



To: Honorable Mayor and Village Council

Date: July 3, 2013

From: Ron E. Williams, Village Manager

Re: SFR Driveways
Ordinance for 2nd Reading

AN ORDINANCE OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, RELATING TO ZONING; AMENDING SECTIONS 30-70.5(b)(2) AND 30-70.6 OF THE LAND DEVELOPMENT CODE RELATING TO SINGLE FAMILY DETACHED RESIDENTIAL DRIVEWAYS; PROVIDING FOR ORDINANCES IN CONFLICT, CODIFICATION, SEVERABILITY AND AN EFFECTIVE DATE. [Sponsored by Councilman Tim Schaffer].

BACKGROUND:

On March 4, 2013, the Village Council directed staff to prepare an amendment to that portion of the Village's Land Development Code pertaining to driveway approaches. The original request was sponsored by Council Person Tim Schaffer. The request, as discussed during the public meeting and as further clarified in subsequent discussions with Council Person Schaffer, sought to provide greater flexibility regarding driveway approaches and parking areas for single-family detached residential homes by:

1. Permitting up to three (3) driveway approaches on a property's principal frontage; and
2. Permit one (1) additional driveway approach for corner and through lots on the secondary frontage.

Upon reviewing the draft language of the proposed ordinance, Council Person Schaffer requested the item include a reduced setback for both the driveway approach as well as the parking areas on the property itself. The current required setback for both is five (5) feet.

For purpose of clarification, a driveway approach is that part of the driveway between the edge of the property frontage (whether primary or secondary frontage) to the edge of the roadway. This area is commonly referred to as the "swale" which is the open area located within the public right-of-way and adjacent to the roadway. [See 30-60.1, of the Land Development Code]. The intent of the driveway code provision found at Section 30-70.5(b), is to provide a safe sight distance for vehicular access onto private property(ies) and onto adjacent roadways, while simultaneously ensuring roadway drainage needs. The intent of the parking area setback is to provide drainage for the adjacent impervious parking area.

Both provisions were adopted on October 1, 2007, when the Village created Division 30-70 entitled "Parking and Loading Standards". The driveway approach provision was taken from the Miami-Dade Public Works Manual (County Manual). A manual allows for some flexibility of application, whereas regulations adopted by ordinance require literal application.

The Miami-Dade County Zoning Code permits driveways for low density residential uses to be located within the required five (5) foot setback area, and as with the driveway approaches, approval of the driveway configuration was guided by the County Manual. When the Village created Division 30-70, it required all driveway approaches and parking areas to comply with the five (5) foot minimum setback requirement regardless of use.

Given the above, application of Sections 30-70.5(b)(2) and 30-70.6 may limit on-site parking configurations in a manner that may be inconsistent with the existing development pattern of the community. Examples of such potential limitations include (1) properties seeking a circular drive with one side having a two car parking area; (2) preventing properties with side loading garages from having a separate circular drive configuration or sufficient turning radius to enter/exit the garage; or (3) preventing properties with secondary frontages from the option of having an additional vehicular access point.

On June 3, 2013 the proposed ordinance was heard on first reading. That reading of the proposed ordinance included the following elements:

1. Permits up to three (3) driveway approaches with minimum and maximum widths to ensure proper vehicular maneuverability;
2. Provides one (1) additional driveway approach for corner and through lots with minimum and maximum widths;
3. Ensures available pervious area does not fall under 58% of the swale area;
4. Provides three (3) paths for relief for those properties that fail to meet the minimum 58% pervious area by allowing the property owner to provide the Village a drainage study issued by a licensed engineer, development of a drainage facility (catch basin), or by seeking a variance; and,
5. Reduces the required setback for driveway approaches and parking areas for single-family detached residential homes from five (5) feet to two (2) feet.

After Council deliberation, the request was modified limiting total permitted driveway approaches to three (3) regardless of lot configuration, and the proposed setback was increased from two (2) to three (3).

The approach utilized in drafting the proposed ordinance attempts to strike a balance between maintaining necessary pervious area for drainage of the adjacent roadway and parking surfaces while facilitating the ability for single-family detached residential properties owners to employ alternate driveway approach configurations. The modified draft ordinance achieves this aim, and the

increased setback criteria addresses the concerns regarding drainage retention/detention area, limited landscaped area with possible encroachment issues, and a diminished turning radius of the driveway approach flare at the street connection, that were addressed in the first staff report dated May 24, 2013. The draft ordinance provides the additional flexibility to fulfill the objectives above.

The proposed ordinance was reviewed by the Village's Public Works Department for that portion of the request related to drainage of the adjacent roadway into the swale area and deemed it acceptable. Their review does not include the onsite portions as there regulatory jurisdiction is the right-of-way.

It should be noted that there are residential driveways and parking areas within the Village with setbacks less than two (2) feet as proposed by the draft ordinance. Those that were issued permits and constructed under the prior County regulations enjoy vesting protection and can be maintained and rebuilt in their current configuration without any further action by this Council or via administrative waiver provision. If however, such a driveway is too close to another one on an adjacent property, the Village requests the adjacent property owners to enter into a hold harmless agreement indemnifying the Village of any damages that may occur from two parking approaches being so close together.

ANALYSIS:

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

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

Analysis: The project was reviewed for consistency with the Village's Comprehensive Plan. The following policies apply to the proposed modification and are as follows:

Policy 1.2.6: Continue to include appropriate regulations in the Land Development Code (LDC) to properly address local topography, flooding frequency, soil and other applicable environmental conditions in development approvals. In addition, provide for adequate drainage and stormwater management, open space, vehicle parking and safe, and convenient on-site traffