEARING FOLIO 33-5022-000-0191, IN PALMETTO BAY, FLORIDA; PROVIDING FOR ORDINANCES IN CONFLICT, CODIFICATION, SEVERABILITY, AND AN EFFECTIVE DATE. [4/5 Vote].

All persons are invited to appear and be heard. The documents pertaining to this public hearing may be inspected during regular working hours at the Department of Planning & Zoning at Village Hall, 9705 East Hibiscus Street, Palmetto Bay, FL 33157. Inquiries may be directed to the Village Clerk at (305) 259-1234. Any meeting may be opened and continued, and, under such circumstances, additional legal notice would not be provided. Any person may contact Village Hall for more information.

Pursuant to Section 286.0105, F.S., if any person decides to appeal any decision by the Village Council with regard to this or any matter, he/she will need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based. This notice does not constitute consent by the Village for the introduction or admission of otherwise inadmissible evidence, nor does it authorize challenges or appeals not otherwise allowed by law.

In accordance with the Americans with Disabilities Act of 1990, persons needing special accommodation (or hearing impaired) to participate in this proceeding or to review any documents relative thereto should contact the Village for assistance at (305) 259-1234 no later than seven (7) days prior to the proceedings.

A handwritten signature in blue ink, enclosed within a faint blue circular outline.

**VILLAGE OF PALMETTO BAY
NOTICE OF PUBLIC HEARING**

HEARING NUMBER: VPB-16-003
APPLICANT NAME: John Andrew Smith
FOLIO: 33-5022-000-0191
PROJECT LOCATION: 13650 SW 82nd Court
PALMETTO BAY, FL 33158

REQUEST: Changing .98 acres (+/-), from E-1, Estate Single Family to E-M, Estate Modified Single Family.

PLANS ARE ON FILE AND MAY BE EXAMINED IN THE DEPARTMENT OF PLANNING AND ZONING AT VILLAGE HALL. PLANS MAY BE MODIFIED BEFORE AND DURING THE PUBLIC HEARING.

A PUBLIC HEARING WILL BE HELD MONDAY, MARCH 7, 2016, AT 7:00 PM AT THE COUNCIL CHAMBERS LOCATED WITHIN VILLAGE HALL, 9705 EAST HIBISCUS STREET, PALMETTO BAY, FL 33157.

YOU ARE NOT REQUIRED TO RESPOND TO THIS NOTICE: However, objections or waivers of objection may be made in person at the hearing or filed in writing prior to the hearing date with the Department of Planning and Zoning. Any meeting may be opened and continued, and under such circumstances, additional legal notice would be provided. Any person may contact Village Hall at (305) 259-1234 for additional information. Please call the Village Clerk for ADA needs (or hearing impaired) no later than four (4) days prior to the proceedings.

**VILLAGE OF PALMETTO BAY
NOTICE OF PUBLIC HEARING**

HEARING NUMBER: VPB-16-003
APPLICANT NAME: John Andrew Smith
FOLIO: 33-5022-000-0191
PROJECT LOCATION: 13650 SW 82nd Court
PALMETTO BAY, FL 33158

REQUEST: Changing .98 acres (+/-), from E-1, Estate Single Family to E-M, Estate Modified Single Family.

PLANS ARE ON FILE AND MAY BE EXAMINED IN THE DEPARTMENT OF PLANNING AND ZONING AT VILLAGE HALL. PLANS MAY BE MODIFIED BEFORE AND DURING THE PUBLIC HEARING.

A PUBLIC HEARING WILL BE HELD MONDAY, MARCH 7, 2016, AT 7:00 PM AT THE COUNCIL CHAMBERS LOCATED WITHIN VILLAGE HALL, 9705 EAST HIBISCUS STREET, PALMETTO BAY, FL 33157.

YOU ARE NOT REQUIRED TO RESPOND TO THIS NOTICE: However, objections or waivers of objection may be made in person at the hearing or filed in writing prior to the hearing date with the Department of Planning and Zoning. Any meeting may be opened and continued, and under such circumstances, additional legal notice would be provided. Any person may contact Village Hall at (305) 259-1234 for additional information. Please call the Village Clerk for ADA needs (or hearing impaired) no later than four (4) days prior to the proceedings.

**VILLAGE OF PALMETTO BAY
NOTICE OF PUBLIC HEARING**

HEARING NUMBER: VPB-16-003
APPLICANT NAME: John Andrew Smith
FOLIO: 33-5022-000-0191
PROJECT LOCATION: 13650 SW 82nd Court
PALMETTO BAY, FL 33158

REQUEST: Changing .98 acres (+/-), from E-1, Estate Single Family to E-M, Estate Modified Single Family.

PLANS ARE ON FILE AND MAY BE EXAMINED IN THE DEPARTMENT OF PLANNING AND ZONING AT VILLAGE HALL. PLANS MAY BE MODIFIED BEFORE AND DURING THE PUBLIC HEARING.

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**VILLAGE OF PALMETTO BAY
NOTICE OF PUBLIC HEARING**

HEARING NUMBER: VPB-16-003
APPLICANT NAME: John Andrew Smith
FOLIO: 33-5022-000-0191
PROJECT LOCATION: 13650 SW 82nd Court
PALMETTO BAY, FL 33158

REQUEST: Changing .98 acres (+/-), from E-1, Estate Single Family to E-M, Estate Modified Single Family.

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PUBLIC NOTICE



PURPOSE

The Department of Environmental Protection (DEP) is currently reviewing the proposed project described below. The project is located at the intersection of [illegible] and [illegible] in the [illegible] area of [illegible]. The project consists of [illegible] and [illegible]. The project is expected to be completed by [illegible]. The project is expected to have a positive impact on the environment and the community. The project is expected to create [illegible] jobs and [illegible] revenue. The project is expected to improve the quality of life in the [illegible] area. The project is expected to be a model for other projects in the [illegible] area. The project is expected to be a source of pride for the [illegible] community. The project is expected to be a source of inspiration for other communities. The project is expected to be a source of hope for the [illegible] future. The project is expected to be a source of strength for the [illegible] people. The project is expected to be a source of unity for the [illegible] people. The project is expected to be a source of love for the [illegible] people. The project is expected to be a source of peace for the [illegible] people. The project is expected to be a source of happiness for the [illegible] people. The project is expected to be a source of joy for the [illegible] people. The project is expected to be a source of life for the [illegible] people. The project is expected to be a source of hope for the [illegible] people. The project is expected to be a source of strength for the [illegible] people. The project is expected to be a source of unity for the [illegible] people. The project is expected to be a source of love for the [illegible] people. The project is expected to be a source of peace for the [illegible] people. The project is expected to be a source of happiness for the [illegible] people. The project is expected to be a source of joy for the [illegible] people. The project is expected to be a source of life for the [illegible] people.

Manager's Report
for
13650 SW 82 Court Rezoning

ATTACHMENT B



To: Honorable Mayor and Village Council

Date: February 1, 2016

From: Edward Silva, Village Manager

Re: Amendment of Official Zoning Map for property located at 13650 SW 82nd CT - 1st Reading

AN ORDINANCE OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, RELATING TO ZONING; AMENDING THE OFFICIAL ZONING MAP; CHANGING .98 ACRES (+/-), FROM E-1 ESTATE SINGLE FAMILY TO E-M ESTATE MODIFIED SINGLE FAMILY DISTRICT; FOR THE PROPERTY LOCATED AT 13650 SW 82ND COURT BEARING FOLIO 33-5022-000-0191, IN PALMETTO BAY, FLORIDA; PROVIDING FOR ORDINANCES IN CONFLICT, CODIFICATION, SEVERABILITY, AND AN EFFECTIVE DATE.

BACKGROUND:

The property in question is located at 13650 SW 82nd Court, consisting of approximately .98 acres, and is in the center of a residential block. In 2009, as part of Ordinance No. 2009-17, the Village adopted its own Official Zoning Map, thus replacing the Miami-Dade Zoning Map. The overall affect, with few exceptions, was the re-labeling of zoning designations throughout the Village in a manner consistent with the Miami-Dade County's designations. During that zoning mapping/adoption process, this section was zoned from EU-1 to E-1. This designation is inconsistent with all of the surrounding properties. As such the applicant is now seeking to realign the zoning of this parcel to be consistent with the surrounding parcels. The property was never platted. It is now the intent of the applicant to plat this property and create two E-M lots consistent with the surrounding neighborhood.

The parcel is question is described as follows:

The South 153 Feet of the North 548 Feet of the W 1/2 of the East 1/2 of the NE 1/4 of the NW 1/4 less the East 25 feet and the West 25 Feet thereof, in Section 22, Township 55 South, Range 40 East, lying and being in Miami-Dade County, Florida, and containing 42,688 square feet or .98 acres, more or less.

ZONING HEARING HISTORY:

In October 2009, the Village created its Land Development Code and Comprehensive Zoning Map, and re-designated the subject property as E-1 (residential). (Documentation not provided in this back-up as it is voluminous and is existing Code).

NEIGHBORHOOD CHARACTERISTICS:

ZONING	LAND USE DESIGNATION
Subject Property:	
E-1; Estate Single Family Residential	Estate Density Residential
Surrounding Properties:	
NORTH:	
E-M; Estate Modified Single Family	Estate Density Residential
EAST:	
E-M; Estate Modified Single Family	Estate Density Residential
SOUTH:	
E-M; Estate Modified Single Family	Estate Density Residential
WEST:	
E-M; Estate Modified Single Family	Estate Density Residential

ANALYSIS:

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

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 underlying land use designation is Estate Density Residential which permits up to 2.5 units per acre. The E-M zoning fits within that land use density category. The rezoning aligns the property with the zoning of the surrounding properties.

Finding: Consistent.

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

Analysis: Please see Background Section of this report. The parcel in question is currently zoned differently from all of the properties that surround it. In this case, the parcel was zoned E-1 in 2009. Changing of the parcel's zoning would make it consistent with the surrounding properties and thus, consistent with all requirements of Chapter 30.

Finding: Consistent.

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

Analysis: Not applicable. There were no changes to land use policy.

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: See Criteria 1 and 2, and the Background Section of this report. The rezoning is consistent with the surrounding uses and will mirror the zoning on all sides if approved.

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 Criteria 1. The proposed rezoning is for .98 acres. Any impact on infrastructure and services would be de minimis. Any impact would be measured at the time of development application.

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 rezoning is on a parcel of land consisting of .98 acres. The site is an in area populated with single family homes. There does not appear to be any significant natural resources at the site.

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: The rezoning is consistent with the surrounding zoning on all four sides.

Finding: Consistent.

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

Analysis: The rezoning is consistent with the surrounding zoning on all four sides.

Finding: Consistent.

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

Analysis: The rezoning is consistent with the surrounding uses and will mirror the zoning on all four sides.

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.

FISCAL/BUDGETARY IMPACT:

No budgetary impact is anticipated at this time.

RECOMMENDATION:

Approval is recommended.



Darby Delsalle, AICP
Director of Planning and Zoning

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ORDINANCE NO. _____

AN ORDINANCE OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, RELATING TO ZONING; AMENDING THE OFFICIAL ZONING MAP; CHANGING .98 ACRES (+/-), FROM E-1 ESTATE SINGLE FAMILY TO E-M ESTATE MODIFIED SINGLE FAMILY DISTRICT; FOR THE PROPERTY LOCATED AT 13650 SW 82ND COURT BEARING FOLIO 33-5022-000-0191, IN PALMETTO BAY, FLORIDA; PROVIDING FOR ORDINANCES IN CONFLICT, CODIFICATION, SEVERABILITY, AND AN EFFECTIVE DATE.

WHEREAS, the property in question is located at 13650 SW 82nd Court, consists of approximately .98 acres, and is landlocked by adjoining properties; and

WHEREAS, in 2009, the Mayor and Village Council adopted Ordinance No. 2009-17, which created the Village's Official Zoning Map, thus replacing the Miami-Dade County Zoning Map; and

WHEREAS, in creating the Official Zoning Map, this section was rezoned from EU-1 to E-1, Estate Single Family; and

WHEREAS, the surrounding properties are all zoned E-M; Estate Modified Single Family, and

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

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

WHEREAS, on _____, 2016, the Local Planning Agency approved the proposed amendment; and

WHEREAS, to approve a rezoning, the request must be consistent with the Village's Comprehensive Plan and a basic finding of compatibility to Code Section 30-30.7(b) must be rendered by the Mayor and Village Council; and

WHEREAS, the Mayor and Village Council, now desire to rezone the property described in Attachment E-1 from Estate Single Family, to E-M, Estate Modified Single Family District.

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

4 Section 1. In evaluating an application for a rezoning, from E-1 Estate Single Family
5 to, E-M, Estate Modified Single Family for .98 acres (+/-), for the property located at 13650 SW
6 82nd Court bearing folio 33-5022-000-0191, the Palmetto Bay Village Council applied the criteria
7 under 30-30.7(b) of the Village's Code and found the request to be consistent. The map
8 amendment is attached and incorporated by reference herein as Attachment 1.
9

10 Section 2. The property that is the subject of the rezoning bears the following legal
11 description:

12
13 The South 153 Feet of the North 548 Feet of the W 1/2 of the East 1/2 of the NE
14 1/4 of the NW 1/4 less the East 25 feet and the West 25 Feet thereof, in Section 22,
15 Township 55 South, Range 40 East, lying and being in Miami-Dade County,
16 Florida, and containing 42,688 square feet or .98 acres, more or less.
17

18 Section 3. The Village Council in compliance with Chapter 166, Florida Statutes,
19 after the first reading approved the request to rezone.
20

21 Section 4. All ordinances or parts of ordinances in conflict with the provisions of
22 this ordinance are repealed.
23

24 Section 5. If any section, clause, sentence, or phrase of this ordinance is for any
25 reason held invalid or unconstitutional by a court of competent jurisdiction, the holding shall not
26 affect the validity of the remaining portions of this ordinance.
27

28 Section 6. Effective Date. This ordinance shall take effect immediately upon
29 enactment.
30

31 PASSED and ENACTED this ____ day of _____, 2016.
32

33 First Reading: _____
34

35 Second Reading: _____
36
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39 Attest: _____

40 Meighan Alexander
41 Village Clerk
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43

Eugene Flinn
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 Katyn Cunningham _____
- Council Member Tim Schaffer _____
- Council Member Larissa Siegel Lara _____
- Vice-Mayor John DuBois _____
- Mayor Eugene Flinn _____

Attachment A

Proposed & Existing Zoning

Proposed Zoning for 13650 SW 82 CT



0 100 200
Feet
Created: 1/10/2016



AG



E-M



E-1



Water



Existing Zoning for 13650 SW 82 CT



0 100 200
Feet
Created: 1/10/2016



AG



E-M



E-1



Water



Application

John Andrew Smith & Hollub Homes
9771 South Dixie Highway
Pinecrest, FL 33156

Village of Palmetto Bay
Department of Planning and Zoning
Re: Letter of Intent for Zoning Hearing



Dear Department of Planning and Zoning,

Our company, Hollub Homes, contract purchaser, on behalf of the property owner, John Andrew Smith, requests a distinct boundary change on property located within Palmetto Bay, Miami-Dade County,

Subject Property Information:

Folio Number: 33-5022-000-0191

Address: 13650 SW 82 CT,
Palmetto Bay, FL 33158

Acreage: .98 acres or 42,689 SQ FT

RECEIVED
Zoning Department
11/30/15
Village of Palmetto Bay
Building & Zoning Department
By: [Signature]

Our intention is to split the existing property, currently zoned E-1, into two E-M lots of similar size to conform with adjacent and nearby property zoning. The request, therefore, is to change the subject property's zoning from E-1 to E-M. Our project will involve the demolition of the existing single family home, built in 1947, in order to build two new single family homes. Based on surveys provided, no variance is needed or requested. The request complies with the future land use map designation of estate density residential development of up to 2.5 units per acre.

Our company, Hollub Homes, is a 61 year old, third generation family business based in Pinecrest, but with strong ties to the Palmetto Bay community. Our company has built many homes and communities in Palmetto Bay over the years, including Pine Bay South and Lychee Grove.

Should you have any questions, please contact our office:

Hollub Homes
9771 South Dixie Highway
Pinecrest, FL 33156
(305) 665-4275

Best,
Aaron Hollub
Vice President - Hollub Homes



SEC: _____ TWP: _____ RGE: _____
RECEIVED
Zoning Department

11/30/15

ZONING HEARING (ZH) APPLICATION
 Village of Palmetto Bay, Department of Planning and Zoning

Village of Palmetto Bay
 Building & Zoning Department
 By: AW

LIST ALL FOLIO #S: 33-5022-000-0191 Date Received _____

1. NAME OF APPLICANT (Owner(s) of record of the property or lessee. If applicant is a lessee, an executed 'Owner's Sworn-to-Consent' and copy of a valid lease for 1 year or more is required. If the applicant is a corporation, trust, partnership, or like entity, a 'Disclosure of Interest' is required).

John Andrew Smith

2. APPLICANT'S MAILING ADDRESS, TELEPHONE NUMBER:

Mailing Address: 5530 Nagami Drive
 City: WINDERMERE State: FL Zip: _____ Phone#: _____

3. OWNER'S NAME, MAILING ADDRESS, TELEPHONE NUMBER:

Owner's Name (Provide name of ALL owners): John Andrew Smith
5330 Nagami Drive
 City: WINDERMERE State: FL Zip: 34786 Phone#: _____

4. CONTACT PERSON'S INFORMATION:

Name: Company: AARON HOLLUB - HOLLUB HOMES
 City: Aventura State: FL Zip: 33156 Cell Phone#: 305-987-9324
 Phone#: 305-665-9275 Fax#: _____ E-mail: AARON@HOLLUBHOMES.COM

5. LEGAL DESCRIPTION OF ALL PROPERTY COVERED BY THE APPLICATION

(Provide complete legal description, i.e., lot, block, subdivision name, plat book & page number, or metes and bounds. Include section, township, range. If the application contains multiple rezoning requests, a legal description for each requested zone must be provided. Attach separate sheets as needed and clearly label (Identify) each legal description attached. In addition to paper version it is requested that lengthy metes and bounds descriptions be provided on diskette or compact disc in Microsoft Word or compatible software.)

The south 153 Feet of the North 548 Feet of the W-1/2 of the E-1/2 of the NE-1/4 of the NW-1/4, less the East 25 feet AND the West 25 feet thereof, in Section 22, Township 55 South, Range 40 East, lying AND BEING in Dade County, Florida.

6. ADDRESS OR LOCATION OF PROPERTY (For location, use description such as NE corner of, etc.)

13650 S.W. 82ND Court, Miami, FL 33168

7. SIZE OF PROPERTY (In acres): .98 (divide total sq. ft. by 43,560 to obtain acreage)

8. DATE property acquired leased: June, 1973 9. Lease term: _____ years (month & year)

10. IS CONTIGUOUS PROPERTY OWNED BY THE SUBJECT PROPERTY OWNER(S)? yes no If yes, provide complete legal description of said contiguous property.

11. Is there an option to purchase or lease the subject property or property contiguous thereto? no yes (If yes, identify potential purchaser or lessee and complete 'Disclosure of Interest' form)

12. PRESENT ZONING CLASSIFICATION: _____

13. APPLICATION REQUESTS (Check all that apply and describe nature of the request in space provided)

District Boundary(zone) Changes [Zone(s) requested]: Convert property to 2 equally sized e-m lots.
(Provide a separate legal description for each zone requested)

Unusual Use: _____

Use Variance: _____

Non-Use Variance: _____

Alternative Site Development: Option: _____

Special Exception: _____

Modification of previous resolution/plan: _____

Modification of Declaration or Covenant: _____

14. Has a public hearing been held on this property within the eighteen (18) months? no yes. If yes, provide applicant's name, date, purpose and result of hearing, and resolution number:

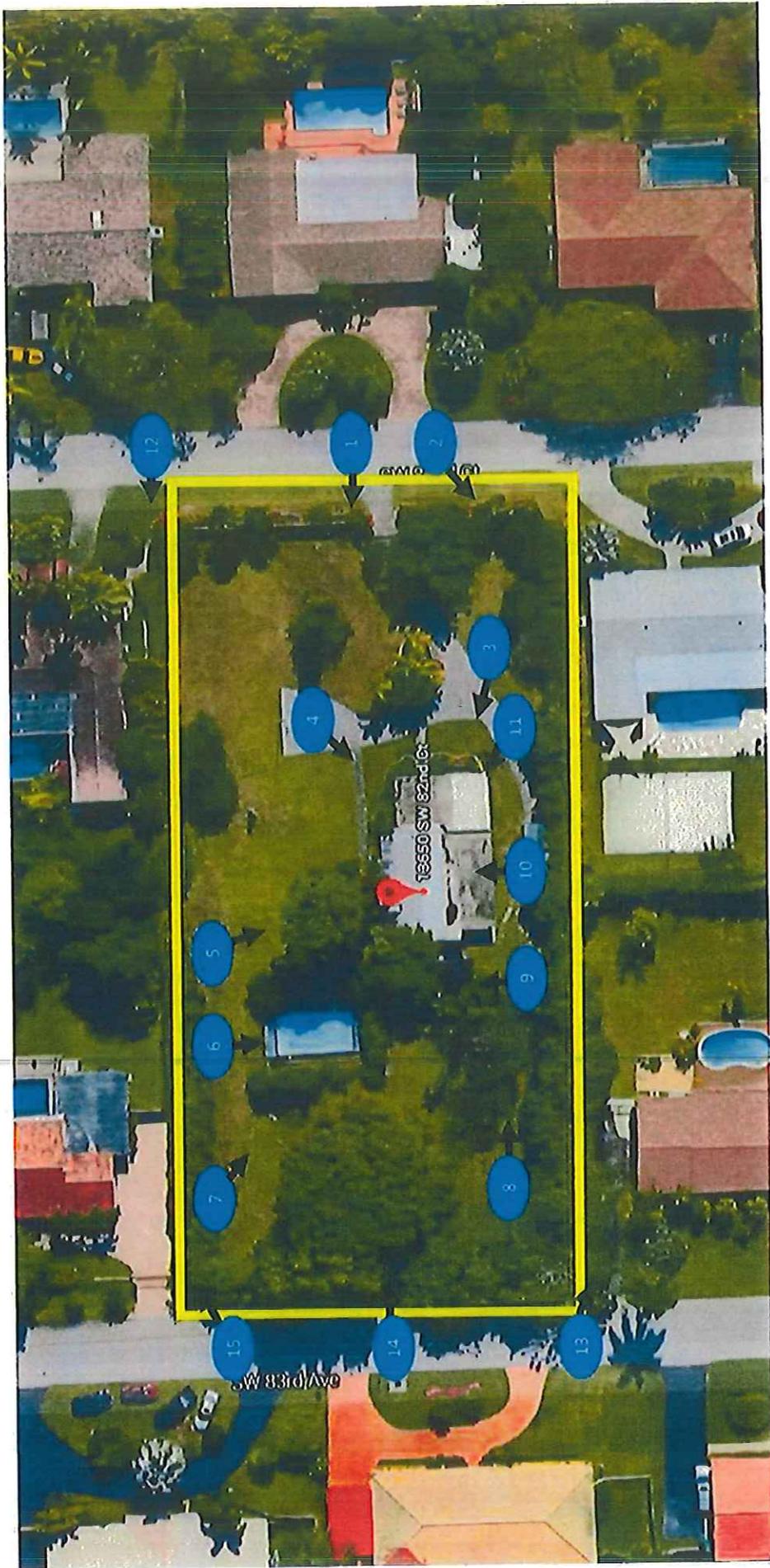
15. Is this application a result of a violation notice? no yes. If yes, give name to whom the violation notice was served: and describe the violation: _____

16. Describe structures on the property: Single family home, detached porch and pool

17. Is there any existing use on the property? no yes. If yes, what use and when established? _____
Use: _____ Year: _____

Planning Staff Use Only

Base Fee	Reviewed and Accepted by	Date
Receipt No.	Deemed Complete By	Date





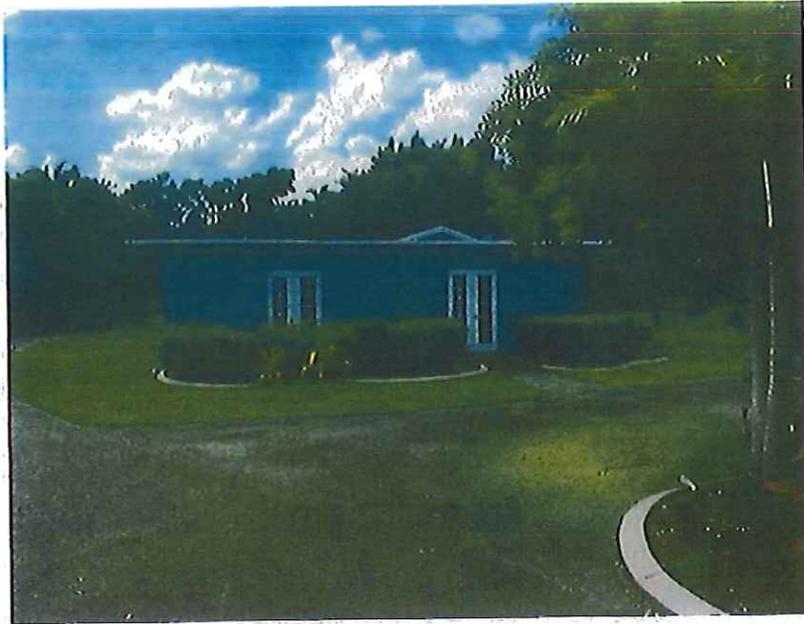
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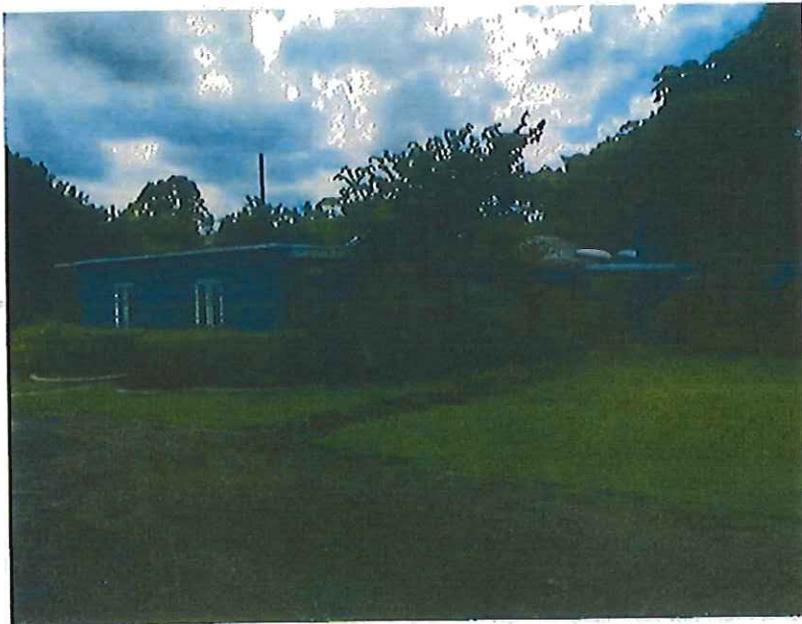
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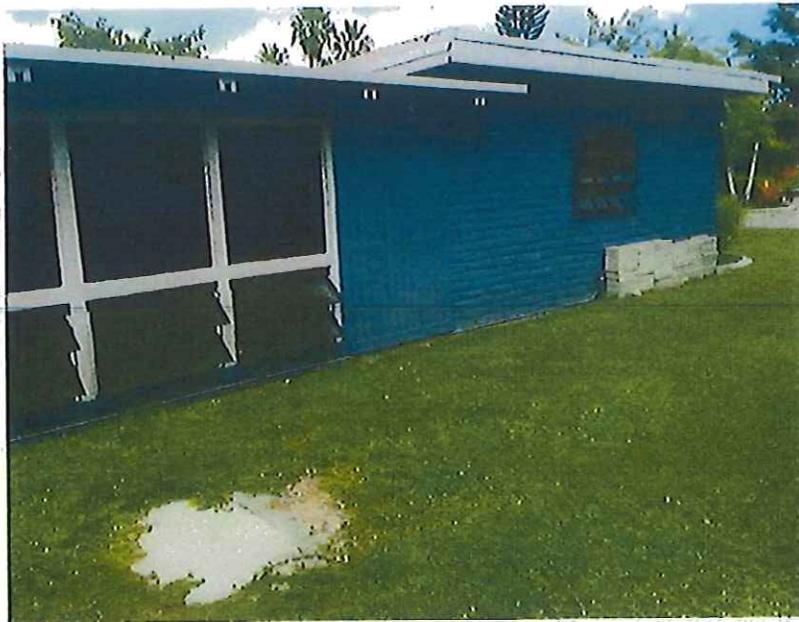
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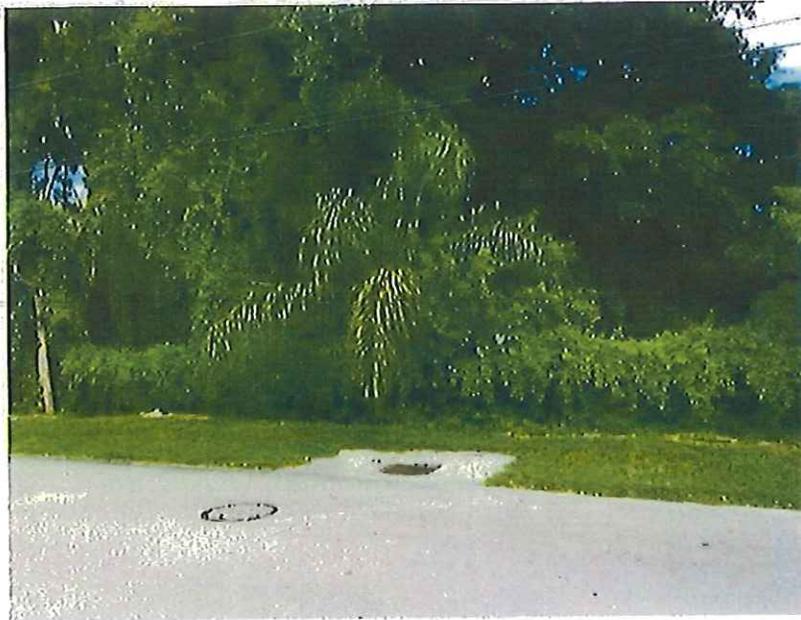
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13.



14.



15.



APPLICANT'S AFFIDAVIT

The Undersigned, first being duly sworn, depose that all answers to the questions in this application, and all supplementary documents made a part of the application are honest and true to the best of (my)(our) knowledge and belief. (I)(We) understand this application must be complete and accurate before the application can be submitted and the hearing advertised.

OWNER OR TENANT AFFIDAVIT

(I)(WE), Jennifer Smith, being first duly sworn, depose and say that (I am) (we are) owner tenant of the property described and which is the subject matter of the proposed hearing.

Jennifer Smith (POA)
Signature

Chontay Clark
Signature



CHONTAY A. CLARK
MY COMMISSION # FF897763
EXPIRES July 09, 2019
FloridaNotaryService.com

Sworn to and subscribed to before me this 15th day of October, 2015.

Notary Public: 07-09-2019
Commission Expires:

CORPORATION AFFIDAVIT N/A

(I) (WE), _____, being first duly sworn, depose and say that (I am) (we are) the President Vice-President Secretary Asst. Secretary of the aforesaid corporation, and as such, have been authorized by the corporation to file this application for public hearing; and that said corporation is the owner tenant of the property described herein and which is the subject matter of the proposed hearing.

Attest: _____

Authorized Signature

Office Held

(Corp. Seal)

Sworn to and subscribed to before me This _____ day of _____

Notary Public: _____
Commission Expires:

PARTNERSHIP AFFIDAVIT N/A

(I)(WE), _____, being first duly sworn, depose and say that (I am) (we are) partners of the hereinafter named partnership, and as such, have been authorized to file this application for a public hearing; and that said partnership is the owner tenant of the property described herein which is the subject matter of the proposed hearing.

By _____ %

By _____ %

By _____ %

By _____ %

Sworn to and subscribed to before me This _____ day of _____

Notary Public: _____
Commission Expires:

ATTORNEY AFFIDAVIT N/A

I, _____, being first duly sworn, depose and say that I am a State of Florida Attorney at Law, and I am Attorney for the Owner of the property described and which is the subject matter of the proposed hearing.

Signature

Sworn to and subscribed to before me This _____ day of _____

Notary Public: _____
Commission Expires:

RESPONSIBILITIES OF THE APPLICANT AFFIDAVIT

I AM AWARE THAT:

1. The Public Works Department, the Department of Environmental Resources Management (DERM), and other County agencies review and critique zoning hearing applications which may affect the scheduling and outcome of my hearing. These reviews may require additional hearings before DERM's Environmental Quality Control Board (EQCB), or other County boards, and/or the proffering of agreements to be recorded. I am also aware that I must comply promptly with any DERM or Public Works conditions and advise this office in writing if my application will be withdrawn.
2. Filing fees may not be the total cost of a hearing. Some requests require notices to be mailed to property owners up to a mile from the subject property and I am responsible for paying the additional radius mailing costs. In addition to mailing costs, I am responsible for additional fees related to application changes, plan revisions, deferrals, re-advertising, etc., that may be incurred. I understand that fees must be paid promptly. Applications withdrawn within 60 days of the filing are eligible for a refund of 50% of the hearing fee but after that time hearings withdrawn or returned will be ineligible for a refund. Refunds must be requested in writing.
3. The Florida Building code requirements may affect my ability to obtain a building permit even if my zoning application is approved; and a building permit will probably be required. I am responsible for obtaining any required permits and inspections for all structures and additions proposed, or built without permits. And that a Certificate of Use (C.U.) must be obtained for the use of the property after it has been approved at Zoning Hearing. Failure to obtain the required permits and/or C.U., Certificates of Completion (C.C.) or Certificate of Occupancy (C.O.) will result in enforcement action against any occupant and owner. Submittal of the Zoning Hearing application may not forestall enforcement action against the property.
4. The 3rd District Court of Appeal has ruled that zoning applications inconsistent with the Comprehensive Plan (CP) cannot be approved by a zoning board based upon considerations of fundamental fairness. Therefore, I acknowledge that if the hearing request is inconsistent with the CP and I decide to go forward then my hearing request can only be denied or deferred, but not approved.
5. Any covenant to be proffered must be submitted to the Village Attorney, on County form, at least 1 month prior to the hearing date. The covenant will be reviewed and the applicant will be notified if changes or corrections are necessary. Once the covenant is acceptable, the applicant is responsible to submit the executed covenant with a current 'Opinion of Title' within 1 week of the hearing. Village Attorney can advise as to additional requirements applicable to foreign corporations. Documents submitted to the Village Attorney must carry a cover letter indicating subject matter, application number and hearing date. Village Attorney may be reached at (305) 854-5353.

Jennifer Smith, POA
(Applicant's Signature)
Jennifer Smith
(Print Name)

Sworn to and subscribed before me this 15 day of October, 2015. Affiant is personally known to me or has produced personally known as identification.

(Notary Public)
My commission expires 07-09-2019

FORM ZH-0107-04



OWNERSHIP AFFIDAVIT
FOR
INDIVIDUAL

STATE OF FLORIDA
COUNTY OF Miami-Dade

Public Hearing No. _____

Before me, the undersigned authority, personally appeared Jennifer Smith
hereinafter the Affiant, who being first duly sworn by me, on oath, deposes
and says:

1. Affiant is the fee owner of the property that is the subject of the proposed hearing.
2. The subject property is legally described as:

THE SOUTH 163 FEET OF THE NORTH 548 FEET OF THE W-1/2 OF THE E-1/2 OF THE NE-1/4 OF THE NW-1/4,
LESS THE EAST 25 FEET AND THE WEST 25 FEET THEREOF, IN SECTION 22, TOWNSHIP 55 SOUTH, RANGE 40
EAST, LYING AND BEING IN DADE COUNTY, FLORIDA.

3. Affiant understands this affidavit is subject to the penalties of law for perjury and the possibility of voiding of any zoning granted at public hearing.

Witnesses:

[Signature]
Signature

Sheron Shelton
Print Name

[Signature]
Signature

Annea Westbrook
Print Name

Jennifer Smith (PSA)
Affiant's signature

Jennifer Smith
Print Name

Sworn to and subscribed before me on the 15th day of October 2015.

Affiant is personally known to me or has produced Personally Present as identification.

Notary

(Stamp/Seal)
Commission Expires:



DURABLE POWER OF ATTORNEY

NOTE: A THIRD PARTY WHO IMPROPERLY REFUSES TO ACCEPT THIS POWER OF ATTORNEY WILL BE LIABLE FOR DAMAGES, INCLUDING REASONABLE ATTORNEY'S FEES AND COSTS, INCURRED IN ANY ACTION OR PROCEEDING THAT CONFIRMS THE VALIDITY OF THIS POWER OF ATTORNEY PURSUANT TO F.S. 709.2120 .

I, JOHN A. SMITH, a/k/a JOHN ANDREW SMITH, as of this June 13, 2013, hereby appoint JENNIFER MARIE SMITH, my daughter, as my true and lawful attorney-in-fact ("my Agent"), to act for me and in my name and on my behalf to exercise the powers listed in this instrument. Except as otherwise provided in the Florida Power of Attorney Act (Fla. Stat. Ch. 709), my Agent may exercise these powers independently and without the approval of any court. My Agent, however, shall exercise all powers in a fiduciary capacity in good faith, as a prudent person would using reasonable care, skill, and caution.

Successors. If at any time my Agent named above fails or ceases to serve as my attorney-in-fact, I appoint STEPHEN MICHAEL SMITH, my son, as my attorney-in-fact.

All successor Agents will have the rights, powers, privileges and discretions specified in this instrument while they are serving as my attorney-in-fact.

Third Parties. Any third party to whom this power of attorney is presented may rely upon an affidavit by my Agent stating, to the best of my Agent's knowledge and belief, that this power has not been revoked, that I am then living, and that no proceedings have been initiated to determine my incapacity. No third party relying on this power and that affidavit will be liable for any losses, damages, or claims caused by compliance with the action requested by my Agent, unless that third party has actual knowledge of my death or the revocation of this power.

Durable Power. This durable power of attorney will not be affected by my subsequent incapacity except as provided in Chapter 709 of the Florida Statutes. It is my specific intent that the power conferred on my Agent will be exercisable from the date of this instrument, notwithstanding my subsequent disability or incapacity, except as otherwise specifically provided by statute.

My Agent will have the following powers and duties:

GENERAL AUTHORITY

1. To manage all assets and properties belonging to me or in which I have any interest, and

DURABLE POWER OF ATTORNEY

- to expend whatever funds my Agent deems proper for the preservation, maintenance, or improvement of those assets or properties.
2. To exercise all powers even though my Agent may also be acting individually or on behalf of any other person or entity interested in the same matters (as more fully set forth in the Additional Provisions section).
 3. To seek on my behalf the assistance of a court or other governmental agency to carry out an act authorized in this power of attorney and to enforce the exercise of these powers granted to my Agent.
 4. To execute, acknowledge, seal, deliver, file, or record any instrument or communication the Agent considers desirable to accomplish a purpose of a transaction, including creating at any time a schedule listing some or all of my property and attaching it to the power of attorney;
 5. To exercise any authority reasonably necessary to give effect to an express grant of specific authority in this power of attorney.
 6. To the extent not limited under the law of the jurisdiction in which this power of attorney is presented, to take all other actions as may be necessary or appropriate for my personal well-being and the management of my affairs, as fully and as effectively as if made or done by me personally.

REAL PROPERTY

To manage and conserve any real property, or any interest or incidents in real property, on my behalf as stated below. Such property and incidents in property include any interest in homestead property, mineral rights, and cooperative apartments. I give my Agent the following powers:

7. To receive, buy, sell, exchange, lease, encumber, and convey such property; to impose restrictions and covenants; to grant options, releases, and easements, including for public use; to adjust boundaries; and to partition or consent to partitioning, subdivide, apply for zoning or other governmental permits, plat or consent to platting, and engage in development activities for such property; further to do everything necessary to transfer, assign, convey, and deliver any interest I may have in property owned by me (real or personal, tangible or intangible), including, but not limited to, my homestead property as such property is defined by Florida law as amended, to any person or entity, including, but not limited to a trust, such as a revocable or irrevocable trust, or entity, such as a limited liability company, corporation, professional association, partnership, limited partnership, or limited liability limited partnership.
8. To pay or contest any taxes due on such property, and to receive refunds.
9. To engage in any form of litigation regarding the possession, ownership or liability involving such property, including foreclosure on a mortgage, or enforcement of a

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contract for sale (including specific performance).

10. To create or receive a security interest in such property, and to satisfy a mortgage.
11. To lease or sublease such property; any such lease will be valid and binding for its full term even if it extends beyond the duration of this power of attorney.
12. To insure the property against liability or casualty or other loss, and to maintain, repair or alter such property, including removing or erecting structures on the property.
13. If not prohibited in this instrument, to change the form of title of such property, including contribution into a business entity in exchange for an interest in that entity.
14. To join with other persons with whom I own property as joint tenants with right of survivorship or as tenants by the entireties in any transaction regarding that property.
15. With respect to income-producing real property, my Agent will have the powers:
 - a. To retain and operate the property for as long as advisable;
 - b. To control, direct, and manage the property, determining the manner and extent of my Agent's active participation in these operations, and to hire one or more supervisors for the property;
 - c. To hire and discharge employees, fix their compensation, and define their duties;
 - d. To invest funds in other land holdings and to use those funds for all improvements, operations, or similar purposes;
 - e. To retain any of the net earnings for working capital and other purposes as advisable in conformity with sound and efficient management; and
 - f. To purchase and sell machinery, equipment, and supplies of all kinds as needed for the operation and maintenance of the property.

TANGIBLE PERSONAL PROPERTY

To manage and conserve any tangible personal property, or any interest in tangible personal property, including exempt property, on my behalf, as follows:

16. To receive, buy, sell, exchange, or otherwise dispose of such property, even if without consideration.
17. To pay or contest any taxes due on such property, and to receive refunds.
18. To engage in any form of litigation regarding the possession, ownership or liability involving such property.
19. To create or receive a security interest in or grant options regarding such property.

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20. To lease or sublease such property; any such lease will be valid and binding for its full term even if it extends beyond the duration of this power of attorney.
21. To insure, store, move, maintain, repair or alter such property.
22. If not prohibited in this instrument, to change the form of title of such property, including contribution into a business entity in exchange for an interest in that entity.
23. To surrender possession of such property to me or to members of my family without liability for wear, tear, and obsolescence of the property.

INVESTMENTS

24. To invest in assets, securities, or interests in securities of any nature, whether domestic or foreign markets, including (without limit) stocks, bonds, mutual funds, index funds, or investment funds, including common trust funds, provided such securities are traded on a regulated exchange.
25. To establish or maintain and to trade in credit or margin accounts (whether secured or unsecured), and to pledge assets for that purpose.
26. To hold funds uninvested for such periods as the Agent deems prudent, and to invest in any assets the Agent deems advisable even though they are not technically recognized or specifically listed in so-called "legal lists," without responsibility for depreciation or loss on account of those investments, or because those investments are non-productive, as long as the Agent acts in good faith.
27. To trade in commodities, options, futures, precious metals, and currencies, provided such items are traded on a regulated exchange.
28. To employ a custodian or agent ("the Custodian") located anywhere within the United States, at my expense, whether or not such Custodian is an affiliate of an Agent; to register securities in the name of the Custodian or a nominee thereof without designation of fiduciary capacity; and to appoint the Custodian to perform such other ministerial functions as the Agent may direct, all as permitted in Fla. Stat. Chapter 709. While such securities are in the custody of the Custodian, the Agent will be under no obligation to inspect or verify such securities, nor will the Agent be responsible for any loss by the Custodian.
29. To employ any investment management service, financial institution, or similar organization to advise the Agent; to handle investment of my assets; and to render all accountings of funds held on my behalf under custodial, agency, or other agreements. If the Agent is an individual, these costs may be paid from my assets in addition to compensation payable to the Agent.
30. To receive and hold certificates and other evidences of ownership with respect to stocks and bonds, or to hold such securities in street certificates or in a book entry system.

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31. To exercise voting rights with respect to stocks and bonds in person or by proxy, enter into voting trusts, and consent to limitations on the right to vote.
32. To the extent not limited in the Special Transactions section, to apply for, fund, modify, withdraw from, or terminate a qualified tuition plan authorized under 26 USC §529, or its successor provisions, for any of my descendants, including the right to combine accounts, to transfer an account from one state to another, to redirect the investment of the account (to the extent permitted by law), or to change the designated beneficiary of the plan.
33. To conduct investment transactions as provided in Fla. Stat. §709.2208(2).

FINANCIAL MATTERS

34. To collect, receive, and receipt for any and all sums of money or payments due or to become due to me.
35. To continue, establish, modify, or terminate an account, credit or debit card, electronic transfer authorization, or other banking arrangement with a bank, trust company, savings and loan association, credit union, thrift company, brokerage firm, insurance company, or other financial institution selected by the Agent.
36. To make, assign, draw, endorse, discount, guarantee, and negotiate promissory notes, checks, drafts, and other negotiable or nonnegotiable paper.
37. To deposit to or withdraw from, by check, order, electronic funds transfer, wire transfer, or otherwise, money or property of mine held by a financial institution.
38. To receive statements of account, notices, and similar documents from a financial institution and act with respect to them; to contract with a financial institution for services, including renting a safe deposit box or space in a vault.
39. To enter any safe deposit box or vault on which I am a signer and withdraw or add to the contents.
40. To adjust, renew or extend the time of payment of commercial paper, a debt owed to me, a debt I owe, or a debt guaranteed by me, or any other financial transaction.
41. To borrow money on my behalf and pledge as security my personal property; to apply for, receive, and use letters of credit from a financial institution, and give an indemnity or other agreement in connection with them.
42. To conduct banking transactions as provided in Fla. Stat. §709.2208(1).

BUSINESSES AND CONTRACTS

43. To act for me in any business or enterprise, including sole proprietorships, general or limited partnerships, joint ventures, business trusts, land trusts, limited liability companies, and other domestic and foreign forms of organizations (each referred to as an

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"Entity"), in which I am now or have been engaged or interested.

44. To change the form of organization or governing jurisdiction under which an Entity is operated, or its name, or any of the above, and to continue any unincorporated business that the Agent determines is not advisable to incorporate.
45. To buy, sell, enlarge or reduce my ownership interest in any Entity, and to contribute additional capital into an Entity in which I have an interest.
46. To enter into an ownership agreement with other persons to take over all or part of the operation of an Entity.
47. To establish the value of an Entity under a buy-sell agreement to which I am a party, and to enforce the terms of any agreement relating to ownership (or sale) of an interest in an Entity.
48. To participate in any type of liquidation or reorganization of any enterprise.
49. To vote and exercise all rights and options, or empower another to vote and exercise those rights and options as permitted by law, concerning any interests in an Entity, in securities, or in other assets; to enter into or approve agreements for merger, reorganization, conversion, domestication or equivalent transactions with respect to any Entity; and to enter into voting trusts and other agreements or subscriptions.
50. To exercise in person or by proxy, or enforce by litigation or otherwise, a right, power, privilege, or option I have as the holder of stocks and bonds;
51. To compromise, arbitrate, or otherwise adjust claims in favor of or against any Entity in which I have an interest.
52. Except as otherwise provided under Fla. Stat. Chapter 709 relating to contracts for personal services, to contract with any person or Entity for any purpose, and to perform that contract; to agree to any termination, release, rescission or modification of any contract or agreement.

INSURANCE, ANNUITIES, AND RETIREMENT FUNDS

For purposes of this section, a "Contract" means a contract of insurance on my life, a contract of insurance regarding my disability or long term care, or an annuity (however denominated). A "Plan" means a retirement plan or account created by an employer, by me, or by another person to provide retirement benefits or deferred compensation for me as a participant, beneficiary, or owner, including a plan or account under the following sections of the Internal Revenue Code (as amended from time to time): an individual retirement account under §§408, 408A, or 408(q); an annuity or mutual fund custodial account under §403(b); a pension, profit-sharing, stock bonus, or other retirement plan qualified under §401(k); a plan under §457(b), and a nonqualified deferred compensation plan under §409A. To the extent not limited in the Special Transactions section, I give my Agent the following powers:

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53. To continue, pay the premium or make a contribution on, modify, exchange, rescind, release, or terminate a Contract, whether or not I am a beneficiary under the contract, and whether owned by me or obtained by my Agent;
54. To procure new Contracts for me and any member of my family;
55. To exercise the following rights for Contracts:
- a. To obtain a loan secured by a Contract or to borrow against its value;
 - b. To surrender a Contract and receive its cash surrender value;
 - c. To exercise any election available under that Contract;
 - d. To exercise investment powers, if applicable;
 - e. To change the manner of paying premiums and to select the form and timing of the payment of proceeds;
 - f. To change or convert the Contract to another type;
 - g. To sell, assign, or otherwise transfer the Contract.
56. To obtain property, casualty, liability or any other insurance for me and my property.
57. With respect to a Plan, I give my Agent the following powers:
- a. To select the form and timing of payments and withdraw benefits from the Plan; To make rollovers, including a direct trustee-to-trustee rollover, of benefits from one Plan to another;
 - c. To establish a Plan in my name;
 - d. To make contributions to a Plan;
 - e. To exercise investment powers, if applicable;
 - f. To borrow from, sell assets to, or purchase assets from a Plan.

ESTATES, TRUSTS, AND OTHER BENEFICIAL INTERESTS

To the extent not limited in the Special Transactions section, to act for me regarding any trust, probate estate, guardianship, conservatorship, escrow, custodianship or fund in which I may have a right or beneficial interest, including:

58. To make an election on my behalf for me to receive an elective share, if any, as provided by Florida law as amended from time to time.
59. To exercise for my benefit a presently exercisable general power of appointment.
60. To transfer property to the trustee of a trust created by me or for my benefit.
61. To accept, receipt for, sell, assign, pledge, or exchange my interest; to reject or disclaim, or consent to a modification of, my interest.

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62. To initiate and pursue litigation, including settlement, compromise, or alternative dispute resolution, regarding my interest, including a determination of the meaning, validity, or effect of a deed, Will, declaration of trust, or other instrument or transaction affecting my interest, or to remove, substitute, or surcharge a fiduciary.

CLAIMS AND LITIGATION

63. To sue in my name and behalf for the recovery of any and all sums of money or other things of value, payments due or to become due to me, or damages I have sustained or will sustain; to seek an attachment, garnishment, order of arrest, or other preliminary, provisional, or intermediate relief and use an available procedure to effect or satisfy a judgment, order, or decree; and to collect, hold and disburse any property received in satisfaction of judgments.
64. To initiate or participate in adjustments of claims, either by me or against me, including submission to alternative dispute resolution, and to settle or compromise such claims.
65. To participate and bind me in any litigation, including: to waive or accept service of process on my behalf; to appear for me; to agree to stipulations or admission of facts on my behalf (other than a representation as to my personal knowledge); to verify pleadings, seek appellate review, procure and give surety and indemnity bonds, authorize and pay for records and briefs; to receive, execute, and file a consent, waiver, release, confession of judgment, satisfaction of judgment, notice, agreement, or other instrument; and to make or accept a tender or offer of judgment.
66. To pay any and all bills, accounts, claims, and demands now or hereafter payable by me, including a judgment, award, order or settlement made in connection with a claim or litigation.
67. To assert and maintain before a court or administrative agency a claim for relief or cause of action, or to seek an injunction, specific performance, or other relief.
68. To act for me with respect to any bankruptcy or insolvency concerning me or some other person, or with respect to a reorganization or receivership which affects my interest in any property.

PERSONAL AND FAMILY MATTERS

69. To demand, obtain, review, and release to others medical records, documents, or communications protected by the patient-physician privilege, attorney-client privilege, or any similar privilege, including all records subject to, and protected by, the Health Insurance Portability and Accountability Act of 1996, as amended ("HIPAA"). I designate my Agent as my personal representative under HIPAA. My Agent may also enforce any or all of the privileges listed above.
70. To nominate on my behalf a person (including my Agent) or entity to be appointed by a court of appropriate jurisdiction as guardian of my person or property, or both, or as custodian for my property during the pendency of any proceedings to determine my legal

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capacity.

71. To receive and open my mail, change my mailing address, and otherwise represent me in any matter concerning the U.S. Postal Service.
72. To access communications intended for me, and communicate on my behalf, whether by mail, electronic transmission, telephone, or other means.
73. To access my accounts involving web-based communications, such as email, memberships in organizations or commercial enterprises, and social media, all of which require a user name and password for access, even to the extent of compelling the provider to reset my information to data of my Agent's choosing.
74. To the extent not limited in the Special Transactions section, to continue or discontinue my membership in any club, religious institution, society, order, or other organization (whether individual or family) and to continue or discontinue payment of dues, fees, or contributions to those organizations.
75. Accept or resign on my behalf from any offices or positions which I may hold, including any fiduciary positions.
76. To hire and compensate attorneys, accountants, advisors, financial consultants, managers, agents, and assistants (including any individual or entity who provides investment advisory or management services, or who furnishes professional assistance in making investments) without liability for any act of those persons, if they are selected and retained with reasonable care. An Agent may serve in one or more of these capacities and be compensated separately for the services in each.
77. To discharge (with or without cause) any person hired by me (or on my behalf), by the Agent, or by any prior Agent, including but not limited to, the categories of persons named above, and physicians, nurses, care-givers, and domestics.
78. To make periodic payments of child support and other family maintenance required by a court or governmental agency or an agreement to which I am a party.

GOVERNMENT BENEFITS AND ACTIONS

This section deals with benefits or actions from or relating to any branch or department of the United States government, any state government, or any foreign government, whether or not recognized by the United States, including without limitation, the Social Security Administration, the Department of Veterans Affairs, the Internal Revenue Service, Medicare or Medicaid, and any government department providing payments or grants. I give my Agent the following powers:

79. To file or process claims, and receive payment for any amounts due me under Social Security, or as payments for retirement under the Civil Service Administration, the Railroad Retirement Act, any plan sponsored by a state (or a subdivision of a state) of the United States, or any branch of the military.

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80. To enroll in, apply for, select, reject, change, amend, or discontinue, on my behalf, a benefit or program, and to receive and endorse for deposit in any account any payments that I receive from a governmental source.
81. To file or process claims, and receive payment for medical bills with all insurance companies through which I have coverage, including but not limited to Medicare and Medicaid, and to receive from Blue Cross/Blue Shield, Humana, United Health Care, CHAMPUS, or any other insurer information obtained in the adjudication of any claim in regard to services furnished to me under Title 18 of the Social Security Act.
82. To prepare, execute, and file a record, report, or other document to safeguard or promote my interest under a federal or state statute or regulation; to communicate with any representative or employee of a government or governmental subdivision, agency, or instrumentality, on my behalf.
83. To create, fund, and maintain an Income Trust pursuant to 42 USC §1396(d)(4)(B) in order to qualify me or retain my eligibility for Medicaid or any other public assistance benefits.

TAXES

84. To represent me before any office of the Internal Revenue Service or any state agency, to receive confidential information regarding all tax matters for all periods, whether before or after the execution of this instrument, and to make any tax elections on my behalf.
85. To prepare, sign and file any tax return on my behalf including income, gift, payroll, property, Federal Insurance Contributions Act, claims for refund and other tax returns or other tax-related documents, including receipts, offers, waivers, consents, and agreements.
86. To pay taxes due, collect refunds, post bonds, receive confidential information, and contest assessments, deficiencies, fines, or penalties determined by the Internal Revenue Service or any other taxing authority.
87. To execute on my behalf any power of attorney required by the Internal Revenue Service or other taxing authority with respect to a tax year upon which the statute of limitations has not run and the following 25 tax years.

SPECIAL TRANSACTIONS

Certain transactions under this power of attorney may profoundly affect my existing estate plan and therefore require a separate authorization for my Agent to engage in them. By initialing next to any items within the respective numbered paragraphs in this Special Transactions section, I grant my Agent the authority stated in that paragraph with respect to the item initialed. If I have not initialed an item, my Agent is not authorized to take that action.

88. Gifts. I authorize my Agent to make gifts of my property outright to, or for the benefit of, the persons specified below, including by the exercise of any presently exercisable

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general power of appointment which I hold or acquire. For these purposes, a gift "for the benefit of" a person includes a gift to a trust in which that person is a beneficiary, to a custodial account under a state version of the Uniform Transfers (or Gifts) to Minors Act, and to a tuition savings account or prepaid tuition plan as defined under Internal Revenue Code §529. Unless I have provided otherwise in this instrument, gifts made to different donees need not be equal in amount, character or timing. Gifts may be made only to:

yes _____ my children and other descendants

_____ other members of my family, other than those listed above

yes _____ my Agent, despite any limitation under Fla. Stat. §709.2202(2)

_____ any organization qualifying for a gift tax charitable deduction which I have supported or which my Agent, in said Agent's discretion, believes I would support

_____ all of the above in this paragraph.

The gifts to the persons I have specified above, if any, may be made in the following amounts:

_____ in an amount not to exceed \$0- per donee, subject to my Agent's sole and absolute discretion.

_____ in an amount per donee not to exceed the annual dollar limits of the federal gift tax exclusion under Internal Revenue Code §2503(b) (annual exclusion)

_____ any amounts qualifying for federal gift tax exclusion under Internal Revenue Code §2503(e) (medical and educational exclusions)

_____ in an aggregate amount not to exceed my Applicable Exclusion Amount as provided in Internal Revenue Code §2010(c)

yes _____ for estate planning purposes, in unlimited amounts

_____ my Agent may **NOT** make any gifts of my property or exercise any powers of appointment I may hold. (I understand this limitation may have unintended or undesirable effects, but I choose it anyway.)

89. Trusts. I authorize my Agent to deal with trusts created by me, for me, on my behalf, or in connection with gifts from me to others as provided in the paragraph above authorizing gifts, as follows:

_____ To create an inter vivos trust, whether revocable or irrevocable, in which I am a beneficiary

_____ To the extent permitted in the trust agreement, to amend, revoke, or terminate a

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trust of which I am a beneficiary, or transfer the assets of such a trust into another trust under which I am a beneficiary

_____ To create, amend, or revoke trusts for the benefit of others

_____ To participate in either judicial or nonjudicial modification of a trust as permitted in Fla. Stat, Chapter 736

Yak all of the above in this paragraph.

90. Survivorship and Other Designations. My Agent may create or alter the nature of accounts in which I have an interest, as follows:

Yak To create or change rights of survivorship in accounts or other assets in which I have an interest.

Yak To change a beneficiary designation for any accounts or financial instruments, including life insurance policies, annuities, or retirement accounts of any nature

Yak To waive my right to be a beneficiary of a joint and survivor annuity, including a survivor benefit under a retirement plan of any nature

91. Disclaimers. My Agent may disclaim interests in property on my behalf as follows:

_____ Disclaim any interest in property I might otherwise receive, either outright or in trust

_____ Disclaim any powers I have over property or as a beneficiary of any trusts (excluding any powers I possess in a fiduciary capacity)

_____ Disclaim any powers of appointment I have or may acquire, excluding any testamentary power of appointment that I currently exercise in my Last Will and Testament

ADDITIONAL PROVISIONS

Protection for Agent. I understand, acknowledge and anticipate that many of my Agent's actions taken pursuant to specific grants of authority in this instrument could involve said Agent in conflicts of interest (created either by me or by my Agent), or call into question my Agent's apparent loyalty to me, or both. This might result from the totality of the circumstances facing the Agent at that time, or by virtue of the Agent's specific actions that might create the conflict of interest. I want my Agent to be free to act in my interest without concern over questionable lawsuits. Therefore, so long as my Agent acts in good faith, said Agent will be protected as follows:

a. My Agent does not have an affirmative duty to act under this power of attorney and will

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not be liable for any claim or demand arising out of said Agent's good faith acts or omissions, except for actions or omissions resulting from my Agent's dishonesty, improper motive, or reckless indifference to the purposes of this power of attorney.

- b. My Agent may have competing interests for said Agent or the Agent's affiliates, and I waive any express duty of loyalty imposed under Fla. Stat. §709.2114(2).
- c. My Agent may have a conflict of interest as provided in Fla. Stat. §709.2116. Despite that section, my Agent may undertake a transaction on my behalf even if another party to that transaction is: (i) a business or trust controlled by my Agent, or of which an Agent, or any director, officer, or employee of a Corporate Agent, is also a director, officer, or employee; (ii) an affiliate or business associate of my Agent; or (iii) an Agent acting individually. This exception also extends to any relative of such a party.
- d. I fully indemnify my Agent out of my assets and my estate for any actions brought against said Agent, and damages said Agent sustains, including attorneys' fees and costs, that have as a basis my Agent's actions or inactions resulting in both a claim for breach of fiduciary duty and actual damages to me or my estate, but this protection does not extend to actions or omissions resulting from my Agent's dishonesty, improper motive, or reckless indifference to the purposes of this power of attorney.
- e. My Agent will not be liable for any actions by a predecessor agent if the Agent does not participate in or conceal the action. An Agent is not required to review the actions of a predecessor agent, absent actual knowledge by the Agent of wrongdoing.

Compensation and Expenses. My Agent will be entitled to reasonable compensation and reimbursement for all expenses reasonably incurred by said Agent on my behalf.

Foreign Accounts. Despite any power granted to the Agent in this instrument or under law, my Agent may not exercise any power over, or transact any business with respect to, an account in a foreign country, as defined in 31 CFR 1010.350(c) and 1010.350(d), unless the Agent expressly and specifically accepts such authority in writing.

Delegation of Powers. My Agent may not delegate the powers given as my attorney-in-fact, except as follows:

- a. To grant a transfer agent or similar person the authority to register securities in my name or the name of a nominee.
- b. For investment management purposes as provided in Fla. Stat. §518.112.

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- c. To any other person, as may be permitted under the law of another jurisdiction in which this instrument is presented.

Suspension of Rights and Duties. All powers granted to an Agent will be suspended immediately if he or she becomes disabled. For these purposes, an Agent's disability is determined as follows:

- a. If an Agent is determined to be incapacitated by a court having jurisdiction.
- b. In the absence of a judicial determination, and if the majority of my children reasonably believe that an Agent is suffering from any mental or physical incapacity that would affect his or her ability to manage my affairs, and if they obtain written confirmation of that opinion from that Agent's physician, those persons shall give that Agent written notice to that effect. Upon delivery to the Agent of that written notice, all powers of that Agent as my attorney-in-fact will be suspended until his or her legal capacity is determined by a court, until his or her physician determines the Agent is no longer disabled, or until the persons entitled to give such written notice rescind it.
- c. If an Agent fails to sign a release of relevant medical information necessary to determine his or her capacity, that Agent will be suspended for 30 days after the request for such a release is delivered to him or her by the persons described above. If the Agent consents to the release of relevant medical information, and is determined not to be disabled, he or she may elect to resume service as Agent by giving written notice to me and to the persons named above.

Use of Copies. As provided in Fla. Stat. §709.2106, a photocopy or electronic copy of this power is sufficient for its exercise.

Partial Invalidity. If any part of this power of attorney is declared invalid or unenforceable, that decision will not affect the validity of the remaining parts.

Limitation on actions of Agent. No Agent may participate in an action to the extent that a payment or distribution pursuant to that action would discharge a legal support obligation of that Agent. No Agent who is the insured of any insurance policy that I own may exercise any rights or have any incidents of ownership with respect to the policy, including the power to change the beneficiary, to surrender or cancel the policy, to assign the policy, to revoke any assignment, to pledge the policy for a loan, or to obtain from the insurer a loan against the surrender value of the policy. All such power is to be exercised solely by another Agent, if any.

AFFIDAVIT BY ATTORNEY-IN-FACT

Before me, the undersigned authority, personally appeared JENNIFER MARIE SMITH, ("Affiants"), who swore or affirmed that:

1. Affiant is the attorney-in-fact named in the Durable Power of Attorney executed by JOHN A. SMITH (the "Principal") on June 13, 2013.
2. This Durable Power of Attorney is currently exercisable by Affiant. The Principal is domiciled in Florida.
3. To the best of Affiant's knowledge after diligent search and inquiry:
 - a. The Principal is not deceased; and
 - b. The Durable Power of Attorney has not been revoked; partially or completely terminated by adjudication of incapacity of the Principal or by the occurrence of an event referred to in the Durable Power of Attorney; or suspended by initiation of proceedings to determine the incapacity of the Principal,
4. Affiant is acting within the scope of authority granted in the Power of Attorney.
5. Affiant agrees not to exercise any powers granted by the Durable Power of Attorney if Affiant learns that any averment in Section 3a or 3b is no longer accurate.

Jennifer Marie Smith
JENNIFER MARIE SMITH 8/2/13

STATE OF FLORIDA)
)
COUNTY OF MIAMI-DADE)

The foregoing instrument was acknowledged before me on June 13, 2013, by JENNIFER MARIE SMITH who personally appeared before me, is personally known to me or presented a driver's license as identification and did take an oath.

[SEAL]



Johnathon Franco
State of Florida
MY COMMISSION # EE 065060
Expires: January 14, 2017

Johnathon Franco
Notary Public - State of Florida

PROPOSED SKETCH & DESCRIPTION LOT 2

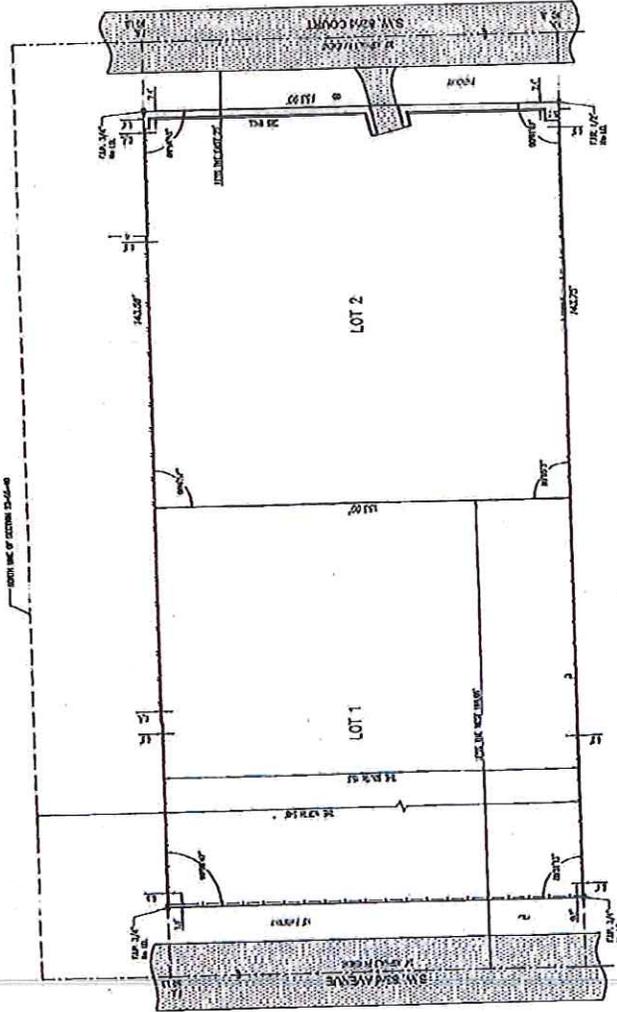
- LEGEND**
- CONC. = CONCRETE
 - CONC. WALL = CONCRETE BLOCK STRUCTURE
 - C = CENTER LINE
 - E = EASEMENT
 - A = AREA
 - F.I.R. = FOUND IRON ROD
 - F.I.P. = FOUND IRON PIPE
 - F.M. = FOUND MAIL
 - F.D.H. = FOUND DIRT HOLE
 - U.S. = UTILITY
 - L.A.E. = LAKE MAINTENANCE EASEMENT
 - N.O. = NO OBSTRUCTION
 - N/A = NOT APPLICABLE
 - N.C.V.D. = NATIONAL GEODETIC VERTICAL DATUM
 - N.A.V.D. = NORTH AMERICAN VERTICAL DATUM
 - O/L = ON LINE
 - P.L. = PLAT BOOK
 - P = PLAT
 - U.L. = UTILITY EASEMENT
 - P.S.M. = PROFESSIONAL SURVEYOR AND MAPPER
 - P.C.P. = PERMANENT CONTROL POINT
 - R/W = RIGHT OF WAY
 - R = RIGHTS
 - IS/SA = ITS SUCCESSORS AND/OR ASSIGNS
 - AS/MA = AS THEIR INTEREST MAY APPEAR

- SYMBOLS**
- ☐ AIR CONDITIONER
 - ☐ COOK HOOK
 - ☐ WATER METER
 - ☐ POLE POOP
 - ☐ WATER HEATER
 - ☐ FIRE HYDRANT
 - ☐ CASE IRON PIPE
 - ☐ I.P. TRANSFORMER
 - ☐ ELECTRIC BOX
 - ☐ TELEPHONE BOX
 - ☐ MANHOLE
 - ☐ UTILITY POLE
 - ☐ WOOD POLE
 - ☐ CONCRETE POLE
 - ☐ WOOD POLE
 - ☐ CEMENT ELEVATION
 - ☐ CONC. COVERED AREA
 - ☐ CONC. WALL
 - ☐ IRON ROD (R.I.R.)
 - ☐ CHAIN LINK FENCE (C.L.F.)
 - ☐ WOOD FENCE (W.F.)
 - ☐ METAL FENCE (M.F.)
 - ☐ FENCE (F.)
 - ☐ MET. FENCE (M.F.)

CERTIFIED TO:

LEGAL DESCRIPTION:
 LOT 2 DESCRIBED AS THE SOUTH 100 FEET OF THE NORTH 200 FEET OF THE 1/4 OF THE SOUTH 1/4 OF SECTION 22, TOWNSHIP 33 SOUTH, RANGE 40 EAST, T19N AND RANGE 40 WEST, T33S, R40E, SEC. 22, DADE COUNTY, FLORIDA.

SURVEY NOTES:
 LIMITED TO USABLE IMPROVEMENTS ONLY AS SHOWN HEREON. LANDS SHOWN HEREON WERE NOT ABSTRACTED BY BAZELME & ASSOCIATES, INC. IN 1988. VERTICAL DATUM: NAD 83. HORIZONTAL DATUM: NAD 83.



TITLE: PHOTOSHOP SKETCH & DESCRIPTION LOT 2	DATE: 10/01/2023	SCALE: 1" = 20'	NOTES: REVISIONS	SHEET: 1 OF 1
COMMUNITY PANEL / FLOOD ZONE	BASE FLOOD EL.: 10.00'	DATE: 10/01/2023	DESIGNED BY: L.L.C.	PROJECT: BAZELME & ASSOCIATES, INC.
THIS SURVEY WERE THE STANDARDS OF PRACTICE AS SET FORTH BY THE FLORIDA BOARD OF PROFESSIONAL SURVEYORS AND MAPPERS, IN CHAPTER 5A-17, FLORIDA ADMINISTRATIVE CODE.				

PROPOSED
ORDINANCE

1
2 **Section 1.** In evaluating an application for a rezoning, from E-1 Estate Single Family
3 to, E-M, Estate Modified Single Family for .98 acres (+/-), for the property located at 13650 SW 82
4 Court bearing folio 33-5022-000-0191, the Palmetto Bay Village Council applied the criteria under
5 30-30.7(b) of the Village's Code and found the request to be consistent. The map amendment is
6 attached and incorporated by reference herein as Attachment 1.
7

8 **Section 2.** The property that is the subject of the rezoning bears the following legal
9 description:

10 The South 153 Feet of the North 548 Feet of the W ½ of the East ½ of the NE ¼
11 of the NW ¼ less the East 25 feet and the West 25 Feet thereof, in Section 22,
12 Township 55 South, Range 40 East, lying and being in Miami-Dade County, Florida,
13 and containing 42,688 square feet or .98 acres, more or less.
14
15

16 **Section 3.** The Village Council in compliance with Chapter 166, Florida Statutes, after
17 the first reading approved the request to rezone.
18

19 **Section 4.** All ordinances or parts of ordinances in conflict with the provisions of this
20 ordinance are repealed.
21

22 **Section 5.** If any section, clause, sentence, or phrase of this ordinance is for any reason
23 held invalid or unconstitutional by a court of competent jurisdiction, the holding shall not affect the
24 validity of the remaining portions of this ordinance.
25

26 **Section 6. Effective Date.** This ordinance shall take effect immediately upon
27 enactment.
28

29 **PASSED and ENACTED** this ____ day of _____, 2016.
30

31 First Reading: _____
32 Second Reading: _____
33

34 Attest: _____

35 Meighan Alexander
36 Village Clerk

Eugene Flinn
Mayor

37
38
39 APPROVED AS TO FORM AND LEGAL SUFFICIENCY FOR THE
40 USE AND RELIANCE OF THE VILLAGE OF PALMETTO BAY ONLY:
41

42 _____
43 Dexter W. Lehtinen
44 Village Attorney

1
2 FINAL VOTE AT ADOPTION:
3
4 Council Member Karyn Cunningham _____
5
6 Council Member Tim Schaffer _____
7
8 Council Member Larissa Siegel Lara _____
9
10 Vice-Mayor John DuBois _____
11
12 Mayor Eugene Flinn _____
13
14



To: Honorable Mayor and Village Council

Date: March 7, 2016

From: Edward Silva, Village Manager

Re: Third Supplemental Report
Parking Waiver Procedure
Ordinance for 1st Reading

**AN ORDINANCE OF THE MAYOR AND VILLAGE COUNCIL OF
THE VILLAGE OF PALMETTO BAY, FLORIDA, RELATING TO
ZONING; CREATING SECTION 30-70 OF THE LAND
DEVELOPMENT CODE RELATING TO REQUIRED PARKING
EXEMPTIONS; PROVIDING FOR ORDINANCES IN CONFLICT,
CODIFICATION, SEVERABILITY AND AN EFFECTIVE DATE.**

UPDATE SINCE PREVIOUS HEARING:

This item was originally presented on March 2, 2015 but, was continued so that staff could provide the Village Council a greater explanation regarding various parking remedies for commercial properties. The item was rescheduled for a hearing that occurred on April 6, 2015 and included the requested supplemental report exploring the pros and cons of various parking relief remedies.

To allow time to digest, that report was released three weeks prior to the April Council hearing. As a result of the issuance of that report, it was desired to again continue the item from the April hearing to June 1, 2015, so that other parking remedies could be incorporated into the proposed ordinance. The item that was presented on June 1, 2015 reflected those additional parking remedies. During discussion of the item during the June 1st hearing, it was expressed that bicycle parking facilities should also be contemplated as a potential remedy to alleviate automobile parking requirements.

The proposed ordinance is reflective of the efforts described above and is the specific item being offered for First Reading consideration. The previous reports and corresponding proposed ordinances are attached by way of history, background and reference (Attachment A). Analysis of this most current request shall be as reflected in this report.

PROPOSED CHANGES:

The following reflects a menu of remedy options available to commercial developments so that they may fully comply with parking requirements as they seek to lease their tenant spaces. Multiple options are offered as no one remedy is necessarily appropriate to each situation.

Parking Reduction Waiver Request. The original proposal recognized that not all businesses share identical operational demands. This methodology offers a remedy that may be more nimble

than a variance request or change of law, and one that would be considerably less timely or expensive to pursue. Where it is determined that a parking deficiency exists, the prospective business owner may complete a parking study to determine if the operational demands of the use does not over burden the property where it is to be located. The review, approval, denial or approval with conditions, of that plan would be completed administratively. If the applicant and staff do not agree, the owner may elect to pursue the variance option. The fee for parking analysis review shall be half of that for a non-use variance application. Appeal of the administrative final decision shall be by way of non-use variance upon which the application shall pay other half of the variance application fee plus any other costs (public hearing and advertising) associated with the application and hearing as provided by ordinance. The relief procedure shall only be available to existing development. Parking facilities for new developments shall be built according to the standards provided by each use category as applicable.

Shared Usage Agreements. Just as was described in the methodology above, not all business share the same operational models. In this case, some only have morning operations, other afternoons, some only evenings, and others still with some combination thereto. The principal here is that parking is calculated as though all business operate at the same time and at full capacity. This of course is not the case. For example, a breakfast establishment may open at 5:00 am and close by 3:00 pm, whereas a karate studio may not open until 3:00 pm but close by 9:00 pm. Shared usage agreements allow for those spaces to be counted when they are needed. Such agreements shall be completed through a covenant running with the land. Should the uses covered by the agreement change or the hours of operation change, all zoning approvals become null.

On-Street Parking. Another option provided by current code involves shifting a portion of the required parking to the curb. This remedy is currently only available in the Franjo Triangle and Island (FT&I) District. The proposed change makes the option available to other commercially zoned areas of the Village. A key difference, however, is the prohibition to locate on-street parking on right-of-ways adjacent to single family residential uses. Otherwise, the ordinance operates in much the fashion as it does for the FT&I District.

Valet Parking. The valet parking code was modified to provide a procedure for existing development to meet parking requirements. Parking can be on site or at a shared site and tandem spaces are permitted. The code does not permit the alteration of parking facilities or landscaped areas.

Nonconforming Development. This section was amended to provide greater clarification regarding nonconforming uses. Although this is broadly covered by the Village's nonconforming code provisions at Section 30-10.4, and was the standard practice of staff, the inserted language provides greater specificity. The amended provision allows existing development to continue to enjoy the parking standard required at the time of their original development.

Bicycle Parking in Lieu of Automobile Parking. This option permits the inclusion of four (4) bicycle parking spaces to replace one required automobile parking space. This method may reduce

require automobile parking by up to 5% or ten (10) spaces, whichever is less. Only those bicycle parking spaces in excess of those required by code may be eligible to replace automobile parking spaces.

Calculation of Required Parking. This new provision is reflective of procedures already exercised by staff and provides clearer authority thereto. It allows spaces to be calculated based on their actual usage such as storage area versus retail area of a grocery. It also excludes from calculation such areas as bathrooms, storage closets, hallway corridors, and lobbies that are not used as waiting areas.

ANALYSIS:

The proposed ordinance was reviewed for consistency with the criteria established in Section 30-30.7(b). All previous reports, and the Update, and Proposed Changes sections of this report fully incorporated into all portions of this analysis and is 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 Village's Comprehensive Plan or Concurrency Management Plan does not directly address parking requirements. However, Goal 1 of the Comprehensive Plan has a stated intent to protect residential areas. As such, a portion of this amendment was tailored to limit the impact to adjacent single family uses by prohibiting adjacent on-street parking.

Finding: Consistent.

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

Analysis: The proposed ordinance is internally consistent with the remaining portions of Section 30-70 in that it seeks the (unstated) intent to ensure adequate parking is provided on site for those uses approved thereon. The menu of remedies offers options to commercial developments to meet parking requirements as they seek to lease their tenant spaces.

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: As reflected in the Background section of the prior reports and the Proposed Changes sections of this report (and prior reports), considerable time has passed since the adoption of the first parking code and the development of the commercial portions of the Village. The proposed amendment offers multiple avenues for relief when such standards fall out of sync with the proposed use; and it does so in a manner that does not compromise the conforming status of the receiving property.

Findings: Consistent.

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

Analysis: The proposed ordinance does not change permitted uses. It merely provides a level of flexibility when siting business within the Village. The intent is to determine if approving the new use would create such an impact. If one exists, the request is denied, if it does not, then it is approved.

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: The proposed ordinance does not alter permitted use, intensities or densities. As such, it does not impact the above systems.

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 may only affect existing parking facilities and 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 It is anticipated, though not quantified, that the ordinance will likely have a positive effect on property values. The logic is as follows; a fully rented commercial facility is worth more than one partially or fully unleased.

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 The proposed ordinance does not change permitted uses or change any provisions which affect the development of land.

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 Analysis under Criteria 2, 3 and 4.

Finding: Consistent.

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

Analysis: As per the direction of the Village Council.

Finding: As determined by the Village Council.

FISCAL/BUDGETARY IMPACT:

It is anticipated that the cost to process requests contemplated by the proposed ordinance be fiscally neutral.

RECOMMENDATION:

Approval is recommended.

Attachments:
(A) Report



Darby Delsalle, AICP
Planning & Zoning Director

Manager's Report
for
Third Supplemental Report
Parking Waiver Procedure Ordinance

ATTACHMENT A



To: Honorable Mayor and Village Council

Date: May 22, 2015

From: Edward Silva, Village Manager

Re: Second Supplemental Report
Parking Waiver Procedure -
Ordinance for 1st Reading

AN ORDINANCE OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, RELATING TO ZONING; CREATING SECTION 30-70 OF THE LAND DEVELOPMENT CODE RELATING TO REQUIRED PARKING EXEMPTIONS; PROVIDING FOR ORDINANCES IN CONFLICT, CODIFICATION, SEVERABILITY AND AN EFFECTIVE DATE.

BACKGROUND:

On March 2, 2015, a proposed parking waiver procedure was read into the public record for consideration of a potential administrative process that would offer an avenue of relief from current parking codes for businesses seeking to locate within the Village. No vote was taken on the item for first reading and instead it was deferred so that the Mayor and Village Council could review additional information regarding the nature of the proposal.

The initiative was driven by a need to find a remedy for commercial properties that were experiencing challenges in leasing tenant spaces that would comply with the parking codes of the Village. Put into context, these properties are attempting to lease to 21st century uses and business models at locations built to pre-1970's development standards¹.

A supplemental report was issued on March 17, 2015 which identified other methodologies that may be utilized to seek a remedy to a parking deficiency. That report was issued three (3) weeks prior to the April 6, 2015, Mayor and Village Council hearing to provide additional time for the consideration of other methodologies. Some of the options presented in the supplemental report are currently provided for by the Village's code whereas others are not. As a result of that supplemental report, staff requested a continuance of the item so that the proposed ordinance may be revised to reflect a fuller menu of options available to remedy a parking deficiency. That continuance was granted without a date certain. The proposed ordinance from the March 2, 2015 hearing, its report, and the subsequent supplemental report are attached hereto as Exhibit A.

Attached to this second supplemental report is a newly proposed ordinance which seeks to provide viable parking relief procedures that avoid the challenges presented in the prior supplemental report.

¹ Please see the original staff report dated February 23rd, 2015, as provided at Exhibit A, for a fuller explanation of this paragraph.

Those approaches include a waiver request process, shared usage parking, on-street parking, modification of existing valet parking rules, a clarification of nonconformity for existing developments, and a clarification regarding parking amount calculations. All proposed changes are presented in the Proposed Changes section of this report.

The newly proposed ordinance is separately advertised for first reading to reflect the expanded nature of the item. Because the prior request never received an approval at first reading, it is considered dead. The two prior reports are incorporated into this second supplemental report by reference. The Analysis section of this report shall replace that provided by the initial staff report issued on February 23, 2015.

PROPOSED CHANGES

The following reflects a menu of remedy options available to commercial developments so that they may fully comply with parking requirements as they seek to lease their tenant spaces. Multiple options are offered as no one remedy is necessarily appropriate to each situation.

Parking Reduction Waiver Request. The original proposal recognized that not all businesses share identical operational demands. This methodology offers a remedy that may be more nimble than a variance request or change of law, and one that would be considerably less timely or expensive to pursue. Where it is determined that a parking deficiency exists, the prospective business owner may complete a parking study to determine if the operational demands of the use does not over burden the property where it is to be located. The review, approval, denial or approval with conditions, of that plan would be completed administratively. If the applicant and staff do not agree, the owner may elect to pursue the variance option. The fee for parking analysis review shall be half of that for a non-use variance application. Appeal of the administrative final decision shall be by way of non-use variance upon which the application shall pay other half of the variance application fee plus any other costs (public hearing and advertising) associated with the application and hearing as provided by ordinance. The relief procedure shall only be available to existing development. Parking facilities for new developments shall be built according to the standards provided by each use category as applicable.

Shared Usage Agreements. Just as was described in the methodology above, not all business share the same operational models. In this case, some only have morning operations, other afternoons, some only evenings, and others still with some combination thereto. The principal here is that parking is calculated as though all business operate at the same time and at full capacity. This of course is not the case. For example, a breakfast establishment may open at 5:00 am and close by 3:00 pm, whereas a karate studio may not open until 3:00 pm but close by 9:00 pm. Shared usage agreements allow for those spaces to be counted when they are needed. Such agreements shall be completed through a covenant running with the land. Should the uses covered by the agreement change or the hours of operation change, all zoning approvals become null.

On-Street Parking. Another option provided by current code involves shifting a portion of the required parking to the curb. This remedy is currently only available in the Franjo Triangle and Island (FT&I) District. The proposed change makes the option available to other commercially zoned areas of the Village. A key difference, however, is the prohibition to locate on-street parking on right-of-ways adjacent to single family residential uses. Otherwise, the ordinance operates in much the fashion as it does for the FT&I District.

Valet Parking. The valet parking code was modified to provide a procedure for existing development to meet parking requirements. Parking can be on site or at a shared site and tandem spaces are permitted. The code does not permit the alteration of parking facilities or landscaped areas.

Nonconforming Development. This section was amended to provide greater clarification regarding nonconforming uses. Although this is broadly covered by the Village's nonconforming code provisions at Section 30-10.4, and was the standard practice of staff, the inserted language provides greater specificity. The amended provision allows existing development to continue to enjoy the parking standard required at the time of their original development.

Calculation of Required Parking. This new provision is reflective of procedures already exercised by staff and provides clearer authority thereto. It allows spaces to be calculated based on their actual usage such as storage area versus retail area of a grocery. It also excludes from calculation such areas as bathrooms, storage closets, hallway corridors, and lobbies that are not used as waiting areas.

ANALYSIS:

The proposed ordinance was reviewed for consistency with the criteria established in Section 30-30.7(b). The Background and Proposed Changes sections 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 Village's Comprehensive Plan or Concurrency Management Plan does not directly address parking requirements. However, Goal 1 of the Comprehensive Plan has a stated intent to protect residential areas. As such, a portion of this amendment was tailored to limit the impact to adjacent single family uses by prohibiting adjacent on-street parking.

Finding: Consistent.

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

Analysis: Please see Background and Proposed Changes sections of this report. The proposed ordinance is internally consistent with the remaining portions of Section 30-70 in that it seeks the (unstated) intent to ensure adequate parking is provided on site for those uses approved thereon. The menu of remedies offers options to commercial developments to meet parking requirements as they seek to lease their tenant spaces.

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: Please see Background and Proposed Changes sections of this report. As reflected in the Background and Proposed Changes sections of this report (and prior reports), considerable time has passed since the adoption of the first parking code and the development of the commercial portions of the Village. The proposed amendment offers multiple avenues for relief when such standards fall out of sync with the proposed use; and it does so in a manner that does not compromise the conforming status of the receiving property.

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: Please see Background and Proposed Changes sections of this report. The proposed ordinance does not change permitted uses. It merely provides a level of flexibility when siting business within the Village. The intent is to determine if approving the new use would create such an impact. If one exists, the request is denied, if it does not, then it is approved.

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: The proposed ordinance does not alter permitted use, intensities or densities. As such, it does not impact the above systems.

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 may only affect existing parking facilities and 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: It is anticipated, though not quantified, that the ordinance will likely have a positive effect on property values. The logic is as follows; a fully rented commercial facility is worth more than one partially or fully unleased.

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: The proposed ordinance does not change permitted uses or change any provisions which affect the development of land.

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 Analysis under Criteria 2, 3 and 4.

Finding: Consistent.

Second Supplemental Report
Parking Waiver Procedure
1st Reading
May 22, 2015
Page 6 of 6

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

Analysis: As per the direction of the Village Council.

Finding: As determined by the Village Council.

FISCAL/BUDGETARY IMPACT:

It is anticipated that the cost to process requests contemplated by the proposed ordinance be fiscally neutral.

RECOMMENDATION:

Approval is recommended.

Darby Delsalle, AICP
Planning & Zoning Director

1 Sec. 30-70.2. - Location of required parking; exceptions.

2
3 * * *

4
5 (b) Exemptions.

6
7 * * *

8
9 (4) Parking Reduction Waiver Request. It is acknowledged that for parking
10 calculation purposes, parking requirements and demand may shift for
11 existing developments over time as the use or mix of uses change. In cases
12 where the required parking, as provided for in this Division, for a proposed
13 use exceeds the amount of spaces available on the receiving property, the
14 applicant may request a Parking Reduction Waiver in lieu of pursuing a
15 public hearing variance.

16
17 a. Eligibility. These provisions shall only apply to existing
18 developments.

19 b. Application. All Parking Reduction Waiver Requests shall conform
20 to the following:

21
22 1. The applicant shall file an application and pay a filing fee
23 equal to half the cost of a non-use variance modification,

24
25 2. The application shall include a parking study confirming
26 whether or not the existing parking facilities of the
27 development adequately accommodate the proposed use.
28 The parking study shall be prepared by an engineer, architect,
29 or city planner, with expertise in parking, and shall be paid for
30 by the applicant. The Village may hire its own engineer,
31 architect, or city planner, at the applicant's expense, to
32 evaluate applicant's parking study.

33 3. Other plans and documentation necessary to evaluate the
34 request.

35
36 c. The Director of Planning and Zoning, or his/her designee, shall
37 either approve, approve with conditions, or deny the request based
38 on the parking study's finding of adequacy to accommodate of the
39 proposed use. Any approval shall be specific to the applicant's
40 requested use and will be deemed null should the operations cease
41 for a period of six (6) months or longer. Any expansion of the
42 approved use shall require full compliance with required parking or
43 resubmission of a waiver request as provided by this section. Denial
44 of a waiver request may be appealed to the Mayor and Village
45 Council pursuant to public hearing variance procedures as provided
46 at Division 30-30 of the Village's Land Development Code. All

1 applicable public hearing fees shall apply, and an application fee of
2 the appeal shall be half the cost of a non-use variance modification.
3

4 (5) Shared usage. Required parking spaces may be permitted to be utilized for
5 meeting the parking requirements of two (2) separate permitted uses when it
6 is clearly established by the applicant that the two (2) uses will utilize the
7 spaces at different times of the day, week, month or year. If approved by the
8 Village, a recordable covenant, with the correct legal description, shall be
9 submitted by the owners of the property and the two (2) or more businesses
10 or tenants involved in a form acceptable to the village attorney. The covenant
11 shall be recorded in the public records of Miami-Dade County at the
12 applicant's expense, and shall run with the land. The covenant shall provide
13 that:

- 14 a. The use or portion of a use, that requires the shared parking in order
15 to obtain the necessary permits or licenses, shall cease and terminate
16 upon any change in their respective schedules of operation that
17 results in conflicting or overlapping usage of the parking facilities;
18 b. and/or no nonresidential use may be made of that portion of the
19 property until the required parking facilities are available and
20 provided.

21 The covenant shall also provide that the Village may collect attorneys' fees if
22 litigation is necessary to enforce the requirements of this section.
23

24 (6) On-street parking. The following is an exclusive procedure applicable to
25 those commercially zoned lands not already covered by on-street parking
26 provisions. On-street parking spaces may count toward the minimum
27 parking requirements as providing for in this Division, provided the
28 development complies with the following:

29
30 a. All allocation of on-street parking spaces counted towards on-site
31 parking requirements shall be by written agreement between the
32 village and property owner, as reviewed by the Village Attorney for
33 legal sufficiency, and approved by the village manager. The
34 agreement shall clearly delineate the terms and conditions. The
35 village manager upon the advice of the village council, will
36 determine if the installation of parking meters is warranted and
37 appropriate for the area.

38
39 b. On-street parking shall be prohibited from those portions of right-
40 of-way adjacent to single family residential uses, and shall fully
41 comply with Division 30-100.1, Landscaping Regulations.

42
43 c. On-street parking constructed by property owner as part of their
44 development in question shall receive a credit with the village for
45 said spaces for a term five (5) years. Thereafter, an annual fee of
46 \$1,000.00, per space, which shall increase five percent annually,
47 shall be paid to the village for all on-street parking spaces which

1 are credited or counted toward minimum parking requirements for
2 new structures. Unallocated on-street parking spaces may be
3 allocated to a development. The development seeking to use the
4 unallocated on-street spaces shall pay a fee of \$1,000 per space
5 which shall increase five percent annually.

6
7 d. Failure to comply with the provisions of this subsection, shall
8 result in the loss or revocation of the certificate of use and/or
9 occupancy for the property failing to meet minimum parking
10 requirements for the project, and subject the property to a daily
11 penalty of \$250.00, per day.

12
13 e. Funds received under subsection 30-70.2(b)(6)d. shall be paid into
14 the Parking District Improvement Trust Fund, which shall be a
15 trust account separated from the village's general fund accounts.
16 The funds from the Parking District Improvement trust account
17 shall be used at the village council's discretion for the specific
18 purpose of developing or reimbursing the village for construction
19 and improvement to public parking facilities, infrastructure with
20 the intent to increase parking capacity, and the installation of
21 metering devices. Funds collected in this account may also be used
22 towards items that improve the pedestrian environment and may
23 include, but not be limited to bicycle parking and racks, sidewalk
24 improvements and maintenance, bench installation, water
25 fountains, outdoor recycle bins, signage for parking and bicycle
26 racks, tree planting and maintenance.

27
28 * * *

29
30 Sec. 30-70.5 Size and character of parking spaces.

31
32 The following requirements shall be observed for parking:

33
34 * * *

- 35 (i) Valet parking. Valet parking may shall be permitted, on-site or off-site, to provide
36 contribute towards meeting parking in excess of minimum parking requirements for
37 existing developments. For the village to consider approval of valet parking, a plan
38 must be submitted and shall include the location of valet spaces, insurance
39 requirements, staffing hours of operation, and the traffic circulations pattern
40 indicating all aspect of the valet operation to include drop-off and stacking areas and
41 may be used together with a shared parking agreement to ensute full compliance
42 with minimum required parking standards. The plan cannot alter previously
43 approved landscaping requirement, setbacks or buffers. Tandem parking shall be
44 permitted under valet parking plan. Robotic parking in an internally enclosed parking
45 garage shall be permitted.

46
47 * * *

1
2 Sec. 30-70.8 Amount of parking.

3 The minimum number of parking spaces to be provided and maintained for each use or occupancy
4 shall be as ~~follow~~: provided in this section. Developments built prior to this provision shall be
5 considered nonconforming and continue to rely upon the amount of parking standard required at
6 the time of their original development.

7
8 * * *

9
10 Sec. 30-70.12 Calculating required parking spaces.

11
12 * * *

13
14 (d) Unless otherwise specified in Section 30-70.8, parking amount shall be calculated
15 based on actual use of space, (e.g. grocery stores shall have separate calculations for
16 actual retail customer service area and storage areas). Bathrooms, storage closets,
17 hallway corridors, and lobbies not used as waiting areas shall be excluded from
18 parking calculations.

19
20
21 **Section 2. Conflicting Provisions.** The provisions of the Code of Ordinances of the
22 Village of Palmetto Bay, Florida and all ordinances or parts of ordinances in conflict with the
23 provisions of this ordinance are hereby repealed.

24
25 **Section 3. Severability.** The provisions of this Ordinance are declared to be severable,
26 and if any sentence, section, clause or phrase of this Ordinance shall, for any reason, be held to be
27 invalid or unconstitutional, such decision shall not affect the validity of the remaining sentences,
28 sections, clauses or phrases of the Ordinance, but they shall remain in effect it being the legislative
29 intent that this Ordinance shall stand notwithstanding the invalidity of any part.

30
31 **Section 4. Codification.** It is the intention of the Village Council and it is hereby
32 ordained the provisions of this Ordinance shall become and be made part of the Code of
33 Ordinances of the Village of Palmetto Bay, Florida, that sections of this Ordinance may be
34 renumbered or re-lettered to accomplish such intentions, and that the word "Ordinance" shall be
35 changed to "Section" or other appropriate word.

36
37 **Section 5. Effective Date.** This ordinance shall take effect immediately upon
38 enactment.

39
40
41
42 PASSED and ENACTED this ____ day of _____, 2015.

43
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45 First Reading: _____
46 Second Reading: _____

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Attest: _____
Meighan Alexander
Village Clerk

Eugene Flinn
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 Karyn Cunningham _____
- Council Member Tim Schaffer _____
- Council Member Larissa Siegel Lara _____
- Vice-Mayor John DuBois _____
- Mayor Eugene Flinn _____

EXHIBIT A



To: Honorable Mayor and Village Council

Date: March 17, 2015

From: Ron E. Williams, Village Manager

Re: Pre-release of Council
Requested Items

The attached items are provided to you in advance of the regular agenda release for the April 6, 2015, Mayor and Village Council hearing. These items are provided as per your direction on March 2, 2015. Village staff looks forward to sitting with you to discuss each item.



To: Honorable Mayor and Village Council

Date: March 17, 2015

From: Ron E. Williams, Village Manager

Re: Supplemental Report
Parking Waiver Procedure
Ordinance for 1st Reading

BACKGROUND:

On March 2, 2015, a proposed parking waiver procedure was read into the public record for consideration of a potential administrative process that would offer an avenue of relief from current parking Codes for businesses seeking to locate within the Village. No vote was taken on the item for first reading and instead it was deferred so that the Mayor and Village Council could review additional information regarding the nature of the proposal. This supplemental report is offered for that purpose.

This report describes the Certificate of Use process and provides a presentation on the challenges faced by a few commercial property owners and businesses seeking to locate within the Village. The final section will provide a discussion as to potential remedies. That portion of the report highlights some of the strengths and weaknesses of those approaches.

CERTIFICATES OF USE

The Certificate of Use program is a review process utilized by many jurisdictions to ensure that any given use, whether new, relocating or expanding, complies with those development standards appropriate thereto. It is the first application a prospective business makes when seeking to locate or expand within the Village. A certificate of use (CU) is the primary permitting tool utilized by the Village to ensure that the operational nature of any given business is appropriately suited to the zoning district within which it is located. Although a CU is principally a zoning instrument, its issuance is not rendered until conformance to the appropriate codes are properly reviewed and approved. The review process often involves the Village's Building Department as well as agencies from the Miami-Dade County such as the Department of Environmental and Resource Management (DERM), Water and Sewer Department (WASD), and the Fire Department.

Before any of the above reviews are performed and any application is accepted or fee paid, Village staff first checks to see if the requested use (ie. business) is permitted within the receiving zoning district. If it is determined that the use is permitted, the next step is to check if there is sufficient parking per code requirements to support the use at the requested location. The zoning code provides a matrix which delineates how many parking spaces a particular use must provide. Typically it is a function of the total floor of the business in question (ie. 1 space per 300 square feet). For multi-tenant centers, all leasable space, whether occupied or not must be included in the calculation. The principal reason for ensuring compliance is to prevent parking demand from

spilling out onto adjacent properties or the right-of-way. Another intent involves ensuring adequate and safe parking is available at any given property for the proper operation of the facility. If the proposed use requires more parking than is available for allocation at the site, the Village is prohibited by ordinance from approving the CU request. It is worth noting that it has been Village practice to perform a preliminary parking review prior to taking in a CU application and corresponding fee. This is done to save the customer from the expense of paying for an application that would likely result in a denial due to parking requirements.

THE PARKING CHALLENGE

The previous report spoke of older developments built under older parking standards as applied to new uses and new business models. Some businesses and their operation may change overtime and new businesses ideas and models may come into being. Changes in the market place may also affect the lease-ability of a commercial property. The essence of the issues addressed in this section were initially presented in the original staff report dated February 23, 2015. The following are excerpts of that report.

“Most of the new businesses that (re)locate [or expand] within the Village typically have business models that neatly comport to the Village’s parking standards and that of the parking facilities available at their new location. There are however times when the business model and the receiving locale do not sync well with the Village’s established parking standards.”

To understand why the above scenario exists, the following was offered.

“The Village’s parking code was modeled after Miami-Dade County which originally adopted theirs in 1957. Approximately 78% of the Village’s commercial development was constructed prior to 1970¹, and built to the standards of that Code. Since that time, new uses have come into being, others have adjusted their operational models, while others still have ceased to operate or even exist. Put into context, the occasion arises that 21st century uses and business models are trying to fit themselves into pre 1970’s development standards.”

As stated above, the majority of businesses that seek to locate within the Village are able to comply with the parking code. This is typically the case because the proposed business fits neatly into a parking category originally assigned to the building or property. Hence, parking functionality is presumed to exist per original code approvals, and the use thusly clears that portion of the CU review². This is of course not always the case. There are from time to time requests that do not

¹ This data was culled by CoStar, a real estate data service provider, and was provided to the Village as part of Lambert Advisory’s, Downtown Redevelopment Task Force market report.

² Compliance at this level of review should not be presumed to mean full conformance with the amount of parking as so identified within the current parking matrices. It is possible that a given property may enjoy a protected nonconforming status as it pertains to the permitted amount of parking as applied at the time of its original development. It is also

comply with the parking code. This report is not suggesting that every business which does not comply with the parking code be entitled to or should receive a waiver. Not all commercial properties have the facilities to support the parking demands of a business. Some uses have operational demands that may inevitable overwhelm the receiving site. The consequence of authorizing such a use could be parking spillage into the right-of-way or the adjacent neighborhood. Overall, the existing parking code does a good job of capturing and controlling for that issue. However, there are other uses, which despite the parking prescribed by code, may have operational demands that can be accommodated by the receiving property's parking facilities.

Hard data is not kept on those businesses which don't meet the parking requirement since as a courtesy to the requestor, no application or fee is collected if the first two review steps identified above are not met. Regardless, attached to this supplemental report are tables that reflect current vacancies at Village area shopping centers³. Some, but not all, have experienced difficulty from time to time locating business at their respective properties. What the tables do not reflect are those commercial properties that are smaller or may be single tenant facilities. Those properties are provided on a separate list with aerials to demonstrate their configurations. What should not be gleaned from this data is a vacancy rate driven solely by parking concerns, as there are many factors that may contribute to such a condition. What is of note, frontline zoning personnel have encountered on occasion a CU request for a business whose parking operational demands do not comport to that of the standard established by Code, and that some commercial properties tend to be prone to higher vacancies rates than the rest of the Village. The reasons for which those properties are challenged vary.

One example cited in the February 23, 2015 report described an MRI facility moving into a flex warehouse space. MRI facilities are classified as medical with a parking calculation of one space per 200 square feet. Yet, MRI facilities devote more space to equipment, the tests take longer, and thus fewer patients can be seen on any given day when compared with a traditional general practitioner's office. Another challenge presented to prospective businesses that don't comply with the parking code relates to the times of their operations. Not all businesses are open at the same time, yet the code requires their calculation as if they were. The prior report provided the example of a karate studio versus a breakfast/lunch diner establishment. The former operates primarily in the evening and weekend, the other in the morning and early afternoon. Another scenario involves buildings originally developed to one standard, say office or light warehouse, but are now more marketable to uses with different parking calculations, say yoga studio, or an MRI facility (respectively). Each of the two examples requires a parking calculation of greater intensity. The tables on the next page, offered by the Village's traffic engineering consultant, Marlin Engineering, reflects the peak hours of different uses within broad commercial categories.

possible that a given property may benefit from a prior variance approval which waived all or a portion of required parking.

³ The information provided in these tables and list are reflective of those businesses that have a business tax receipt or CU on file with the Village's Planning and Zoning Department.

Weekday Peaks	Evening Peaks	Weekend Peaks
Banks Schools Medical clinics Offices Professional services	Auditoriums Bars and dance halls Meeting halls Restaurants Theaters Personal Services	Religious institutions Parks Shops and malls Personal Services

Uses	M-F	M-F	M-F	Sat. & Sun.	Sat. & Sun.	Sat. & Sun.
	8am-5pm	6pm-12am	12am-6am	8am-5pm	6pm-12am	12am-6am
Office/ Warehouse /Industrial	100%	20%	5%	5%	5%	5%
Commercial	90%	80%	5%	100%	70%	5%
Hotel	70%	100%	100%	70%	100%	100%
Restaurant	70%	100%	10%	70%	100%	20%
Movie Theater	40%	80%	10%	80%	100%	10%
Entertainment	40%	100%	10%	80%	100%	50%
Conference/Convention	100%	100%	5%	100%	100%	5%

These tables are offered as a guide and not a hard fast rule. One of the experiences that make frontline zoning work interesting is learning about the unique operational demands of the many businesses out there. So, while the above tables may serve as a guide, it, as well as the zoning code with its rigid structure of uses and culled parking rate averages, cannot anticipate every business operational model.

THE PARKING REMEDY

Current Code offers multiple paths for relief from the parking requirement. Presented here, they include shared parking agreements, on-street parking facilities, variances, or a modification of Code. Also presented is multi tenet parking option as well as additional discussion of the proposed option.

Shared Parking Agreements. One alternative available to remedy a technical (as opposed to actual) parking imbalance is through the use of shared parking. Our Code currently provides for this option. Shared parking provisions work by allowing required parking to be located on a separate property. For the program to work, the adjacent property must be within 300⁴ feet of the principal property where the use is located, and have surplus spaces available that are not already allocated to

⁴ Section 30-70.2(b)(2) only applies to governmental and commercial lots. The approval process is administrative and requires the property owners to record a covenant to reflect the shared parking agreement. That covenant, together with a long term lease would be submitted to the Village's Planning Department and include a review by the Village Attorney for legal sufficiency.

existing building square footage at that donating site. This option is not available to most properties as much of the existing development is at or near capacity for their respective parking requirements.

On-Street Parking. Another option provided by current code involves shifting a portion of the required parking to the curb. This remedy is currently only available in the Franjo Triangle and Island (FT&I) District. Although it is a preferred option (at least as it pertains to the Village's downtown area), the associated cost to construct the on-street parking areas may serve as a deterrent when the offsetting benefit is the capture of just a single business. This approach makes greater sense with redevelopment or new development.

A Multi-Tenant Parking Standard. An alternative akin to the shared parking concept above is an approach suggested in the tables above. The idea would be to adjust required parking for multi-tenant centers reflective of the averages of typical commercial mixes. Typically what would happen is again, an average or standard would be established. So instead of calculating each individual use, the center would be assigned one parking calculation which would be presumed to represent all the possible use combinations (or at least the likely average thereto). From a staff implementation side and business side, the solution is simple; uses no longer need to justify parking compliance. However, the challenge with this approach is that there is no certainty as to whether the available parking facilities may in fact be sufficient to manage the actual mix of uses at the center. The impact could likely be parking spillover into the neighborhoods, hence sending parking into swales and landscaped areas. This solution also does not address single use facilities which would still rely upon a specific parking standard as provided in the existing parking matrix.

Variances. A variance is a form of development order which if granted allows for a total or partial waiver from a zoning standard(s). The approvals run with land, but may be written in a manner specific to the nature of the request. They can be reviewed and authorized administratively or at a public hearing by the Mayor and Village Council. The Village's Code provides for both varieties.

Administrative Variance. Current Code does not permit administrative parking variances. This subsection is submitted for your consideration so that the other options presented may be put into context. The Villages' administrative variance procedure is drafted in a manner that largely relies upon the existence of certain conditions within a narrow purview. Requests of this nature are limited in scope and number as may be applied to any given property. Decisions are rendered based on the fulfillment of certain criteria, such as location of request, scope of request (size), non-objection of adjacent neighbors, preservation of trees, etc. Actual technical review is limited because such requests are considered de minimus. The strength of an administrative variance is that it can typically be completed in half the time of a public hearing variance and is less expensive to process.

Public Hearing Variance. Public hearing variance requests go to the Mayor and Village Council as the final decision making body. These requests can be without limitation⁵. Applicants are not limited in

⁵ With the exception of the FT&I District, Village Code does not permit variances that request unpermitted uses within a zoning district.

the number of requests or the nature of the requests. The request(s) could be for a partial waiver or the complete elimination of the rule as applied to the proposed development. The standard of review for the Village's public hearing variance is that of a "Strict Hardship". Strict hardships generally apply when there is a determination that development would be severely restricted or outright blocked unless a variance is granted. Strict hardship criteria are generally viewed through the prism that the rule is clearly delineated. An example of a property that may qualify for a strict hardship variance would be a pie shaped lot. As the lot narrows, compliance with required setbacks becomes increasingly prohibitive. When placed in the rubric of a business requesting a parking adjustment, it becomes difficult to justify a variance using such standards. Simply wanting a business at a particular location where parking becomes the challenge would not qualify as a strict hardship. Further, public hearing variances take more time than an administrative process and are more expensive to process do to the additional steps involved.

Text Amendment. Another solution to remedy a business model/parking incongruence is to amend provisions of the parking code which respond to the new reality. New uses could be added to the parking matrix to represent that unique operation. And there are times when such an approach may be necessary. For example, many early parking codes did not contemplate drive through facilities. As these became common, codes were amended to reflect the safe and efficient operation of this model. The same can be done for individual uses as their unique needs are identified. This approach has many challenges. First, how often must a particular type of business be turned down before a code change is initiated? The imposition upon a single business model may not be justification enough to amend a code provision. But without the amendment, the use cannot open for business. Second, is it just the nature of a particular use or is it the operator's unique way of managing a business model that does not sync well with code? As in the first question, it may not be appropriate to amend the code every time a business has a novel approach to their operations. Amendments to code should only be pursued when a clear pattern is established. Third, if an amendment is pursued, can the prospective business tolerate the wait needed to accommodate a change of law? Changes in code take time. Florida Statutes requires two hearings. This makes the process longer than a variance which only requires one hearing. Forth, does the cost to pursue such a change exceed the owner's tolerance as part of their start-up costs? The cost of an amendment is reflective of the time and effort involved to enact the legislation.

Administrative Parking Waiver. The information provided by this supplemental report may not reflect all considerations, but it does represent a fair range of issues that may arise and the options that are available to remedy. No parking code will ever be fully complete. New uses may be added from time to time, but at what point does the matrix of parking standards become overly long? It would be seemingly difficult to list every single conceivable business type within the zoning parking code. Amendments to code should not be reactive to a singular situation. They should only be done when a clear pattern is established. In this particular case a pattern has appeared, but not one reflective of any particular business model. The pattern that has evolved is broader. At times, there has come a new business and/or new business model, which may foreseeable be able to operate within acceptable parameters on a particular property. When applied to the existing parking matrix,

the use does not comply with the established parking standard. This is the matter staff is attempting to resolve with a methodology that is based on a technical review of parking operations. The analysis and peer review is performed by professionals in the field of parking. If the two reviews agree with each other, the waiver is granted to that business and its operation as identified within the CU. Where there is disagreement, the matter may be brought before the Mayor and Village Council for final resolution.

CONCLUSION

Any of the above solutions may be implemented to remedy what has become a challenge for a few commercial property owners and prospective businesses. None of them, including the amendment proposed by staff, are perfect in resolving all potential issues. It may very well be possible that a tool box of approaches is needed to ensure businesses which experience the challenges discussed in this report are able to open up shop within the Village in a manner that will allow for proper parking operation functionality.

Darby Delsalle, AICP
Planning & Zoning Director



To: Honorable Mayor and Village Council

Date: February 23, 2015

From: Ron E. Williams, Village Manager

Re: Parking Waiver Procedure
Ordinance for 1st Reading

AN ORDINANCE OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, RELATING TO ZONING; CREATING SECTION 30-70.2(b)(4) OF THE LAND DEVELOPMENT CODE RELATING TO REQUIRED PARKING EXEMPTIONS; PROVIDING FOR ORDINANCES IN CONFLICT, CODIFICATION, SEVERABILITY AND AN EFFECTIVE DATE.

BACKGROUND:

The Village of Palmetto Bay has approximately 1,000 active businesses within its jurisdictional boundaries. The turnover rate averages approximately 10% of that total every year. Most of the new businesses that (re)locate within the Village typically have business models that neatly comport to the Village's parking standards, and that of the parking facilities available, at their new location. There are however times when the business model and the receiving locale do not sync well with the Village's established parking standards. Under current Code the available remedy is a variance; a process that may prove to be both timely and expensive. The proposed ordinance offers an alternative path which relies upon the actual demands of the proposed business relative to the facilities available at the site. To understand the nature of the proposal, the following is offered for your consideration:

On October 20, 2008, the Mayor and Village Council adopted Ordinance 08-20, which established Division 30-70, Required Parking, of the Village's Land Development Code, which provided parking standards for uses within the Village. The Village's parking code was modeled after Miami-Dade County which originally adopted theirs in 1957. Approximately 78% of the Village's commercial development was constructed prior to 1970¹, and built to the standards of that Code. Since that time, new uses have come into being, others have adjusted their operational models, while others still have ceased to operate or even exist. Put into context, the occasion arises that 21st century uses and business models are trying to fit themselves into pre-1970's development standards.

Parking categories are broken down into categories such as retail, office, medical, assembly, etc. As stated above, the majority of new business requests do in fact conform to current Code, but not all do. The challenge presented to Village staff and to a prospective business looking to set up shop in

¹ This data was culled by CoStar, a real estate data service provided, and was provided to the Village as part of Lambert Advisory's, Downtown Redevelopment Task Force market report.

the Village is when the operational demands of the use relative to the receiving property does not comply with the parking code.

One solution would be to completely rewrite that portion of Code that sets the parking amount standard. However, this exercise is not without its own problem. First, changing the parking standards cart blanc runs the risk of creating parking nonconformities across the vast majority of existing development within the Village. This could result in greater challenges in located new business than exists today. Further, given most requests for new businesses do comply with Code, such an amendment could be deemed unnecessary.

A second alternative would be to create a unique parking standard for new or altered uses not fully contemplated by current Code. Such an example would be an MRI facility. Classified as diagnostic, its parking standard is significantly higher than its actual operational demand. MRI facilities need more space due to equipment, yet see fewer patients than say a facility that merely draws blood. Current parking standards would prevent such a facility from locating in an industrial flex space that is typically built with fewer parking stalls. This despite the fact that it may be demonstrated, by way of a parking study, that the property is capable of managing the demands of the use. The deficiency with the individualized parking standards approach is first, it makes the Code reactive and adds unnecessary delay to the prospective business as they await an ordinance change. Second, should such an approach be followed, the Village could end up with an endless list of uses with unique parking standards.

Another potential challenge presented to a prospective business occurs when locating within a multi-tenant center. The Code requires all parking to be calculated as if the center were fully leased with all businesses operating at the same time. However, not all businesses share the same operational hours. Some close by mid-day, others only open in the evening. Some may be open all day but have customer volumes that occur at predictable times (i.e. karate studio or breakfast/lunch diner). There are jurisdictions that remedy this conflict with provisions that contemplate the hours of operation of a particular business. The Village could pursue such a Code; however the attached proposed ordinance is capable of achieving the same result while addressing a broader issue discussed above.

The proposed ordinance recognizes that not all businesses share the identical operational demands. It offers a remedy that is more nimble than a variance request or change of law, and one that would be considerably less timely or expensive to pursue. Where it is determined that a parking deficiency exists, the prospective business owner may complete a parking study to determine if the operational demands of the use does not over burden the property where it is to be located. The review and approval, denial or approval with conditions, of that plan would be completed administratively. If the applicant and staff do not agree, the owner may elect to purse the variance option. The fee for parking analysis review shall be half of that for a non-use variance. Appeal of the administrative final decision shall be by way of non-use variance upon which the application shall pay other half of the variance fee plus any other costs associated with the application and hearing as provided by ordinance. The relief procedure shall only be available to existing development. Parking facilities for

new developments shall be built according to the standards provided by each use category as applicable.

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 Village's Comprehensive Plan or Concurrency Management Plan do not address parking requirement.

Finding: Not applicable.

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

Analysis: Please see Background section of this report. The proposed ordinance is internally consistent with the remaining portions of Section 30-70 in that it that is seeks the (unstated) intent to ensure adequate parking is provided on site for those uses approved thereon. No parking study shall be approved that fails to demonstrate adequate parking exists to accommodate a use(s) at a particular property.

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: Please see Background section of this report. As reflected in the Background Section of this report, considerable time has passed since the adoption of the first parking code and the development commercial portions of the Village. The proposed amendment offers an avenue for relief when such standards fall out of sync with the proposed use; and it does so in a manner that does not compromise the legal conforming status of the receiving property.

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: Please see Background section of this report. The proposed ordinance does not change permitted uses. It merely provides a level of flexibility when siting business within the Village. The intent of the parking study is to determine if approving the new use would create such an impact. If one exists, the application is denied, if it does not, then it is approved.

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: The proposed ordinance does not alter permitted use, intensities or densities. As such, it does not impact the above systems.

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 may only affect existing parking facilities and 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: It is anticipated, though not quantified, that the ordinance will likely have a positive effect on property values. The logic is as follows; a fully rented commercial facility is worth more than one partially or fully unleased.

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 The proposed ordinance does not change permitted uses or change any provisions which affect the development of land. It only applies to existing developments.

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 Analysis under Criteria 2, 3 4 and 7.

Finding: Consistent.

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

Analysis: As per the direction of the Village Council.

Finding: As determined by the Village Council.

FISCAL/BUDGETARY IMPACT:

It is anticipated that the cost to process requests contemplated by the proposed ordinance, be fiscally neutral.

RECOMMENDATION:

Decision for the Village Council.

Darby Delsalle, AICP
Planning & Zoning Director

ORDINANCE NO. _____

AN ORDINANCE OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, RELATING TO ZONING; CREATING SECTION 30-70.2(b)(4) OF THE LAND DEVELOPMENT CODE RELATING TO REQUIRED PARKING EXEMPTIONS; PROVIDING FOR ORDINANCES IN CONFLICT, CODIFICATION, SEVERABILITY AND AN EFFECTIVE DATE.

WHEREAS, on October 20, 2008, the Mayor and Village Council adopted Ordinance 08-20, which established Division 30-70, Required Parking, of the Village's Land Development Code, which included Section 30-70.2(b), establishing the conditions under which a property may be exempt from parking requirements; and

WHEREAS, it is in the public interest for the Village to provide regulations for parking consistent with industry standards and practices, available technologies, available land resources, and traffic engineering in an effort to protect public security, privacy, and welfare, and

WHEREAS, it is further in the public interest for the Village to provide under proper circumstances for a waiver of the applicable requirements for parking facilities for existing developments, so that the issuance of a parking reduction waiver is in the public interest under such circumstances; and

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

WHEREAS, on April 6, 2015, the Local Planning Agency approved the proposed amendment; and

WHEREAS, the Mayor and Village Council, now desire to establish a procedure through which the citizens and/or property owner of the Village may request a parking reduction waiver, and through which the Village may approve, deny or approve with conditions such requests.

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

Section 1. Section 30-70.2(b)(4) of the Village's Code of Ordinances shall be created to read as follows:

DIVISION 30-70. - PARKING AND LOADING STANDARDS

* * *

Sec. 30-70.2. - Location of required parking; exceptions.

* * *

1
2 (b) Exemptions.
3

4 * * *

5
6 (4) Parking Reduction Waiver Request. It is acknowledge that for parking
7 calculation purposes, parking requirements and demand may shift for
8 existing developments over time as the use or mix of uses change. In cases
9 where the required parking, as provided for in this Division, for a proposed
10 use exceeds the amount of spaces available on the receiving property, the
11 applicant may request a Parking Reduction Waiver in lieu of pursuing a
12 public hearing variance.

13
14 (1) Eligibility. These provisions shall only apply to existing
15 developments.

16 (2) Application. All Parking Reduction Waiver Requests shall conform
17 to the following:

18
19 a. The applicant shall file an application and pay a filing fee
20 equal to half the cost of a non-use variance modification.

21
22 b. The application shall include a parking study confirming
23 whether or not the existing facilities can accommodate the
24 proposed use. The parking study shall be prepared by a
25 certified engineer, licensed in the State of Florida with
26 expertise in parking, and shall be paid for by the applicant.
27 The Village may hire its own engineer, at the applicant's
28 expense, to evaluate applicant's parking study.

29 c. Other plans and documentation necessary to evaluate the
30 request.

31
32 (3) The Director of Planning and Zoning, or his/her designee, shall
33 either approve, approve with conditions, or deny the request. Any
34 approval shall be specific to the applicant's requested use and will be
35 deemed null should the operations cease for a period of six (6)
36 months or longer. Any expansion of the approved use shall require
37 full compliance with required parking or resubmission of a waiver
38 request as provided by this section. Denial of a waiver request may
39 be appealed to the Mayor and Village Council pursuant to public
40 hearing variance procedures as provided at Division 30-30 of the
41 Village's Land Development Code. All applicable public hearing fees
42 shall apply however the application fee shall be half the cost of a
43 non-use variance modification.

44
45 **Section 2. Conflicting Provisions.** The provisions of the Code of Ordinances of the
46 Village of Palmetto Bay, Florida and all ordinances or parts of ordinances in conflict with the
47 provisions of this ordinance are hereby repealed.
48

PROPOSED
ORDINANCE

ORDINANCE NO. _____

AN ORDINANCE OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, RELATING TO ZONING; AMENDING PORTIONS OF SECTION 30-70 OF THE LAND DEVELOPMENT CODE RELATING TO REQUIRED PARKING, EXEMPTIONS, VALET PARKING, AMOUNT OF PARKING, AND CALCULATION OF REQUIRED PARKING, TO PROVIDE FOR PARKING RELIEF REMEDIES; PROVIDING FOR ORDINANCES IN CONFLICT, CODIFICATION, SEVERABILITY AND AN EFFECTIVE DATE.

WHEREAS, on October 20, 2008, the Mayor and Village Council adopted Ordinance 08-20, which established Division 30-70, Required Parking, of the Village's Land Development Code, which included conditions under which a property may be exempt from parking requirements; and

WHEREAS, it is in the public interest for the Village to provide regulations for parking consistent with industry standards and practices, available technologies, available land resources, and traffic engineering in an effort to protect public security, privacy, and welfare, and

WHEREAS, it is further in the public interest for the Village to provide under proper circumstances, a waiver of the applicable requirements for parking facilities for existing developments; and

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

WHEREAS, on September 14, 2015, the Local Planning Agency approved the proposed amendment; and

WHEREAS, the Mayor and Village Council, now desire to establish a procedure through which the citizens and/or property owner of the Village may request a parking reduction waiver, and through which the Village may approve, deny or approve with conditions such requests.

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

Section 1. Section 30-70 of the Village's Code of Ordinances shall be created to read as follows:

DIVISION 30-70. - PARKING AND LOADING STANDARDS

* * *

Sec.

1 30-70.2. - Location of required parking; exceptions.

2
3 * * *

4
5 (b) Exemptions.

6
7 * * *

8
9 (4) Parking Reduction Waiver Request. It is acknowledged that for parking
10 calculation purposes, parking requirements and demand may shift for
11 existing developments over time as the use or mix of uses change. In cases
12 where the required parking, as provided for in this Division, for a proposed
13 use exceeds the amount of spaces available on the receiving property, the
14 applicant may request a Parking Reduction Waiver in lieu of pursuing a
15 public hearing variance.

16
17 a. Eligibility. These provisions shall only apply to existing
18 developments.

19 b. Application. All Parking Reduction Waiver Requests shall conform
20 to the following:

21
22 1. The applicant shall file an application and pay a filing fee
23 equal to half the cost of a non-use variance modification,

24
25 2. The application shall include a parking study confirming
26 whether or not the existing parking facilities of the
27 development adequately accommodate the proposed use.
28 The parking study shall be prepared by a engineer, architect,
29 or city planner, with expertise in parking, and shall be paid for
30 by the applicant. The Village may hire its own engineer,
31 architect, or city planner, at the applicant's expense, to
32 evaluate applicant's parking study.

33 3. Other plans and documentation necessary to evaluate the
34 request.

35
36 c. The Director of Planning and Zoning, or his/her designee, shall
37 either approve, approve with conditions, or deny the request based
38 on the parking study's finding of adequacy to accommodate of the
39 proposed use. Any approval shall be specific to the applicant's
40 requested use and will be deemed null should the operations cease
41 for a period of six (6) months or longer. Any expansion of the
42 approved use shall require full compliance with required parking or
43 resubmission of a waiver request as provided by this section. Denial
44 of a waiver request may be appealed to the Mayor and Village
45 Council pursuant to public hearing variance procedures as provided
46 at Division 30-30 of the Village's Land Development Code. All

1 applicable public hearing fees shall apply, and an application fee of
2 the appeal shall be half the cost of a non-use variance modification.
3

4 (5) Shared usage. Required parking spaces may be permitted to be utilized for
5 meeting the parking requirements of two (2) separate permitted uses when it
6 is clearly established by the applicant that the two (2) uses will utilize the
7 spaces at different times of the day, week, month or year. If approved by the
8 Village, a recordable covenant, with the correct legal description, shall be
9 submitted by the owners of the property and the two (2) or more businesses
10 or tenants involved in a form acceptable to the village attorney. The covenant
11 shall be recorded in the public records of Miami-Dade County at the
12 applicant's expense, and shall run with the land. The covenant shall provide
13 that:

14 a. The use or portion of a use, that requires the shared parking in order
15 to obtain the necessary permits or licenses, shall cease and terminate
16 upon any change in their respective schedules of operation that
17 results in conflicting or overlapping usage of the parking facilities;

18 b. and/or no nonresidential use may be made of that portion of the
19 property until the required parking facilities are available and
20 provided.

21 The covenant shall also provide that the Village may collect attorneys' fees if
22 litigation is necessary to enforce the requirements of this section.
23

24 (6) On-street parking. The following is an exclusive procedure applicable to
25 those commercially zoned lands not already covered by on-street parking
26 provisions. On-street parking spaces may count toward the minimum
27 parking requirements as providing for in this Division, provided the
28 development complies with the following:

29
30 a. All allocation of on-street parking spaces counted towards on-site
31 parking requirements shall be by written agreement between the
32 village and property owner, as reviewed by the Village Attorney for
33 legal sufficiency, and approved by the village manager. The
34 agreement shall clearly delineate the terms and conditions. The
35 village manager upon the advice of the village council, will
36 determine if the installation of parking meters is warranted and
37 appropriate for the area.

38
39 b. On-street parking shall be prohibited from those portions of right-
40 of-way adjacent to single family residential uses, and shall fully
41 comply with Division 30-100.1, Landscaping Regulations.
42

43 c. On-street parking constructed by property owner as part of their
44 development in question shall receive a credit with the village for
45 said spaces for a term five (5) years. Thereafter, an annual fee of
46 \$1,000.00, per space, which shall increase five percent annually,
47 shall be paid to the village for all on-street parking spaces which

1 are credited or counted toward minimum parking requirements for
2 new structures. Unallocated on-street parking spaces may be
3 allocated to a development. The development seeking to use the
4 unallocated on-street spaces shall pay a fee of \$1,000 per space
5 which shall increase five percent annually.
6

7 d. Failure to comply with the provisions of this subsection, shall
8 result in the loss or revocation of the certificate of use and/or
9 occupancy for the property failing to meet minimum parking
10 requirements for the project, and subject the property to a daily
11 penalty of \$250.00, per day.
12

13 e. Funds received under subsection 30-70.2(b)(6)d. shall be paid into
14 the Parking District Improvement Trust Fund, which shall be a
15 trust account separated from the village's general fund accounts.
16 The funds from the Parking District Improvement trust account
17 shall be used at the village council's discretion for the specific
18 purpose of developing or reimbursing the village for construction
19 and improvement to public parking facilities, infrastructure with
20 the intent to increase parking capacity, and the installation of
21 metering devises. Funds collected in this account may also be used
22 towards items that improve the pedestrian environment and may
23 include, but not be limited to bicycle parking and racks, sidewalk
24 improvements and maintenance, bench installation, water
25 fountains, outdoor recycle bins, signage for parking and bicycle
26 racks, tree planting and maintenance.
27

28 * * *

29
30 30-70.5 Size and character of parking spaces.

31
32 The following requirements shall be observed for parking:

33 * * *

- 34
35 (j) Valet parking. Valet parking ~~may~~ shall be permitted, on-site or off-site, to ~~provide~~
36 contribute towards meeting parking in excess of minimum parking requirements for
37 existing developments. For the village to consider approval of valet parking, a plan
38 must be submitted and shall include the location of valet spaces, insurance
39 requirements, staffing hours of operation, and the traffic circulations pattern
40 indicating all aspect of the valet operation to include drop-off and stacking areas and
41 may be used together with a shared parking agreement to ensure full compliance
42 with minimum required parking standards. The plan cannot alter previously
43 approved landscaping requirement, setbacks or buffers. Tandem parking shall be
44 permitted under valet parking plan. Robotic parking in an internally enclosed parking
45 garage shall be permitted.
46

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30-70.8 Amount of parking.

The minimum number of parking spaces to be provided and maintained for each use or occupancy shall be as ~~follow:~~ provided in this section. Developments built prior to this provision shall be considered nonconforming and continue to rely upon the amount of parking standard required at the time of their original development.

* * *

30-70.11 Bicycle Parking

* * *

(f) Every four (4) bicycle parking spaces provided over and above that required in section 30-70.11(b) may be counted as one required automobile parking space. The total number automobile parking spaces that can be replaced by bicycle parking spaces shall not exceed 5% of the requirement or ten (10) spaces, whichever is less.

30-70.12 Calculating required parking spaces.

* * *

(d) Unless otherwise specified in Section 30-70.8, parking amount shall be calculated based on actual use of space, (e.g. grocery stores shall have separate calculations for actual retail customer service area and storage areas). Bathrooms, storage closets, hallway corridors, and lobbies not used as waiting areas shall be excluded from parking calculations.

Section 2. Conflicting Provisions. 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 3. 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 4. 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 5. Effective Date. This ordinance shall take effect immediately upon enactment.

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PASSED and ENACTED this ____ day of _____, 2015.

First Reading: _____
Second Reading: _____

Attest: _____
Meighan Alexander
Village Clerk
Eugene Flinn
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 Karyn Cunningham _____
Council Member Tim Schaffer _____
Council Member Larissa Siegel Lara _____
Vice-Mayor John DuBois _____
Mayor Eugene Flinn _____



To: Honorable Mayor and Village Council

Date: March 7, 2016

From: Edward Silva, Village Manager

Re: Budget Amendment –
FY 2015-2016

AN ORDINANCE OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, RELATING TO THE FISCAL YEAR 2015-2016 BUDGET; AMENDING ORDINANCE NUMBER 2015-10; AMENDING THE VILLAGE'S BUDGET FOR THE 2015-2016 FISCAL YEAR; AUTHORIZING THE VILLAGE MANAGER TO TAKE ALL ACTIONS NECESSARY TO IMPLEMENT THE TERMS AND CONDITIONS OF THIS ORDINANCE; PROVIDING FOR ORDINANCES IN CONFLICT, CODIFICATION, SEVERABILITY AND AN EFFECTIVE DATE

BACKGROUND AND ANALYSIS:

The Adopted Budget for Fiscal Year 2015-2016 incorporates the Staffing Summary, summarizing all positions within the Village. At this mid-point of the budget year, administration finds that it is necessary to make certain personnel changes to better meet the needs of Village operations. The attached amended Staffing Summary reflects and details the proposed personnel changes and updates.

BUDGET AND FISCAL IMPACT:

None; the proposed changes will not have an impact on the approved funding levels.

RECOMMENDATION:

Approval is recommended.

45
46 Section 3. *Authorization of Village Manager.* The Village Manager is hereby authorized to
47 take all actions necessary to implement the terms and conditions of this Ordinance.
48

49 Section 4. *Severability.* If any section, clause, sentence, or phrase of this Ordinance is for
50 any reason held invalid or unconstitutional by a court of competent jurisdiction, the holding shall
51 not affect the validity of the remaining portions of this Ordinance.
52

53 Section 5. *Effective Date.* This ordinance shall take effect immediately upon adoption on
54 second reading.
55

56
57 **PASSED AND ENACTED** this ____ day of _____, 2016.
58

59 First Reading: _____
60

61 Second Reading: _____
62

63
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65 Attest: _____
66 Meighan Alexander, Eugene Flinn
67 Village Clerk Mayor
68

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70 APPROVED AS TO FORM:
71
72
73 _____
74 Dexter Lehtinen
75 Office of Village Attorney
76

77
78 **FINAL VOTE AT ADOPTION:**
79
80 Council Member Karyn Cunningham _____
81
82 Council Member Tim Schaffer _____
83
84 Council Member Larissa Siegel-Lara _____
85
86 Vice-Mayor John DuBois _____
87
88 Mayor Eugene Flinn _____

Exhibit A
Amended Staffing Summary

VILLAGE POSITION DETAIL	FY 13-14 Adopted		FY 14-15 Amended Final		FY 15-16 Adopted		FY 15-16 Mid-Year Adj.	
	PT	FT	PT	FT	PT	FT	PT	FT
Mayor & Council								
Mayor	1.0	0.0	1.0	0.0	1.0	0.0	1.0	0.0
Vice Mayor	1.0	0.0	1.0	0.0	1.0	0.0	1.0	0.0
Councilmember	3.0	0.0	3.0	0.0	3.0	0.0	3.0	0.0
Total Positions	5.0	0.0	5.0	0.0	5.0	0.0	5.0	0.0
Office of the Village Manager								
Village Manager	0.0	1.0	0.0	1.0	0.0	1.0	0.0	1.0
Executive Assistant	0.0	1.0	0.0	1.0	0.0	1.0	0.0	1.0
Admin. Aide/Receptionist	0.0	1.0	0.0	1.0	0.0	1.0	0.0	1.0
Communications Mgr/PIO	0.0	1.0	0.0	1.0	0.0	0.0	0.0	0.0
TV & Camera Technician	0.0	0.0	1.0	0.0	0.0	0.0	0.0	0.0
Business Partner Liaison	0.0	0.0	0.0	0.0	0.0	1.0	0.0	0.0
Assistant to the Manager	0.0	0.0	0.0	0.0	0.0	0.0	0.0	1.0
Procurement Specialist	0.0	0.0	0.0	0.0	0.0	0.0	0.0	1.0
Architectural Renderer**	0.0	0.0	0.0	0.0	1.0	0.0	0.0	1.0
Total Positions	0.0	4.0	1.0	4.0	1.0	4.0	0.0	6.0
Office of the Village Clerk								
Village Clerk	0.0	1.0	0.0	1.0	0.0	1.0	0.0	1.0
Administrative Assistant	0.0	1.0	0.0	1.0	0.0	1.0	0.0	1.0
Total Positions	0.0	2.0	0.0	2.0	0.0	2.0	0.0	2.0
Finance Department								
Finance Director	0.0	1.0	0.0	1.0	0.0	1.0	0.0	1.0
Sr. Accountant	0.0	1.0	0.0	1.0	0.0	1.0	0.0	1.0
Procurement Specialist	0.0	1.0	0.0	1.0	0.0	1.0	0.0	0.0
IT Technician	0.0	0.0	0.0	0.0	0.0	0.0	0.0	1.0
Accountant	0.0	1.0	0.0	1.0	0.0	1.0	0.0	1.0
Cashier	0.0	1.0	0.0	1.0	0.0	1.0	0.0	1.0
Accounting & Alarm Clerk	0.0	1.0	0.0	1.0	0.0	1.0	0.0	1.0
Total Positions	0.0	6.0	0.0	6.0	0.0	6.0	0.0	6.0
Dept. of Community & Economic Dev								
Building & Permitting Community & Econ. Dev. Dir.**	0.0	1.0	0.0	1.0	0.0	1.0	0.0	1.0
Building Official**	0.0	0.0	0.0	0.0	0.0	1.0	0.0	1.0
Chief Building Inspector**	0.0	1.0	0.0	1.0	0.0	0.0	0.0	1.0
Office Manager**	0.0	1.0	0.0	1.0	0.0	1.0	0.0	1.0
Code Compliance Coordinator**	0.0	0.0	0.0	1.0	0.0	1.0	0.0	1.0
Code Compliance Inspector**	0.0	1.0	0.0	1.0	0.0	1.0	0.0	1.0
Code Compliance Officer**	0.0	0.0	0.0	2.0	0.0	2.0	0.0	2.0
Zoning Administrator**	0.0	0.0	0.0	1.0	0.0	1.0	0.0	1.0
Permit Clerk I**	0.0	1.0	0.0	1.0	0.0	1.0	0.0	2.0
Permit Clerk II**	0.0	1.0	0.0	1.0	0.0	1.0	0.0	0.0
Permit Clerk I/ Receptionist**	0.0	0.0	0.0	1.0	0.0	1.0	0.0	1.0
Plans Processing Clerk**	1.0	1.0	0.0	1.0	0.0	1.0	0.0	1.0
Receptionist**	1.0	1.0	0.0	0.0	0.0	0.0	0.0	0.0
Architectural Renderer**	0.0	0.0	1.0	0.0	0.0	0.0	0.0	0.0
Total Buiding & Permitting Positions	2.0	8.0	1.0	12.0	0.0	12.0	0.0	13.0

**Exhibit A
Amended Staffing Summary**

Planning & Zoning	Planning & Zoning Director	0.0	1.0	0.0	1.0	0.0	1.0	0.0	1.0
	Planning & Zoning Administrator	0.0	1.0	0.0	1.0	0.0	1.0	0.0	1.0
	Planning & Zoning Admin. Coord.	0.0	1.0	0.0	0.0	0.0	0.0	0.0	0.0
	Administrative Assistant	0.0	1.0	0.0	1.0	0.0	0.0	0.0	0.0
	Permit Zoning Technician	0.0	1.0	0.0	0.0	0.0	0.0	0.0	0.0
	Code Compliance Officer	0.0	2.0	0.0	0.0	0.0	0.0	0.0	0.0
	<i>Total Planning & Zoning Positions</i>	0.0	7.0	0.0	3.0	0.0	2.0	0.0	2.0
Total Positions		2.0	15.0	1.0	15.0	0.0	14.0	0.0	15.0
Human Resources & Communications		PT	FT	PT	FT	PT	FT	PT	FT
	Human Resources & Communications Dir.*	0.0	1.0	0.0	1.0	0.0	1.0	0.0	1.0
	HR Generalist	0.0	1.0	0.0	1.0	0.0	1.0	0.0	1.0
	Communications Manager*	0.0	0.0	0.0	0.0	0.0	1.0	0.0	1.0
	Videographer/ Video Editor*	0.0	0.0	0.0	0.0	1.0	0.0	1.0	0.0
	Public Information Officer*	0.0	0.0	0.0	0.0	0.0	1.0	0.0	1.0
	Grantwriter	0.0	0.0	1.0	0.0	1.0	0.0	1.0	0.0
Total Positions		0.0	2.0	1.0	2.0	2.0	4.0	2.0	4.0
Parks & Recreation		PT	FT	PT	FT	PT	FT	PT	FT
	Parks and Recreation Director	0.0	1.0	0.0	1.0	0.0	1.0	0.0	1.0
	Parks and Recreation Manager	0.0	1.0	0.0	1.0	0.0	1.0	0.0	0.0
	Parks & Recreation Supervisor	0.0	2.0	0.0	3.0	0.0	3.0	0.0	3.0
	Administrative Assistant	0.0	1.0	0.0	1.0	0.0	1.0	0.0	1.0
	Special Events Supervisor	0.0	1.0	0.0	0.0	0.0	0.0	0.0	0.0
	Special Events & Programs Coord.	0.0	1.0	0.0	2.0	0.0	2.0	0.0	2.0
	Park Reservations Specialist	0.0	0.0	0.0	1.0	0.0	1.0	0.0	1.0
	Grounds/ Facility Maint. Supervisor	0.0	1.0	0.0	0.0	0.0	0.0	0.0	0.0
	Parks Maintenance Worker	6.0	3.0	0.0	0.0	0.0	0.0	0.0	0.0
	Tennis Center Attendant	3.0	0.0	3.0	0.0	3.0	0.0	3.0	0.0
	Park Service Aide	19.0	0.0	18.0	0.0	20.0	0.0	20.0	0.0
Total Positions		28.0	11.0	21.0	9.0	23.0	9.0	23.0	8.0
Public Services		PT	FT	PT	FT	PT	FT	PT	FT
Public Works	Public Works Director**	0.0	1.0	0.0	1.0	0.0	1.0	0.0	1.0
	Administrative Assistant**	0.0	1.0	0.0	1.0	0.0	1.0	0.0	1.0
	Field Operations Supervisor**	0.0	1.0	0.0	1.0	0.0	1.0	0.0	1.0
	Grounds Maintenance Worker**	0.0	2.0	0.0	2.0	0.0	3.0	0.0	3.0
	Stormwater Engineering Technician**	0.0	1.0	0.0	1.0	0.0	1.0	0.0	1.0
	Bus Operator**	3.0	0.0	1.0	1.0	1.0	0.0	1.0	0.0
	Transit Operations Specialist**	0.0	0.0	0.0	0.0	0.0	1.0	0.0	1.0
<i>Total Public Works Positions</i>		3.0	6.0	1.0	7.0	1.0	8.0	1.0	8.0
Facilities Maint.	Facilities Maint. Superintendent	0.0	1.0	0.0	1.0	0.0	1.0	0.0	1.0
	Facilities Maint. Worker I	0.0	1.0	0.0	1.0	0.0	1.0	2.0	3.0
	Facilities Maint. Worker II	0.0	1.0	0.0	1.0	0.0	1.0	0.0	1.0
	Grounds/ Facility Maint. Supervisor	0.0	0.0	0.0	1.0	0.0	1.0	0.0	1.0
	Maintenance Technician	0.0	0.0	0.0	1.0	0.0	1.0	0.0	1.0
	Maintenance Worker	0.0	0.0	5.0	3.0	5.0	3.0	4.0	3.0
<i>Total Facilities Maint. Positions</i>		0.0	3.0	5.0	8.0	5.0	8.0	6.0	10.0
Total Public Services Positions		3.0	9.0	6.0	15.0	6.0	16.0	7.0	18.0

Exhibit A
Amended Staffing Summary

CONTRACTUAL POSITION DETAIL		FY 13-14 Adopted		FY 14-15 Amended Final		FY 15-16 Adopted		FY 15-16 Mid-Year Adj.	
		PT	FT	PT	FT	PT	FT	PT	FT
Police Services									
<i>Contractual</i>	Police Major	0.0	1.0	0.0	1.0	0.0	1.0	0.0	1.0
	Police Lieutenant	0.0	1.0	0.0	1.0	0.0	1.0	0.0	1.0
	Police Sergeant	0.0	5.0	0.0	5.0	0.0	5.0	0.0	5.0
	Police Officer	0.0	35.0	0.0	35.0	0.0	35.0	0.0	36.0
	Secretary	0.0	1.0	0.0	1.0	0.0	1.0	0.0	1.0
	Police Record Specialist	0.0	2.0	0.0	2.0	0.0	2.0	0.0	2.0
	Police Station Specialist	0.0	1.0	0.0	1.0	0.0	1.0	0.0	1.0
	Total (Contractual) Positions	0.0	46.0	0.0	46.0	0.0	46.0	0.0	47.0
Village Attorney									
<i>Contractual</i>	Village Attorney	1.0	0.0	1.0	0.0	1.0	0.0	1.0	0.0
	Total (Contractual) Positions	1.0	0.0	1.0	0.0	1.0	0.0	1.0	0.0
Dept. of Community & Economic Dev (Bldg. & Permitting)									
<i>Contractual</i>	Building Inspector	1.0	0.0	1.0	0.0	1.0	0.0	1.0	0.0
	Chief Mechanical Inspector	1.0	0.0	1.0	0.0	1.0	0.0	1.0	0.0
	Chief Electrical Inspector	1.0	0.0	1.0	0.0	1.0	0.0	1.0	0.0
	Chief Plumbing Inspector	1.0	0.0	1.0	0.0	1.0	0.0	1.0	0.0
	Structural Plans Reviewer	1.0	0.0	1.0	0.0	1.0	0.0	1.0	0.0
	Total (Contractual) Positions	5.0	0.0	5.0	0.0	5.0	0.0	5.0	0.0
TOTAL VILLAGE POSITIONS		33.0	49.0	30.0	53.0	32.0	55.0	32.0	59.0
TOTAL COUNCIL POSITIONS		5.0	0.0	5.0	0.0	5.0	0.0	5.0	0.0
TOTAL CONTRACTUAL POSITIONS		6.0	46.0	6.0	46.0	6.0	46.0	6.0	47.0

Proposed Adjustments:

Departmental Name: Human Resources & Communications Department

Staffing Updates:

Manager: Update Business Partner Liaison to Assistant to Manager
Update Architectural Rendered from PT to FT
Transfer (1) Procurement Specialist from Finance Dept.

Finance: Add (1) IT Technician-FT
Transfer (1) Procurement Specialist to Village Manager

Building & Permitting: Replace (1) Permit Clerk II with (1) Permit Clerk I
Add (1) Chief Building Inspector- FT

Parks & Recreation: Remove (1) Parks & Recreation Manager-FT

Public Works: Replace (1) FT Bus Operator with (1) FT Transit Operations Specialist

Facilities Maint.: Add (2) Facilities Maint. Worker I- PT
Add (2) Facilities Maint. Worker I- FT
Remove (1) Maintenance Worker- PT

Title Updates*:

Update Building & Capital Projects Director to Community & Economic Dev. Director
Update Human Resources Director to Human Resources & Communications Director
Update Communications Manager/ PIO to Communications Manager
Update Public Information Specialist to Public Information Officer
Update TV/ Camera Tech. to Videographer/ Video Editor

**Funded through Special Revenue

ORDINANCE NO: _____

AN ORDINANCE OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA; RELATING TO PARKS AND RECREATION; AMENDING CHAPTER 20, ARTICLE 1, OF THE VILLAGE'S CODE OF ORDINANCE; PROVIDING FOR ORDINANCES IN CONFLICT, CODIFICATION, SEVERABILITY, AND AN EFFECTIVE DATE. (Sponsored by Councilwoman Karyn Cunningham.)

WHEREAS, the Village Council of the Village of Palmetto Bay is desirous of amending Chapter 20, Article 1, in order to provide modifications to the uniform fee schedule; and

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

Section 1. Chapter 20, Article 1, is hereby modified as follows:

Chapter 20 - PARKS AND RECREATION

ARTICLE I. - IN GENERAL

Sec. 20-1. - Applicability.

This chapter shall be applicable to all park users including leagues, youth organizations, school groups, private groups, party rentals, picnic rentals, pavilion/gazebo rentals, and field rentals. Each user shall complete a park rental agreement form that includes all rules and regulations.

Sec. 20-2. - Fees.

Fees shall include area of park being utilized, time of use, dates of use, equipment/materials needed, and/or number of participants in group:

Field Rental Reservations				
Total Hours	Rental Fee	Tax	Clean-up Deposit	Total Fee
2 (no prep)	\$40.00 <u>35.00</u>	\$2.80 <u>2.45</u>	\$30.00	\$72.80 <u>67.45</u>
2 w/lights (no prep)	\$60.00 <u>45.00</u>	\$4.20 <u>3.15</u>	\$30.00	\$94.20 <u>78.15</u>
Each additional hour add	\$25.00	\$1.75	N/A	\$26.75
<u>Each additional hour with lights</u>	<u>\$30.00</u>	<u>\$2.10</u>	<u>N/A</u>	<u>\$32.10</u>
Field Rental w/Prep add - flat rate	\$20.00	\$1.40	N/A	\$21.40

Open Field Rental Reservations (does not include field prep: no lines)				
Total Hours	Rental Fee	Tax	Clean-up	Total Fee

			Deposit	
2	\$40.00	\$2.80	N/A	\$42.80

Weekday (Non-Camp) Hourly Recreation Room Rental

Total Hours	Rental Fee	Tax	Clean-up Deposit	Total Fee
4	\$35.00	\$2.45	N/A	\$37.45

Recreation Building Rental Reservations

Total Hours	Rental Fee	Tax	Clean-up Deposit	Total Fee
Weekday (non-Camp) Hourly <u>1</u>	<u>\$35.00-30.00</u>	<u>\$2.45-2.10</u>	\$100.00	<u>\$137.45-132.10</u>
Minimum 3 hrs.	\$110.00	\$7.70	\$100.00	\$217.70
<u>2</u>	<u>\$80.00</u>	<u>\$5.60</u>	<u>\$100.00</u>	<u>\$185.60</u>
<u>3</u>	<u>\$120.00</u>	<u>\$8.40</u>	<u>\$100.00</u>	<u>\$228.40</u>
<u>4</u>	<u>\$160.00</u>	<u>\$11.20</u>	<u>\$100.00</u>	<u>\$271.20</u>
<u>5</u>	<u>\$200.00</u>	<u>\$14.00</u>	<u>\$100.00</u>	<u>\$314.00</u>
<u>6</u>	<u>\$240.00</u>	<u>\$16.80</u>	<u>\$100.00</u>	<u>\$356.80</u>
Each additional hour	\$60.00	\$4.20	N/A	\$64.20
Tables (6 – 6ft tables) and Chairs (50)	\$30.00	\$2.10	N/A	\$32.10

Open Picnic Area Reservations (Hourly rates are not available)

Total Hours	Rental Fee	Tax	Clean-up Deposit	Total Fee
9:00 am –5:00 pm	<u>\$150.00-105.00</u>	<u>\$40.50 7.35</u>	\$100.00	<u>\$260.50 212.35</u>

Bandshell/Gazebo/Pavilions Reservations

Total Hours	Rental Fee	Tax	Clean-up Deposit	Total Fee
4 <u>5</u> hours	\$185.00	\$12.95	\$100.00	\$297.95
Each additional hour	\$60.00 <u>30.00</u>	\$4.20 <u>2.10</u>	N/A	\$64.20 <u>32.10</u>

**Basketball Court Rental
Palmetto Bay Park**

Total Hours	Rental Fee	Tax	Deposit	Total Fee
2 hours	\$40.00	\$2.80	\$30.00	\$72.80
Each additional hour	<u>\$25.00</u>	<u>\$1.76</u>	N/A	<u>\$26.75</u>
Lights— Add to rental amount	<u>\$30.00</u>	<u>\$2.10</u>	<u>N/A/</u>	<u>\$32.10</u>

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Summer Camp Program			
Description	Weekly Fee	Tax	Total Fee
Weekly	\$135.00	\$9.45	\$144.45

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6

Tennis and Racquetball Court Rental/Programs			
Description	Fee	Tax	Total Fee
Before 5pm- per hour/per person	\$5.00 <u>2.50</u>	\$.35 <u>.18</u>	\$5.35 <u>2.68</u>
After 5pm- per hour/per person	\$8.00 <u>3.50</u>	\$.56 <u>.25</u>	\$8.56 <u>3.75</u>
Tennis Private Lessons One (1) Hour	\$60.00	\$4.20	\$64.20
Tennis Private Lesson Half (1/2) Hour	\$35.00	\$2.45	\$37.45
Tennis Group Lesson One (1) Hour	\$20.00	\$1.40	\$21.40
Tennis Group Lesson One and a Half (1 1/2) Hours	\$30.00	\$2.10	\$32.10

7
8

Tennis Summer Camp Program			
Description	Weekly Fee	Tax	Total Fee
Half Day 9:00am to 12Noon	\$115.00	\$8.05	\$123.05
Full Day 9:00am to 3:00pm	\$175.00	\$12.25	\$187.25
Extended Day 9:00am to 6:00pm	\$225.00	\$15.75	\$240.75

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League or Club Fee
A fee of \$17.50 per registered participant per season and official registration documents from each league/club organization will be required, as well as the signed user agreement will be required prior to initial use of the park. A "league" or "club" shall be defined as an organized group, whether for profit or a non-for-profit organization that performs or conducts specific programming from a Palmetto Bay Park. All league users shall execute a village park user agreement.

Field Rental Fee
All groups, that are not defined as a "league" or a club, whether a church, school, or other organization, will be charged an hourly, field rental fee, based on the adopted fee schedule, based upon the amount of hours and space needed. All field rental users shall execute a field rental agreement.

Tournaments
All Village of Palmetto Bay tournament fees will be established by the village manager on an individual basis in accordance with operating costs. (e.g. insurance, softballs, umpires, etc.) All

1 tournament vendors participating in Palmetto Bay tournaments must be pre-approved by the village
 2 and vendors will be required to pay a daily fee of \$75.00. No items competing with village
 3 concessions will be sold.

4
 5 **Film Location Fee**

Video/Commercials/Movies/Film	\$450.00+ tax
Commercial Photography/Photo Shoot	\$250.00+ tax
Personal Photography/Photo Shoot	\$80.00+ tax

6
 7 **Palmetto Bay Skate Pavilion**

Skating Per Session Admissions Fee	Weekdays 4:00 pm to 9:00 pm Saturday 10:00 am to 2:30 pm Saturday 3:30 pm to 8:00 pm Sunday 12:00 pm to 6:00 pm	\$5.00 including tax
Helmet	Sale	\$15.00 + tax
Elbow, knee, wrist pads	Sale	\$15.00 + tax
Drinks	Sale	\$1.50 + tax
Weekly pass	7 sessions	\$20.00, including tax
Monthly pass	40 sessions	\$100.00, including tax

8
 9 Users of the skate park may purchase per the "per session" admission fee, or alternatively may
 10 purchase either a weekly or monthly pass to the skate park. The weekly pass shall entitle unlimited
 11 use, during the designated hours listed above, to the holder of the pass, for a seven session period.
 12 The monthly pass shall entitle the holder unlimited use, during the designated hours listed above,
 13 during a 30 session period.

14
 15 **Edward and Arlene Feller Community Room and**
 16 **Amphitheater at Ludovici Park Fees**

17
 18 **Community Room:**

Accommodates up to 50 people; includes use of light-food/beverage prep area. All community room rentals are subject to prior written approval from village manager.	
Weekdays 8:00 a.m. to 5:00 p.m.	\$75.00 per hour, with a minimum three-hour rental requirement
Daily rate: 8:00 a.m. to 5:00 p.m.	\$375.00
Nights 5:00 p.m. to 11:00 p.m. weekends/holidays 8:00 a.m. to 11:00 p.m.	\$100.00 per hour, with a minimum three-hour rental
Daily rate weekends/holidays	\$500.00
*AV equipment (set-up/break down by village personnel only!)	
*\$500.00 refundable damage/clean-up deposit for any of the above rentals.	

19
 20 **Amphitheater:**

Weekdays:	\$75.00 per hour, with a four-hour minimum
Daily rate:	\$450.00
Weekends/holidays:	\$100.00 per hour; four-hour minimum

Daily rate:	\$600.00
Sound equipment (set up/break down by village personnel):	\$100.00 per hour
Daily rate:	\$600.00

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Gazebo

Weekdays:	\$50.00 per hour, with a three-hour minimum
Daily rate:	\$300.00
Gazebo with use of event/grass area:	\$75.00 per hour, with a three-hour minimum
Daily rate:	\$450.00
Weekends/Holidays:	\$75.00 per hour, with a three-hour minimum
Daily rate:	\$450.00
Gazebo with use of event/grass area:	\$100.00 per hour; three-hour minimum
Daily rate:	\$600.00
*Sound system fees and related needs same as noted under Amphitheatre.	

Amphitheater/Gazebo/Event area:

Weekdays:	\$100.00 per hour, with a four-hour minimum
Daily rate:	\$600.00
Weekends/Holidays:	\$150.00 per hour
Daily rate:	\$900.00

- \$500.00 refundable damage/clean-up deposit for any of the above rentals.
- A minimum of one security officer is required for all events. Permittee is to utilize the security services of the village's authorized vendor, who is under contract to provide security services. Additional security, beyond minimum security requirements may be required at the discretion of the village manager, in consultation with the village's police department. If valet service is required, permittee must obtain valet service through company currently under contract to provide such service for the Village of Palmetto Bay. Permittee is required to utilize tents, tables and chairs through company currently under contract to provide such service for the Village of Palmetto Bay.
- All fees are subject to applicable sales tax.
- Weekends include Friday, Saturday Sunday and all village recognized holidays.
- Permittee acknowledges that fees are subject to change.

Administrative Waiver of Rental Fee:

1. The village manager is authorized to provide an administrative waiver of user rental fees for any Village Park Community Room (Coral Reef Park, Palmetto Bay Park, and the Edward and Arlene Feller Community Rooms), for nonprofit charitable organizations (registered with IRS) and community groups. A request for waiver of the rental fees must issue at least ten days prior to the requested day of use. Each community room can only be used for up to ten hours a week by community groups or nonprofits.
2. The village manager shall review the request for administrative waiver of rental fees for use of the community rooms and determine if the request by the nonprofit organization or community group is accompanied by appropriate documentation to support the request. The

administrative waiver applies solely to the rental fee, the refundable damage/clean-up deposit amount shall be required prior to use of the facilities.

3. Use of the community rooms is limited to once per week by nonprofit organizations and community groups who are seeking use through administrative waiver of rental fees. Use of the facilities may be more frequent; however, the nonprofit organization or community group will be required to pay the full rental amount if the room(s) are required more than once per week.
4. Should the nonprofit organization or community group requesting and/or receiving an administrative waiver of the rental fees conduct a fund raising activity in the community rooms, the organization or group will be required to pay the full rental amount.
5. Village use of the community room(s) has priority over any nonprofit organization or community group, and the organization or group will be required to move their meeting to another time or date to accommodate the village's use of the rooms.
6. Any community or nonprofit group utilizing an administrative waiver will have to complete the community room facility use agreement.

Thalatta Park Fees

All rentals are subject to prior written approval from the director of parks and recreation and/or village manager.

Weekday Rates:		Weekend Rates:	
Garden Lawn:	\$750.00	Garden Lawn:	\$1,250.00
Outdoor Terrace:	\$1,250.00	Outdoor Terrace:	\$2,250.00
Ceremony Gazebo:	\$175.00	Ceremony Gazebo:	\$550.00
Covered Terrace:	\$500.00	Covered Terrace:	\$1,000.00
Bride/Groom Suite:	\$250.00	Bride/Groom Suite:	\$550.00
String Lights:	\$350.00	String Lights:	\$550.00
Education Room:	\$150.00	Education Room:	\$350.00
Package Rate:	\$2,500.00	Package Rate:	\$4,000.00

- \$1,000.00 refundable damage/clean-up deposit for any of the above rentals required 30 days prior to event date.
- Package rate includes the entire facility except for the string lights.
- Saturday rentals are restricted to package rate only! Exceptions can be made at the discretion of the Village Manager and/or designee 30 days prior to event date.
- Events exceeding 200 guests will require prior written approval from the village and may be subject to additional fees.
- Valet parking is required on all events over 50 guests. Permittee must obtain valet service through company currently under contract to provide such service for the Village of Palmetto Bay.
Permittee is required to utilize tents, tables and chairs through company currently under contract to provide such service for the Village of Palmetto Bay.
- All caterers are required to obtain a catering permit prior to the day of the event at a rate of \$2.00 per guest. A copy of all state catering ,county licensing and certificate of insurance naming the Village of Palmetto Bay/Thalatta Estate as additional insured must be provided to the village 30 days prior to event date..

- 1 • A minimum of two security officers are required for all events over 50 guests. Permittee is to
- 2 utilize the security services of the village's authorized vendor, who is under contract to
- 3 provide security services. Additional security, beyond minimum security requirements may
- 4 be required at the discretion of the village manager, in consultation with the village's police
- 5 department.
- 6 • Weekends include Friday, Saturday, Sunday and all Village recognized holidays.
- 7 • All fees are subject to applicable sales tax.
- 8 • Permittee acknowledges that fees are subject to change.

9
 10 Use fees provided herein may be reduced or waived by the village manager for non-profit
 11 organization and community groups. Such action by the village manager shall be publicly announced
 12 by the manager at a council meeting. The non-profit or community group shall be required to
 13 indemnify the village and provide adequate insurance.

14
 15 Secs. 20-3 – 20-50. - Reserved

16
 17
 18 **Section 2. Conflicting Provisions.** The provisions of the Code of Ordinances of the
 19 Village of Palmetto Bay, Florida and all ordinances or parts of ordinances in conflict with the
 20 provisions of this ordinance are hereby repealed.

21
 22 **Section 3. Severability.** The provisions of this Ordinance are declared to be severable,
 23 and if any sentence, section, clause or phrase of this Ordinance shall, for any reason, be held to be
 24 invalid or unconstitutional, such decision shall not affect the validity of the remaining sentences,
 25 sections, clauses or phrases of the Ordinance, but they shall remain in effect it being the legislative
 26 intent that this Ordinance shall stand notwithstanding the invalidity of any part.

27
 28 **Section 4. Codification.** It is the intention of the Village Council and it is hereby
 29 ordained the provisions of this Ordinance shall become and be made part of the Code of
 30 Ordinances of the Village of Palmetto Bay, Florida, that sections of this Ordinance may be
 31 renumbered or re-lettered to accomplish such intentions, and that the word "Ordinance" shall be
 32 changed to "Section" or other appropriate word.

33
 34 **Section 5. Effective Date.** This ordinance shall take effect immediately upon
 35 enactment.

36
 37 **PASSED and ENACTED** this ____ day of _____, 2016.

38
 39 First Reading: January 5, 2016
 40 Second Reading: _____

41
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 44 Attest: _____
 45 Meighan Alexander Eugene Flinn
 46 Village Clerk 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 Karyn Cunningham _____
Council Member Tim Schaffer _____
Council Member Larissa Siegel Lara _____
Vice-Mayor John DuBois _____
Mayor Eugene Flinn _____

ORDINANCE NO. _____

1
2 AN ORDINANCE OF THE VILLAGE OF PALMETTO BAY FLORIDA,
3 MODIFYING CHAPTER 16 "ENVIRONMENT" BY CREATING
4 ARTICLE V "EXPANDED POLYSTYRENE "STYROFOAM" FOOD
5 SERVICE ARTICLES" AND PROVIDING FOR LEGISLATIVE INTENT,
6 DEFINITIONS, PROHIBITIONS OF SALE OR USE BY VILLAGE
7 CONTRACTORS ~~AND SPECIAL EVENT PERMITTEES~~, AND
8 EXEMPTIONS; PROVIDING FOR SEVERABILITY; PROVIDING FOR
9 CONFLICTS; PROVIDING FOR CODIFICATION; AND PROVIDING
10 FOR AN EFFECTIVE DATE. (Sponsored by Mayor Eugene Flinn and
11 Councilwoman Karyn Cunningham)
12

13 WHEREAS, the Village of Palmetto Bay (the "Village") declares that it is in the interest
14 of the public health, safety, and welfare of its residents and visitors to reduce litter and pollutants
15 within the Village; and
16

17 WHEREAS, expanded polystyrene, a petroleum by-product commonly known as
18 Styrofoam, breaks down so slowly that it is not viable as a biodegradable product; and, the
19 technology to recycle Styrofoam is more costly than the production of Styrofoam itself; and
20

21 WHEREAS, the Village's goal is to replace expanded polystyrene food service articles
22 with reusable, recyclable or compostable alternatives; and
23

24 WHEREAS, the Ordinance will preserve and enhance the environment of the Village;
25 and
26

27 WHEREAS, the Village Council finds that this Ordinance is necessary for the
28 preservation of the public health, safety and welfare of the Village's residents.
29

30 NOW, THEREFORE, BE IT ORDAINED BY THE VILLAGE COUNCIL OF
31 THE VILLAGE OF PALMETTO BAY, FLORIDA, AS FOLLOWS:
32

33 Section 1. The Village Council of the Village of Palmetto Bay hereby amends
34 Chapter 16, creating Article V, of the Code of Ordinances as follows:
35

36 ARTICLE V. - EXPANDED POLYSTYRENE "STYROFOAM" FOOD SERVICE
37 ARTICLES
38

39 Sec. 15-160. - Intent and Purpose.

40 Expanded polystyrene, a petroleum by-product commonly known as Styrofoam, breaks
41 down so slowly that it is not viable as a biodegradable product; and, the technology to recycle
42 Styrofoam is more costly than the production of Styrofoam itself. While Styrofoam is a concern
43 in landfills due to its almost nonexistent biodegradation, polystyrene is of greater concern when
44 found outside of landfills. The litter is unsightly and there is little economic incentive for
45 recyclers, as the technology to recycle Styrofoam is more costly than the production of Styrofoam

1 itself. Additionally, expanded polystyrene breaks into pieces easily when crushed and can be
2 detrimental to wildlife, if mistaken for food and then ingested.

3
4 The Village's goals are to reduce the use of expanded polystyrene and encourage the use
5 of reusable, recyclable, or compostable alternatives.

6
7 Sec. 15-161. – Definitions.

8 For purposes of this section only, the following definitions shall apply:

9
10 Village contractor means a contractor, vendor, lessee, concessionaire of the Village, or
11 operator of a Village facility or property.

12
13 Expanded Polystyrene is a petroleum-based plastic made from the styrene monomer. It is
14 commonly referred to as Styrofoam, which is actually the trade name of a polystyrene foam
15 product used for housing insulation. Expanded Polystyrene is a light-weight material, about 95%
16 air. In most cases, expanded polystyrene foam is white and is composed of small, interconnected
17 beads. It is made by combining the chemicals ethylene and benzene, to make a compound known
18 as styrene. The styrene is then treated with other chemicals which cause the styrene molecules to
19 polymerize and then cool prior to molding.

20 Expanded polystyrene food service articles means plates, bowls, cups, containers, lids,
21 trays, coolers, ice chests, and all similar articles that consist of expanded polystyrene.

22
23 Village facility means any building, structure, or park, owned, operated, or managed by
24 the Village.

25
26 Village property means any land, water, or air rights owned, operated, or managed by the
27 Village.

28
29 Special event permittee means any person or entity issued a special event permit by the
30 Village for special event on Village property or in a Village facility.

31
32 Sec. 15-162. – Prohibitions regarding sale or use by Village contractors and special event
33 permittee.

34 Village contractors and special event permittees shall not sell, use, provide food in, or
35 offer the use of expanded polystyrene food service articles in Village facilities or on Village
36 property. A violation of this section shall be deemed a default under the terms of the Village
37 contract, lease, or concession agreement and is grounds for revocation of a special event permit.
38 This subsection shall not apply to expanded polystyrene food service article used for prepackaged
39 food that have been filled and sealed prior to receipt by the Village contractor or special event
40 permittee.

41
42 Sec. 15-163. – Exclusions.

43 Any Village contract, lease, or concession agreement entered into prior to the effective
44 date of this section or any special event permit issued prior to the effective date of this section
45 shall not be subject to the requirements of this section, unless the Village contractor or special
46 event permittee voluntarily agrees thereto.

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Section 2. The provisions of this Ordinance are declared to be severable and if any section, sentence, clause or phase of this Ordinance shall for any reason be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections, sentences, clauses, and phrases of this Ordinance but they shall remain in effect, it being the legislative intent that his Ordinance shall stand notwithstanding the invalidity of any part.

Section 3. All Sections or parts of Sections of the Code of Ordinances, all ordinances or parts of ordinances, and all Resolutions, or parts of Resolutions, in conflict with this Ordinance are repealed to the extent of such conflict.

Section 4. It is the intention of the Village Council, and it is hereby ordained that the provisions of this Ordinance shall become and made a part of the Code of the Village of Palmetto Bay; that the sections of this Ordinance may be renumbered or re-lettered to accomplish such intention; and that the word "Ordinance" shall be changed to "Section" or other appropriate word.

Section 5. This Ordinance shall be effective immediately upon adoption on second reading.

First reading: February 16, 2016

PASSED AND ENACTED this _____ day of March, 2016.

Attest: _____
Meighan Alexander
Village Clerk
Eugene Flinn
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 Karyn Cunningham _____
Council Member Tim Schaffer _____
Council Member Larissa Siegel Lara _____
Vice-Mayor John DuBois _____
Mayor Eugene Flinn _____



To: Honorable Mayor and Village Council

Date: March 7, 2016

From: Edward Silva, Village Manager

Re: Floodplain Management Ordinance -
2nd Reading

AN ORDINANCE OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, PERTAINING TO THE VILLAGE'S PARTICIPATION IN THE COMMUNITY RATING SYSTEM, "CRS"; ADDING REQUIRED ELEMENTS AND PROVIDING FOR OTHER ELEMENTS THAT MAY HAVE THE NET EFFECT OF LOWERING FLOOD INSURANCE PREMIUMS FOR THE RESIDENTS OF PALMETTO BAY; AMENDING, PURSUANT TO SECTION 30-30.7(b), SECTION 30-100.6, ENTITLED "FLOODPLAIN MANAGEMENT REGULATIONS" OF THE VILLAGE'S LAND DEVELOPMENT REGULATIONS; AND AMENDING, PURSUANT TO SECTION 553.73(5) OF THE FLORIDA BUILDING CODE, LOCAL ADMINISTRATIVE AND LOCAL TECHNICAL PROVISIONS OF THE FLORIDA BUILDING CODE PERTAINING TO THE DESIGN AND CONSTRUCTION OF BUILDINGS AND STRUCTURES IN FLOOD HAZARD AREAS; PROVIDING FOR ORDINANCES IN CONFLICT, REPEALER, CODIFICATION, SEVERABILITY AND AN EFFECTIVE DATE.

UPDATE SINCE FIRST READING:

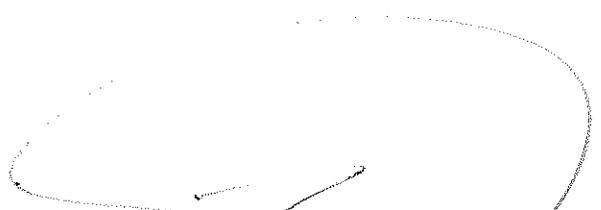
This item was heard during First Reading on February 1, 2016 and was approved without any changes or modifications. The remainder of the report regarding this item is as it was submitted on February 1, 2016 (Attachment A).

RECOMMENDATION:

Approval is recommended.

Attachments:

(A) Report



Darby P. Delsalle, AICP
Planning and Zoning Director

Manager's Report
for
Floodplain Management Ordinance

ATTACHMENT A



To: Honorable Mayor and Village Council

Date: February 1, 2016

From: Edward Silva, Village Manager

Re: Floodplain Management Ordinance -
1st Reading

AN ORDINANCE OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, PERTAINING TO THE VILLAGE'S PARTICIPATION IN THE COMMUNITY RATING SYSTEM, "CRS"; ADDING REQUIRED ELEMENTS AND PROVIDING FOR OTHER ELEMENTS THAT MAY HAVE THE NET EFFECT OF LOWERING FLOOD INSURANCE PREMIUMS FOR THE RESIDENTS OF PALMETTO BAY; AMENDING, PURSUANT TO SECTION 30-30.7(b), SECTION 30-100.6, ENTITLED "FLOODPLAIN MANAGEMENT REGULATIONS" OF THE VILLAGE'S LAND DEVELOPMENT REGULATIONS; AND AMENDING, PURSUANT TO SECTION 553.73(5) OF THE FLORIDA BUILDING CODE, LOCAL ADMINISTRATIVE AND LOCAL TECHNICAL PROVISIONS OF THE FLORIDA BUILDING CODE PERTAINING TO THE DESIGN AND CONSTRUCTION OF BUILDINGS AND STRUCTURES IN FLOOD HAZARD AREAS; PROVIDING FOR ORDINANCES IN CONFLICT, REPEALER, CODIFICATION, SEVERABILITY AND AN EFFECTIVE DATE.

BACKGROUND:

The Federal Emergency Management Agency has identified special flood hazard areas within the boundaries of the Village of Palmetto Bay that may be subject to periodic inundation which may result in loss of life, property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety and general welfare. The Village was accepted for participation in the National Flood Insurance Program in 2008 (as the Village), and the Village desires to continue to meet the requirements of Title 44 Code of Federal Regulations, Sections 59 and 60, necessary for such participation.

The proposed Ordinance includes amendments to Section of 30-100.6, Floodplain Regulations, of the Village's Land Development Regulations (LDRs), and to certain administrative and technical aspects of the Florida Building Code. Amendments to the floodplain regulations are governed by the Chapter 30-30 of the LDRs. Chapter 553, Florida Statutes, was adopted by the Florida Legislature to provide a mechanism for the uniform adoption, updating, amendment, interpretation and enforcement of a state building code, called the *Florida Building Code*. Chapter 553, Florida Statutes, allows for local administrative and technical amendments to the *Florida Building Code* which

provide for more stringent requirements than those specified in the Code. Section 553.73(5), Florida Statutes, specifically allows adoption of local administrative and local technical amendments to the *Florida Building Code* to implement the National Flood Insurance Program and incentives.

The proposed amendments to the floodplain regulations and Florida Building Code are offered in order to bring the Village into eligibility for participation in the Community Rating System (CRS). The CRS eligibility process involves scoring the programs and laws of a jurisdiction that facilitates flood prevention and education. The higher number of points earned, the greater the discount that would apply to the flood insurance premiums of Village residents. The base rating is 10. For every 500 points earned, the overall CRS rating of the Village is reduced by one (1), and the insurance premium reduction increases by 5%. Hence, a rating of 9 equals a 5% reduction, an 8 equals a 10% reduction. The maximum possible insurance premium reduction is 45%. It is the desire of the Village to attain the highest score possible in order to achieve the lowest rating.

The current laws and programs offered by the Village are estimated to be worth approximately 2,220 points for a CRS rating of 6 (20% reduction). However, the Village is not eligible to qualify for the premium reductions at this point because certain existing laws and programs fall short of the minimum requirements for qualification to the CRS program. The elements proposed by the Ordinance, under the "Proposed Changes" of this Memorandum, together with other initiatives proposed with our CRS application, brings our potential point tally to an estimated 5,076 points or CRS rating of 1. This number is an estimate. Final scoring is provided by FEMA and is predicated upon properly documenting all programs and laws proposed and existing and their acceptance of the data. Village staff recommends the adoption of this Ordinance and the implementation of the other programs within the CRS application, which may result in a potential flood insurance premium reduction of 45%.

PROPOSED CHANGES:

Village LDRs Floodplain Amendments. The following is a brief description of the proposed changes to section 30-100.6. They are presented in no particular order as each has elements that occur throughout the code.

Manufactured homes. Considerable attention is given to manufactured homes within the proposed ordinance. This despite the fact these building types neither exist nor are not permitted within the Village. The language is included solely for the purpose of earning the points associated with their inclusion into our code.

Tracking of repairs/improvements and repetitive losses. The next item involves the tracking of repairs and repetitive losses. Flood elevation compliance is required for (1) new construction or (2) to improvements/repairs to existing structures that exceed 50% value of the building/structure involved. The proposed revisions provide for tracking improvement and repairs over a five year period to ensure proper enforcement of the intent of the floodplain provisions.

Base flood elevation determinations. Language is provided to include rules to determine base flood elevation in those special cases where there is insufficient data is available.

Freeboard. The minimum FEMA requirement is to ensure zoning and building codes comply with base flood elevations. The "freeboard" requirement compensates for the many unknown factors, such as wave action, blockage of bridge or culvert openings, and hydrological effect of urbanization of the watershed, which could contribute to flood heights greater than the heights calculated for a selected frequency flood and floodway conditions. The ordinance proposes the finished first floor be a minimum of one (1) feet above the floodplain elevation. The ordinance would apply to new construction, repairs to damages in excess of 50% of the market value of the structure, and additions to existing construction that exceed 50% of the market value of the building being improved.

Reorganization, citation, and other corrections. The remain edits to section 30-100.6 pertain primarily to organization of the code, identification of appropriate citations, and general edits and corrections.

Florida Building Code Amendments. The following is a brief description of the proposed changes to the Florida Building Code. They are presented in no particular order as each has elements that occur throughout the code.

Freeboard. A fuller description of freeboard is provided above. The amendment to the Florida Building Code describes how freeboard is to be applied and under what flood zone designations. The amendment is consistent with that offered in Section 30-100.6 of the LDRs above providing for a one (1) foot freeboard.

Substantial damage definition. Provides a definition of substantial damage and how such information/value is tracked. The rule applied is based on 50% market value as spread over a period of five (5) years.

Substantial improvement definition. This amendment functions in much the same way as the definition element described above. In this case, it is not repairs to damages that are tracked, rather it is the value of improvements that are calculated over a five (5) year period.

ANALYSIS:

Land Development Regulations Section 30-100.6

The proposed revisions to Division 30-100.6 was reviewed for consistency with the criteria established in Section 30-30.7(b). 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 Comprehensive Plan and the Village's concurrency management plan seeks to ensure future development does not have a dilatory impact on the community and conforms with FEMA guidelines as provided at Objective 4C.1, 4C.2 4C.4, 5.1, 5.3, 5.4, and 5.5 and their corresponding policies applicable thereto. The revisions are consistent with FEMA requirements and the 2014 Florida Building Code, effective June 30, 2015.

Finding: Consistent.

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

Analysis: The proposed amendment brings the Village's Floodplain management Ordinance into compliance with state law and federal FEMA requirements.

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: The revisions are consistent with FEMA requirements and the 2014 Florida Building Code, effective June 30, 2015.

Findings: Consistent.

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

Analysis: The proposed ordinance does not change the list of permitted uses within the Village's zoning districts.

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: The proposed Ordinance does not change the list of permitted uses within the Village's zoning districts thus it does not affect the capacity of existing facilities or services as described above. It does affect construction and ensures compliance with federal law (FEMA) and the 2014 Florida Building Code, effective June 30, 2015.

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 change the list of permitted uses within the Village's zoning districts and it does not affect the natural environment as described above. It does ensure that FEMA requirements are complied with for areas within a floodplain.

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: The proposed amendment brings clarity to the Village's procedures as to floodplain management. The changes ensure that insurance can be maintained and is consistent with FEMA and FBC requirements. The revisions would ensure that property values are not affected or adversely affect the general welfare.

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 patter shall be identified.

Analysis: The revisions ensures compliance with federal and state laws and only effects the land development pattern in so far as it seeks to prevent flooding conditions.

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: The proposed amendment brings clarity to the Village's floodplain management Ordinance and brings the Village's Code into consistency with FEMA requirements and the 2014 Florida Building Code, effective June 30, 2015.

Findings: Consistent.

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

Analysis: Discretion of Village Council.

Finding: As determined by the Village Council.

ADMINISTRATIVE AND TECHNICAL FLORIDA BUILDING CODE AMENDMENTS:

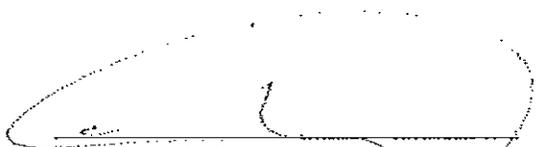
It is in the public interest to adopt the proposed local technical amendments and proposed local administrative amendments to the 2014 Florida Building Code, effective June 30, 2015, and that the proposed amendments are not more stringent than necessary to address the need identified, do not discriminate against materials, products or construction techniques of demonstrated capabilities, are in compliance with section 553.73(4)(a), Florida Statutes, where applicable, and the proposed amendments are in compliance with section 553.73(5), Florida Statutes, where applicable.

FISCAL/BUDGETARY IMPACT:

None at this time.

RECOMMENDATION:

Approval is recommended.



Darby P. Delsalle, AICP
Planning and Zoning Director

PROPOSED
ORDINANCE

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ORDINANCE NO.

AN ORDINANCE OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, PERTAINING TO THE VILLAGE'S PARTICIPATION IN THE COMMUNITY RATING SYSTEM, "CRS"; ADDING REQUIRED ELEMENTS AND PROVIDING FOR OTHER ELEMENTS THAT MAY HAVE THE NET EFFECT OF LOWERING FLOOD INSURANCE PREMIUMS FOR THE RESIDENTS OF PALMETTO BAY; AMENDING, PURSUANT TO SECTION 30-30.7(b), SECTION 30-100.6, ENTITLED "FLOODPLAIN MANAGEMENT REGULATIONS" OF THE VILLAGE'S LAND DEVELOPMENT REGULATIONS; AND AMENDING, PURSUANT TO SECTION 553.73(5) OF THE FLORIDA BUILDING CODE, LOCAL ADMINISTRATIVE AND LOCAL TECHNICAL PROVISIONS OF THE FLORIDA BUILDING CODE PERTAINING TO THE DESIGN AND CONSTRUCTION OF BUILDINGS AND STRUCTURES IN FLOOD HAZARD AREAS; PROVIDING FOR ORDINANCES IN CONFLICT, REPEALER, CODIFICATION, SEVERABILITY AND AN EFFECTIVE DATE.

WHEREAS, the Mayor and Village Council of the Village of Palmetto Bay is concerned with the health, safety, and welfare of its residents; and,

WHEREAS, the Legislature of the State of Florida has, in Chapter 166, Florida Statutes, conferred upon local governments the authority to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry; and,

WHEREAS, the Federal Emergency Management Agency has identified special flood hazard areas within the boundaries of the Village of Palmetto Bay and such areas are subject to periodic inundation which may result in loss of life, property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety and general welfare, and,

WHEREAS, the Village was accepted for participation in the National Flood Insurance Program on October 6, 2008 and the Village Council desires to continue to meet the requirements of Title 44 Code of Federal Regulations, Sections 59 and 60, necessary for such participation; and,

WHEREAS, Chapter 553, Florida Statutes, was adopted by the Florida Legislature to provide a mechanism for the uniform adoption, updating, amendment, interpretation and enforcement of a state building code, called the *Florida Building Code*; and,

WHEREAS, Chapter 553, Florida Statutes, allows for local administrative amendments to the *Florida Building Code* which provide for more stringent requirements than those specified in the Code; and,

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(5) **Warning.** The degree of flood protection required by this section and the *Florida Building Code*, as amended by this community, is considered the minimum reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur. Flood heights may be increased by manmade or natural causes. This section does not imply that land outside of mapped special flood hazard areas, or that uses permitted within such flood hazard areas, will be free from flooding or flood damage. The flood hazard areas and base flood elevations contained in the Flood Insurance Study and shown on Flood Insurance Rate Maps and the requirements of Title 44 Code of Federal Regulations, Sections 59 and 60 may be revised by the Federal Emergency Management Agency, requiring this community to revise these regulations to remain eligible for participation in the National Flood Insurance Program. No guaranty of vested use, existing use, or future use is implied or expressed by compliance with this section.

* * *

(b) **Applicability**

* * *

(4) **Submission of additional data to establish flood hazard areas.** To establish flood hazard areas and base flood elevations, pursuant to sections 30-100.6(r)(~~g~~) —(~~h~~) of this section the Floodplain Administrator may require submission of additional data. Where field surveyed topography prepared by a Florida licensed professional surveyor or digital topography accepted by the community indicates that ground elevations:

- i. Are below the closest applicable base flood elevation, even in areas not delineated as a special flood hazard area on a FIRM, the area shall be considered as flood hazard area and subject to the requirements of this section and, as applicable, the requirements of the *Florida Building Code*.
- ii. Are above the closest applicable base flood elevation, the area shall be regulated as special flood hazard area unless the applicant obtains a Letter of Map Change that removes the area from the special flood hazard area.

* * *

(6) **Abrogation and greater restrictions.** This section supersedes any Ordinance in effect for management of development in flood hazard areas. However, it is not intended to repeal or abrogate any existing Ordinances including but not limited to land development regulations, zoning Ordinances, stormwater management regulations, or the Florida Building Code. In the event of a conflict between this section and any other Ordinance, the more restrictive shall govern. This section shall not impair any deed restriction, covenant or easement, but any land that is subject to such interests shall also be governed by this section.

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(c) Duties And Powers Of The Floodplain Administrator

- (1) Designation. The Village Manager or his/her designee Building Official is designated as the Floodplain Administrator. The Floodplain Administrator may delegate performance of certain duties to other employees.
- (2) General. The building official Floodplain Administrator is authorized and directed to administer and enforce the provisions of this section ~~and shall be the floodplain administrator, which terms shall be interchangeable hereinafter.~~ The Floodplain Administrator shall have the authority to render interpretations of this section consistent with the intent and purpose of this section and may establish policies and procedures in order to clarify the application of its provisions. Such interpretations, policies, and procedures shall not have the effect of waiving requirements specifically provided in this section without the granting of a variance pursuant to Section 30-100.6(t)(w) of this ordinance.
- (3) Applications and permits. The Floodplain Administrator, in coordination with other pertinent offices of the community, shall:

* * *

- viii. Coordinate with and provide comments to the building official to assure that applications, plan reviews, and inspections for building permits for buildings and structures in flood hazard areas comply with the requirements of this section.

(d) ~~Determinations for existing buildings and structures. Substantial improvement and substantial damage determinations.~~ For applications for building permits to improve buildings and structures, including alterations, movement, enlargement, replacement, repair, change of occupancy, additions, rehabilitations, renovations, substantial improvements, repairs of substantial damage, and any other improvement of or work on such buildings and structures, ~~the Building Official Division,~~ shall:

* * *

- (3) Determine and document whether the proposed work constitutes substantial improvement or repair of substantial damage; the determination requires evaluation of previous permits issued for improvements and repairs as specified in the definition of "substantial improvement"; for proposed work to repair damage caused by flooding, the determination requires evaluation of previous permits issued to repair flood-related damage as specified in the definition of "substantial damage"; and
- (4) Notify the applicant if it is determined that the work constitutes substantial improvement or repair of substantial damage and that compliance with the flood

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resistant provisions construction requirements of the *Florida Building Code* and this section is required.

(e) **Modifications of the strict application of the requirements of the *Florida Building Code*.** The Floodplain Administrator shall review requests submitted to the Building Official that seek approval to modify the strict application of the flood load and flood resistant construction requirements of the *Florida Building Code* to determine whether such requests require the granting of a variance pursuant to Section 30-100.6(t)(w) of this section.

(f) ~~Coordination of Notices~~ **Notices and orders.** The Floodplain Administrator ~~who is the Building Official~~ shall coordinate with appropriate local agencies for the issuance of all necessary notices or orders to ensure compliance with this section.

(g) **Inspections.** The Floodplain Administrator shall make the required inspections as specified in subsection 30-100.6(s)(~~tt~~) of this section for development that is not subject to the *Florida Building Code*, including buildings, structures, and facilities exempt from the *Florida Building Code*. ~~the~~ The floodplain administrator shall building official inspect flood hazard areas to determine if development is undertaken without issuance of a permit.

(h) **Other duties of the Floodplain Administrator.** The Floodplain Administrator shall have other duties, including but not limited to:

- (1) Establish, in coordination with the building official, procedures for administering and documenting determinations of substantial improvement and substantial damage made pursuant to Section 30-100.6(d) of this ordinance;

* * *

(i) **Permits required.** Any owner or owner's authorized agent (hereinafter "applicant") who intends to undertake any development activity within the scope of this section, including buildings, structures, and facilities exempt from the *Florida Building Code*, which is wholly within or partially within any flood hazard area shall first make application to the Floodplain Administrator, and the Building Official if applicable, and shall obtain the required permit(s) and approval(s). No such permit or approval shall be issued until compliance with the requirements of this section and all other applicable codes and regulations has been satisfied.

* * *

(l) **Buildings, structures and facilities exempt from the *Florida Building Code*.** Pursuant to the requirements of federal regulation for participation in the National Flood Insurance Program (44 C.F.R. Section 59 and 60-3), floodplain development permits or approvals shall be required for the following buildings, structures and facilities that are exempt from the *Florida Building Code* and any further exemptions provided by law, are subject to the requirements of this section:

* * *

1 (m) Application for a permit or approval. To obtain a floodplain development permit or
2 approval the applicant shall first file an application in writing on a form furnished by the
3 community. The information provided shall:

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6
7 (4) Be accompanied by a site plan or construction documents as specified in Section
8 30-100.6(r)(q) of this section.

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12 (q) Other permits required. Floodplain development permits and building permits shall
13 include a condition that all other applicable state or federal permits be obtained before
14 commencement of the permitted development, including but not limited to the following:

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18 (6) Federal permits and approvals.

19
20 (r) Site Plans and Construction Documents. All new construction, repairs of substantial
21 damage, and substantial improvements shall provide a freeboard of one (1) foot above base
22 flood elevation. For those lands above base flood elevation, finished floor shall be eight (8)
23 inches above the average height of the crown of the road. In addition, all site plans and
24 construction documents shall comply with the following:

25
26 (1) -Information for development in flood hazard areas. The site plan or
27 construction documents for any development subject to the requirements of this
28 section shall be drawn to scale and shall include, as applicable to the proposed
29 development:

30
31 i.(1) Delineation of flood hazard areas, floodway boundaries and flood
32 zone(s), base flood elevation(s), and ground elevations if necessary for
33 review of the proposed development.

34 ii.(2) Where flood hazard areas, base flood elevations, or floodway data are not
35 included on the FIRM or in the Flood Insurance Study, they shall be
36 established in accordance with Section 30-100.6(r) of this section.

37 iii.(3) Where the parcel on which the proposed development will take place will
38 have more than 50 lots or is larger than 5 acres and the base flood
39 elevations are not included on the FIRM or in the Flood Insurance
40 Study, such elevations shall be established in accordance with Section 30-
41 100.6(r)(2)(i) of this section.

42 iv.(4) Location of the proposed activity and proposed structures, and locations
43 of existing buildings and structures; in coastal high hazard areas, new
44 buildings shall be located landward of the reach of mean high tide.

45 v.(5) Location, extent, amount, and proposed final grades of any filling,
46 grading, or excavation.

47 vi.(6) Where the placement of fill is proposed, the amount, type, and source of

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fill material; compaction specifications; a description of the intended purpose of the fill areas; and evidence that the proposed fill areas are the minimum necessary to achieve the intended purpose.

- vii.(7) Delineation of the Coastal Construction Control Line or notation that the site is seaward of the coastal construction control line, if applicable.
- viii.(8) Extent of any proposed alteration of sand dunes or mangrove stands, provided such alteration is approved by the Florida Department of Environmental Protection.
- ix.(9) Existing and proposed alignment of any proposed alteration of a watercourse.

The Floodplain Administrator is authorized to waive the submission of site plans, construction documents, and other data that are required by this section but and other that are data-not required to be prepared by a registered design professional if it is found that the nature of the proposed development is such that the review of such submissions is not necessary to ascertain compliance with this section.

(s)(2) Information in flood hazard areas without base flood elevations (approximate Zone A). Where flood hazard areas are delineated on the FIRM and base flood elevation data have not been provided, the Floodplain Administrator shall:

- i. Require the applicant to include base flood elevation data prepared in accordance with currently accepted engineering practices.
- ii.(1) Obtain, review, and provide to applicants base flood elevation and floodway data available from a federal or state agency or other source or require the applicant to obtain and use base flood elevation and floodway data available from a federal or state agency or other source; or
- 2) ~~Require the applicant to develop base flood elevation data prepared in accordance with currently accepted engineering practices; or~~
- iii.(3) Where base flood elevation and floodway data are not available from another source, where the available data are deemed by the Floodplain Administrator to not reasonably reflect flooding conditions, or where the available data are known to be scientifically or technically incorrect or otherwise inadequate:
 - (A) Require the applicant to include base flood elevation data prepared in accordance with currently accepted engineering practices; or
 - (B) Specify that the base flood elevation is one (1) foot two (2) feet above the highest adjacent grade at the location of the development, provided there is no evidence indicating flood depths have been or may be greater than one (1) foot two (2) feet. In all cases the finished floor shall not be less than eight (8) inches above the average height of the crown of road.
- iv.(4) Where the base flood elevation data are to be used to support a Letter of Map Change from FEMA, advise the applicant that the analyses shall be prepared by a Florida licensed engineer in a format required by FEMA,

1 and that it shall be the responsibility of the applicant to satisfy the
2 submittal requirements and pay the processing fees.
3

4 (3)(f) Additional analyses and certifications. As applicable to the location and
5 nature of the proposed development activity, and in addition to the requirements
6 of this ~~§~~Section, the applicant shall have the following analyses prepared ~~signed~~
7 and sealed by a Florida licensed engineer for submission with the site plan and
8 construction documents:

9 i.(1) For development activities proposed to be located in a regulatory
10 floodway, a floodway encroachment analysis that demonstrates that the
11 encroachment of the proposed development will not cause any increase
12 in base flood elevations; where the applicant proposes to undertake
13 development activities that do increase base flood elevations, the
14 applicant shall submit such analysis to FEMA as specified in Section 30-
15 100.6(i)(f) of this section and shall submit the Conditional Letter of Map
16 Revision, if issued by FEMA, with the site plan and construction
17 documents.

18 ii.(2) For development activities proposed to be located in a riverine flood
19 hazard area for which base flood elevations are included in the Flood
20 Insurance Study or on the FIRM and floodways have not been
21 designated, a ~~floodway encroachment hydrologic and hydraulic analysis~~
22 ~~which that~~ demonstrates that the cumulative effect of the proposed
23 development, when combined with all other existing and anticipated
24 flood hazard area encroachments, will not increase the base flood
25 elevation more than one (1) foot at any point within the community.
26 This requirement does not apply in isolated flood hazard areas not
27 connected to a riverine flood hazard area or in flood hazard areas
28 identified as Zone AO or Zone AH.

29 iii.(3) For alteration of a watercourse, an engineering analysis prepared in
30 accordance with standard engineering practices which demonstrates that
31 the flood-carrying capacity of the altered or relocated portion of the
32 watercourse will not be decreased, and certification that the altered
33 watercourse shall be maintained in a manner which preserves the
34 channel's flood-carrying capacity; the applicant shall submit the analysis
35 to FEMA as specified in Section 30-100.6(i)(f) of this section.

36 iv.(4) For activities that propose to alter sand dunes or mangrove stands in
37 coastal high hazard areas (Zone V), an engineering analysis that
38 demonstrates that the proposed alteration will not increase the potential
39 for flood damage.

40
41 (4)(w) Submission of additional data. When additional hydrologic, hydraulic or other
42 engineering data, studies, and additional analyses are submitted to support an
43 application, the applicant has the right to seek a Letter of Map Change from
44 FEMA to change the base flood elevations, change floodway boundaries, or
45 change boundaries of flood hazard areas shown on FIRMs, and to submit such
46 data to FEMA for such purposes. The analyses shall be prepared by a Florida
47 licensed engineer in a format required by FEMA. Submittal requirements and
48 processing fees shall be the responsibility of the applicant.

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(s)(v) Inspections

(1) General. Development for which a floodplain development permit or approval is required shall be subject to inspection.

(2)(4) Development other than buildings and structures. The Floodplain Administrator shall inspect all development to determine compliance with the requirements of this ordinance and the conditions of issued floodplain development permits or approvals.

(3)(2) Buildings, structures, and facilities exempt from the *Florida Building Code*. The ~~building official~~ floodplain administrator shall inspect buildings, ~~and~~ structures and facilities exempt from the *Florida Building Code* to determine compliance with the requirements of this ordinance and the conditions of issued floodplain development permits or approvals.

(4)(3) Buildings, structures, and facilities exempt from the *Florida Building Code*, lowest floor inspection. Upon placement of the lowest floor, including basement, and prior to further vertical construction, the owner of a building ~~or~~, structure or facility exempt from the *Florida Building Code*, or the owner's authorized agent, shall submit to the ~~building official~~ floodplain administrator:

* * *

(5)(4) Buildings, structures, and facilities exempt from the *Florida Building Code*, final inspection. As part of the final inspection, the owner or owner's authorized agent shall submit to the ~~building official~~ floodplain administrator a final certification of elevation of the lowest floor or final documentation of the height of the lowest floor above the highest adjacent grade; such certifications and documentations shall be prepared as specified in Section 30-100.6(u)(4) of this section.

(6) Manufactured homes. The Floodplain Administrator shall inspect manufactured homes that are installed or replaced in flood hazard areas to determine compliance with the requirements of this ordinance and the conditions of the issued permit. Upon placement of a manufactured home, certification of the elevation of the lowest floor shall be submitted to the Floodplain Administrator.

(t)(w) Variances And Appeals

* * *

(2) Appeals. The Village Council shall hear and decide appeals when it is alleged there is an error in any requirement, decision, or determination made by the ~~building official~~ floodplain administrator in the administration and enforcement of this ordinance. Any person

1 aggrieved by the decision of the Village_Council may appeal such decision to the Circuit Court,
2 as provided by Florida Statutes.

3
4 (3) **Limitations on authority to grant variances.** The Village Council shall base
5 its decisions on variances on technical justifications submitted by applicants, the considerations
6 for issuance in Section 30-100.6(t)(v)(7) of this section, the conditions of issuance set forth in
7 Section 30-100.6(t)(v)(8) of this ordinance, and the comments and recommendation of the
8 floodplain administrator and the building official. The Village Council has the right to attach
9 such conditions as it deems necessary to further the purposes and objectives of this ordinance.

10
11 (4) **Restrictions in floodways.** A variance shall not be issued for any proposed
12 development in a floodway if any increase in base flood elevations would result,
13 as evidenced by the applicable analyses and certifications required in Section 30-
14 100.6(t)(s) of this ordinance.

15 * * *

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18 (6) **Functionally dependent uses.** A variance is authorized to be issued for the
19 construction or substantial improvement necessary for the conduct of a
20 functionally dependent use, as defined in this ordinance, provided the variance
21 meets the requirements of Section 30-100.6(t)(v)(4), is the minimum necessary
22 considering the flood hazard, and all due consideration has been given to use of
23 methods and materials that minimize flood damage during occurrence of the
24 base flood.

25 * * *

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27
28 (u)(s) **Violations**

29
30 (1) **Violations.** Any development that is not within the scope of the Florida Building
31 Code but that is regulated by this ordinance ~~Any construction or development in~~
32 ~~a flood hazard area that is performed without an issued permit, that is in conflict~~
33 ~~with an issued permit, or that does not fully comply with this ordinance, shall be~~
34 ~~deemed a violation of this section. A building or structure without the~~
35 ~~documentation of elevation of the lowest floor, other required design~~
36 ~~certifications, or other evidence of compliance required by this section or the~~
37 ~~Florida Building Code is presumed to be a violation until such time as that~~
38 ~~documentation is provided.~~

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42 (v)(r) **Definitions - Generally**

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46 (4) **Definitions**

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Appeal. A request for a review of the ~~building official's floodplain administrator's~~ interpretation of any provision of this ordinance or a request for a variance.

* * *

Building Official. The officer or other designated authority charged with the administration and enforcement of the *Florida Building Code*, or a duly authorized representative. [Also defined in FBC, B, Section 1612.2.] ~~For the purposes of the implementation of the section, the building official is the floodplain administrator.~~

* * *

Encroachment. The ~~advancement or placement~~ of fill, excavation, buildings, permanent structures or other development into a flood hazard area which may impede or alter the flow capacity of riverine flood hazard areas.

Existing building and existing structure. Any buildings and structures for which the "start of construction" commenced before ~~September 29, 1972~~ ~~October 6, 2008~~. [Also defined in FBC, B, Section 1612.2.]

Existing manufactured home park or subdivision. A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before ~~August 2, 2004~~ September 29, 1972. The Village does not contain any existing manufactured home parks or subdivisions.

Expansion to an existing manufactured home park or subdivision. The preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

* * *

Floodplain Administrator. The office or position designated and charged with the administration and enforcement of this ordinance (may be referred to as the Floodplain Manager), ~~who is the building official.~~

* * *

Floodway. The channel of a river or other riverine watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a ~~designated height~~ one (1) foot. [Also defined in FBC, B, Section 1612.2.]

* * *

1 Freeboard. The additional height, usually expressed as a factor of safety in feet, above a flood
2 level for purposes of floodplain management. "Freeboard" tends to compensate for the many
3 unknown factors, such as wave action, blockage of bridge or culvert openings, and hydrological
4 effect of urbanization of the watershed, which could contribute to flood heights greater than the
5 heights calculated for a selected frequency flood and floodway conditions.

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9 **Lowest floor.** The floor of the lowest enclosed area of a building or structure, including
10 basement, but excluding any unfinished or flood-resistant enclosure, usable solely for vehicle
11 parking, building access or limited storage provided that such enclosure is not built so as to
12 render the structure in violation of the non-elevation requirements of the *Florida Building Code* or
13 ASCE 24. [Also defined in FBC, B, Section 1612.2.]

14
15 * * *

16
17 **New construction.** For the purposes of administration of this ordinance and the flood resistant
18 construction requirements of the *Florida Building Code*, structures for which the "start of
19 construction" commenced on or after September 29, 1972 ~~October 6, 2008~~ and includes any
20 subsequent improvements to such structures.

21
22 **New manufactured home park or subdivision.** A manufactured home park or subdivision
23 for which the construction of facilities for servicing the lots on which the manufactured homes
24 are to be affixed (including at a minimum, the installation of utilities, the construction of streets,
25 and either final site grading or the pouring of concrete pads) is completed on or after ~~October 6,~~
26 ~~2008~~ September 29, 1972.

27
28 **Park trailer.** A transportable unit which has a body width not exceeding fourteen (14) feet and
29 which is built on a single chassis and is designed to provide seasonal or temporary living quarters
30 when connected to utilities necessary for operation of installed fixtures and appliances. [Defined
31 in 15C-1.0101, F.A.C. 320.01, Florida Statutes]

32
33 **Recreational vehicle.** A vehicle, including a park trailer, which is: [Defined in Section
34 320.01(b), Florida Statutes]

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37
38 **Substantial damage.** Damage of any origin sustained by a building or structure whereby the
39 cost of restoring the building or structure to its before-damaged condition would equal or
40 exceed 50 percent of the market value of the building or structure before the damage occurred.
41 The term also includes flood-related damage sustained by a structure on two separate occasions
42 during a 10-year period for which the cost of repairs at the time of each such flood event, on
43 average, equals or exceeds 25 percent of the market value of the structure before the damage
44 occurred. [Also defined in FBC, B Section 1612.2.]

45
46 **Substantial improvement.** Any combination of repair, reconstruction, rehabilitation, addition,
47 or other improvement of a building or structure taking place during a five (5) year period, the
48 cumulative cost of which equals or exceeds 50 percent of the market value of the building or

1 structure before the improvement or repair is started. For each building or structure, the five (5)
2 year period begins on the date of the first improvement or repair of that building or structure
3 subsequent to the effective date of this section. If the structure has incurred "substantial
4 damage," any repairs are considered substantial improvement regardless of the actual repair work
5 performed. The term does not, however, include either: [Also defined in FBC, B, Section
6 1612.2.]

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10 Variance. A grant of relief from the requirements of this ordinance, or the ~~flood load and flood~~
11 resistant construction requirements of the *Florida Building Code*, which permits construction in a
12 manner that would not otherwise be permitted by this ordinance or the *Florida Building Code*.

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16 ~~(w)(z)~~ Flood Resistant Development
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(2) Subdivisions

22 i. Minimum requirements. Subdivision proposals, including proposals
23 for manufactured home parks and subdivisions, shall be reviewed to
24 determine that:

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* * *

(C) Adequate drainage is provided to reduce exposure to flood
28 hazards; in Zones AH and AO, adequate drainage paths shall be
29 provided to guide floodwaters around and away from proposed
30 structures.

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(3) ~~Subdivision plats. Where any portion of proposed subdivisions, including~~
34 ~~manufactured home parks and subdivisions, lies within a flood hazard area, the~~
35 ~~following shall be required:~~

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* * *

38 iii. Compliance with the site improvement and utilities requirements of
39 subsection ~~(w)(z)~~ of this section.

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~~(x)(aa)~~ Site Improvements, Utilities And Limitations

43 (1) Minimum requirements. All proposed new development shall be reviewed to
44 determine that:

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iii. Adequate drainage is provided to reduce exposure to flood hazards; in Zones AH and AO, adequate drainage paths shall be provided to guide floodwaters around and away from proposed structures.

* * *

(4) Limitations on sites in regulatory floodways. No development, including but not limited to site improvements, and land disturbing activity involving fill or regrading shall not be authorized in the regulatory floodway unless the floodway encroachment analysis required in Section 30-100.6(r)(2)(s)(4) of this section demonstrates that the proposed development or land disturbing activity will not result in any increase in the base flood elevation.

* * *

(6) Limitations on sites in coastal high hazard areas (Zone V). In coastal high hazard areas, alteration of sand dunes and mangrove stands shall be permitted only if such alteration is approved by the Florida Department of Environmental Protection and only if the engineering analysis required by Section 30-100.6(r)(2)iv(s)(4) of this section demonstrates that the proposed alteration will not increase the potential for flood damage. Construction or restoration of dunes under or around elevated buildings and structures shall comply with section 30-100.6(ee)(8) of this section.

(y) Manufactured Homes

(1) General. All manufactured homes installed in flood hazard areas shall be installed by an installer that is licensed pursuant to section 320.8249, Florida Statutes, and shall comply with the requirements of Chapter 15C-1, F.A.C. and the requirements of this ordinance. If located seaward of the coastal construction control line, all manufactured homes shall comply with the more restrictive of the applicable requirements.

(2) Limitations on installation in floodways and coastal high hazard areas (Zone V). New installations of manufactured homes shall not be permitted in floodways and coastal high hazard areas (Zone V).

(3) Foundations. All new manufactured homes and replacement manufactured homes installed in flood hazard areas shall be installed on permanent, reinforced foundations that:

- i. In flood hazard areas (Zone A) other than coastal high hazard areas, are designed in accordance with the foundation requirements of the Florida Building Code, Residential Section R322.2 and this ordinance.
- ii. In coastal high hazard areas (Zone V), are designed in accordance with the foundation requirements of the Florida Building Code, Residential Section R322.3 and this ordinance.

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(4) Anchoring. All new manufactured homes and replacement manufactured homes shall be installed using methods and practices which minimize flood damage and shall be securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement. Methods of anchoring include, but are not limited to, use of over-the-top or frame ties to ground anchors. This anchoring requirement is in addition to applicable state and local anchoring requirements for wind resistance.

(5) Elevation. Manufactured homes that are placed, replaced, or substantially improved shall comply with Section 30-100.6(j)(4)(vi) or 30-100.6(j)(4)(vii) of this ordinance, as applicable.

(6) General elevation requirement. Unless subject to the requirements of Section 30-100.6(j)(4)(vii) of this ordinance, all manufactured homes that are placed, replaced, or substantially improved on sites located: (a) outside of a manufactured home park or subdivision; (b) in a new manufactured home park or subdivision; (c) in an expansion to an existing manufactured home park or subdivision; or (d) in an existing manufactured home park or subdivision upon which a manufactured home has incurred "substantial damage" as the result of a flood, shall be elevated such that the bottom of the frame is at or above the elevation required, as applicable to the flood hazard area, in the Florida Building Code, Residential Section R322.2 (Zone A) or Section R322.3 (Zone V).

(7) Elevation requirement for certain existing manufactured home parks and subdivisions. Manufactured homes that are not subject to Section 30-100.6(j)(4)(vi) of this ordinance, including manufactured homes that are placed, replaced, or substantially improved on sites located in an existing manufactured home park or subdivision, unless on a site where substantial damage as result of flooding has occurred, shall be elevated such that either the:
i. Bottom of the frame of the manufactured home is at or above the elevation required, as applicable to the flood hazard area, in the Florida Building Code, Residential Section R322.2 (Zone A) or Section R322.3 (Zone V); or
ii. Bottom of the frame is supported by reinforced piers or other foundation elements of at least equivalent strength that are not less than 36 inches in height above grade.

(7) Enclosures. Enclosed areas below elevated manufactured homes shall comply with the requirements of the Florida Building Code, Residential Section R322 for such enclosed areas, as applicable to the flood hazard area.

(8) Utility equipment. Utility equipment that serves manufactured homes, including electric, heating, ventilation, plumbing, and air conditioning equipment and other service facilities, shall comply with the requirements of the Florida Building Code, Residential Section R322, as applicable to the flood hazard area.

(z)(bb) Recreational Vehicles And Park Trailers

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(1) Temporary placement, ~~only~~. Recreational vehicles and park trailers placed temporarily in flood hazard areas shall:

* * *

2 Permanent Placement. Recreational vehicles and park trailers that do not meet the limitations in Section 30-100.6(r) of this section for temporary placement shall meet the requirements of for manufactured homes.

(aa)(ee) Tanks

(1) **Underground tanks.** Underground tanks in flood hazard areas shall be anchored to prevent flotation, collapse ~~or~~ and lateral movement resulting from hydrodynamic and hydrostatic loads during conditions of the design flood, including the effects of buoyancy assuming the tank is empty.

(2) **Above-ground tanks, not elevated.** Above-ground tanks that do not meet the elevation requirements of Section 30-100.6(r)~~(bb)~~(3) of this section shall:

i. Be permitted in flood hazard areas (Zone A) other than coastal high hazard areas, provided the tanks are anchored or otherwise designed and constructed to prevent flotation, collapse ~~or~~ and lateral movement resulting from hydrodynamic and hydrostatic loads during conditions of the design flood, including the effects of buoyancy assuming the tank is empty and the effects of flood-borne debris.

* * *

iii. **Above-ground tanks, elevated.** Above-ground tanks in flood hazard areas shall be attached to, and elevated to or above the design flood elevation on a supporting structure that is designed to prevent flotation, collapse ~~or~~ and lateral movement during conditions of the design flood. Tank-supporting structures shall meet the foundation requirements of the applicable flood hazard area.

* * *

(bb)(dd) Other Development

(1) **General requirements for other development.** All development, including man-made changes to improved or unimproved real estate for which specific provisions are not specified in this section or the *Florida Building Code*, shall:

* * *

ii. Meet the limitations of Section 30-100.6(w)~~(z)~~ of this ordinance if located in a regulated floodway;

iii. Be anchored to prevent flotation, collapse ~~or~~ and lateral movement resulting from hydrostatic loads, including the effects of buoyancy,

1 during conditions of the design flood;

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5 (2) **Fences in regulated floodways.** Fences in regulated floodways that have the
6 potential to block the passage of floodwaters, such as stockade fences and wire
7 mesh fences, shall meet the limitations of Section 30-100.6~~(w)~~~~(z)~~ of this section.

8
9 (3) **Retaining walls, sidewalks and driveways in regulated floodways.**
10 Retaining walls and sidewalks and driveways that involve the placement of fill in
11 regulated floodways shall meet the limitations of Section 30-100.6~~(y)~~~~(z)~~~~(4)~~ of this
12 ordinance.

13
14 (4) **Roads and watercourse crossings in regulated floodways.** Roads and
15 watercourse crossings, including roads, bridges, culverts, low-water crossings and
16 similar means for vehicles or pedestrians to travel from one side of a watercourse
17 to the other side, that encroach into regulated floodways shall meet the
18 limitations of Section 30-100.6~~(y)~~~~(z)~~ of this section. Alteration of a watercourse
19 that is part of a road or watercourse crossing shall meet the requirements of
20 Section 30-100.6~~(r)~~~~(s)~~ of this section.
21

22 * * *

23
24 (6) **Decks and patios in coastal high hazard areas (Zone V).** In addition to the
25 requirements of the *Florida Building Code*, in coastal high hazard areas decks and
26 patios shall be located, designed, and constructed in compliance with the
27 following:
28

29 * * *

30
31 ii. A deck or patio that is located below the design flood elevation shall be
32 structurally independent from buildings and structures and their
33 foundation systems, and shall be designed and constructed either to
34 remain intact and in place during design flood conditions or to break
35 apart into small pieces to minimize debris during flooding that is capable
36 of causing structural damage to adjacent elevated buildings and
37 structures.

38 iii. A deck or patio that has a vertical thickness of more than twelve (12)
39 inches or that is constructed with more than the minimum amount of fill
40 necessary for site drainage shall not be approved unless an analysis
41 prepared by a qualified registered design professional demonstrates no
42 harmful diversion of floodwaters or wave runup and wave reflection that
43 would increase damage to the building or structure or to adjacent
44 elevated buildings and structures.
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(7) Other development in coastal high hazard areas (Zone V). In coastal high hazard areas, development activities other than buildings and structures shall be permitted only if also authorized by the appropriate federal, state or local authority; if located outside the footprint of, and not structurally attached to, buildings and structures; and if analyses prepared by qualified registered design professionals demonstrate no harmful diversion of floodwaters or wave runup and wave reflection that would increase damage to adjacent ~~elevated~~-buildings and structures. Such other development activities include but are not limited to:

* * *

(8) Nonstructural fill in coastal high hazard areas (Zone V). In coastal high hazard areas:

* * *

ii. Nonstructural fill with finished slopes that are steeper than one unit vertical to five units horizontal shall be permitted only if an analysis prepared by a qualified registered design professional demonstrates no harmful diversion of floodwaters or wave runup and wave reflection that would increase damage to adjacent ~~elevated~~-buildings and structures.

* * *

Section 3. Pursuant to section 553.73(4)(a) and 553.73(5) of the Florida Building Code, the Village Council finds the amendment in compliance with the applicable standards; and, therefore, the Local Administrative provisions of the Florida Building Code are amended to read as follows:

* * *

104.10.1 Modifications of the strict application of the requirements of the *Florida Building Code*. The Building Official shall coordinate with the Floodplain Administrator to review requests submitted to the Building Official that seek approval to modify the strict application of the flood load and flood resistant construction requirements of the *Florida Building Code* to determine whether such requests require the granting of a variance pursuant to Section 117.

* * *

107.6.1 Building permits issued on the basis of an affidavit. Pursuant to the requirements of federal regulation for participation in the National Flood Insurance Program (44 C.F.R. Sections 59 and 60) ~~for the National Flood Insurance Program~~, the authority granted to the Building Official to issue permits, to rely on inspections, and to accept plans and construction documents on the basis of affidavits and plans submitted pursuant to 105.14 and Section 107.6, shall not extend to the flood load and flood resistance construction requirements of the *Florida Building Code*.

* * *

117 VARIANCES IN FLOOD HAZARD AREAS

1 117.1 Flood hazard areas. Pursuant to Section 553.73(5), Florida Statutes, the variance
2 procedures adopted in the local floodplain management ordinance shall apply to requests
3 submitted to the Building Official for variances to the provisions of Section 1612.4 of the *Florida*
4 *Building Code, Building* or, as applicable, the provisions of R322 of the *Florida Building Code,*
5 *Residential.* This section shall not apply to Section 3109 of the *Florida Building Code, Building.*

6
7 * * *

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9 Section 4. Pursuant to section 553.73(4)(a) and 553.73(5) of the Florida Building Code, the
10 Village Council finds the amendment in compliance with the applicable standards; and,
11 therefore, the technical amendments to the Residential provisions of the Florida Building Code
12 are amended to read as follows:

13
14 * * *

15
16 **R322.2.1 Elevation requirements.**

- 17 1. Buildings, structures, and mechanical and electrical systems in flood
18 hazard areas not designated as Coastal A Zones shall have the lowest
19 floors elevated to or above the base flood elevation plus one (1) foot or
20 the design flood elevation, whichever is higher.
21 2. Buildings, structures, and mechanical and electrical systems in flood
22 hazard areas designated as Coastal A Zones shall have the lowest floors
23 elevated to or above the base flood elevation plus one (1) foot (305 mm),
24 or to the design flood elevation, whichever is higher.
25 3. In areas of shallow flooding (AO Zones), buildings, structures, and
26 mechanical and electrical systems s shall have the lowest floor (including
27 basement) elevated at least as high above the highest adjacent grade as
28 the depth number specified in feet on the FIRM plus one (1) foot, or at
29 least three (3) feet if a depth number is not specified.
30 4. Basement floors that are below grade on all sides shall be elevated to or
31 above the base flood elevation plus one (1) foot or the design flood
32 elevation, whichever is higher.

33 Exception: Enclosed areas below the design flood elevation, including
34 basements whose floors are not below grade on all sides, shall meet the
35 requirements of Section R322.2.2.

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38
39 **R322.3.2 Elevation requirements.**

- 40 1. All buildings and structures erected within coastal high-hazard areas shall
41 be elevated so that the lowest portion of all structural members
42 supporting the lowest floor, with the exception of mat or raft
43 foundations, piling, pile caps, columns, grade beams and bracing, is:
44 1.1 Located at or above the base flood elevation plus one (1) foot or
45 the design flood elevation, whichever is higher, if the lowest
46 horizontal structural member is oriented parallel to the direction
47 of wave approach, where parallel shall mean less than or equal to
48 20 degrees (0.35 rad) from the direction of approach, or

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- 1.2 Located at or above the base flood elevation plus two (2) foot or the design flood elevation, whichever is higher, if the lowest horizontal structural member is oriented perpendicular to the direction of wave approach, where perpendicular shall mean greater than 20 degrees (0.35 rad) from the direction of approach.
- 2. Basement floors that are below grade on all sides are prohibited.
- 3. The use of fill for structural support is prohibited.
- 4. Minor grading, and the placement of minor quantities of fill, shall be permitted for landscaping and for drainage purposes under and around buildings and for support of parking slabs, pool decks, patios and walkways.

Exception: Walls and partitions enclosing areas below the design flood elevation shall meet the requirements of Sections R322.3.4 and R322.3.5.

* * *

Section 5. Pursuant to section 553.73(4)(a) and 553.73(5) of the Florida Building Code, the Village Council finds the amendment in compliance with the applicable standards; and, therefore, the technical provisions of the Florida Building Code are amended to read as follows:

Modify of definitions within in Section 1612.2, as follows:

Substantial damage. Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before-damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred. The term also includes flood-related damage sustained by a structure on two separate occasions during a 10-year period for which the cost of repairs at the time of each such flood event, on average, equals or exceeds 25 percent of the market value of the structure before the damage occurred.

Substantial improvement. Any combination of repair, reconstruction, rehabilitation, addition, or other improvement of a building or structure taking place during a five (5) year period, the cumulative cost of which equals or exceeds 50 percent of the market value of the building or structure before the improvement or repair is started. For each building or structure, the five (5) year period begins on the date of the first improvement or repair of that building or structure subsequent to the effective date of this ordinance. If the structure has sustained substantial damage, any repairs are considered substantial improvement regardless of the actual repair work performed. The term does not, however, include either:

- 1. Any project for improvement of a building required to correct existing health, sanitary, or safety code violations identified by the building official and that are the minimum necessary to assure safe living conditions.
- 2. Any alteration of a historic structure provided the alteration will not preclude the structure's continued designation as a historic

1 structure.

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5 Modify of definitions in Section 202, as follows:

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7 Substantial damage. Damage of any origin sustained by a structure whereby
8 the cost of restoring the structure to its before-damaged condition would equal
9 or exceed 50 percent of the market value of the structure before the damage
10 occurred. The term also includes flood-related damage sustained by a structure
11 on two separate occasions during a 10-year period for which the cost of repairs
12 at the time of each such flood event, on average, equals or exceeds 25 percent of
13 the market value of the structure before the damage occurred.

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16 Substantial improvement. Any combination of repair, reconstruction,
17 rehabilitation, addition, or other improvement of a building or structure taking
18 place during a five (5) year period, the cumulative cost of which equals or
19 exceeds 50 percent of the market value of the building or structure before the
20 improvement or repair is started. For each building or structure, the five (5) year
21 period begins on the date of the first improvement or repair of that building or
22 structure subsequent to the effective date of this ordinance. If the structure has
23 sustained substantial damage, any repairs are considered substantial improvement
24 regardless of the actual repair work performed. The term does not, however,
25 include either:

- 26 1. Any project for improvement of a building required to correct
27 existing health, sanitary, or safety code violations identified by the
28 building official and that are the minimum necessary to assure
29 safe living conditions.
30 2. Any alteration of a historic structure provided the alteration will
31 not preclude the structure's continued designation as a historic
32 structure.

33 * * *

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35
36 Section 7. Fiscal Impact Statement. In terms of design, plan application review,
37 construction and inspection of buildings and structures, the cost impact as an overall average is
38 negligible in regard to the local technical amendments because all development has been subject
39 to the requirements of the local floodplain management ordinance adopted for participation in
40 the National Flood Insurance Program. In terms of lower potential for flood damage, there will
41 be continued savings and benefits to consumers.

42
43 Section 8. Applicability. For the purposes of jurisdictional applicability, this ordinance
44 shall apply in the Village of Palmetto Bay. This ordinance shall apply to all applications for
45 development, including building permit applications and subdivision proposals, submitted on or
46 after adoption of this ordinance.
47

1 **Section 9. Repealer.** Any and all ordinances and regulations in conflict herewith are
2 hereby repealed to the extent of any conflict. This ordinance specifically repeals and replaces the
3 following ordinance(s) and regulation(s): Chapter 18, Section 18-1 through 18-34, and 30-100.6,
4 as enacted on September 10, 2012.
5

6 **Section 10. Inclusion into the Code Of Ordinances.** It is the intent of the Village Council
7 that the provisions of this ordinance shall become and be made a part of the Village of Palmetto
8 Bay Code of Ordinances, and that the sections of this ordinance may be renumbered or re-
9 lettered and the word "ordinance" may be changed to "Section," "article," "regulation," or such
10 other appropriate word or phrase in order to accomplish such intentions.
11

12 **Section 11. Severability.** If any Section, subsection, sentence, clause or phrase of this
13 ordinance is, for any reason, declared by the courts to be unconstitutional or invalid, such
14 decision shall not affect the validity of the ordinance as a whole, or any part thereof, other than
15 the part so declared.
16

17 **Section 12. Effective Date.** The portion of this ordinance amending the Village's Land
18 Development Regulations shall take effect immediately. The portions of this ordinance
19 amending the Administrative and Technical provision of the Florida Building Code shall take
20 effect 30 days after the adoption of this ordinance.
21

22
23
24 **PASSED and ENACTED** this _____ day of March, 2016.

25
26
27 First Reading: _____

28
29 Second Reading: _____

30
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33 Attest: _____
34 Meighan Alexander Eugene Flinn
35 Village Clerk Mayor

36
37
38 APPROVED AS TO FORM AND LEGAL SUFFICIENCY FOR THE
39 USE AND RELIANCE OF THE VILLAGE OF PALMETTO BAY ONLY:

40
41
42
43 _____
44 Dexter W. Lehtinen
45 Village Attorney
46
47
48

1
2 FINAL VOTE AT ADOPTION:
3
4 Council Member Katryn Cunningham _____
5
6 Council Member Tim Schaffer _____
7
8 Council Member Latissa Siegel Lara _____
9
10 Vice-Mayor John DuBois _____
11
12 Mayor Eugene Flinn _____
13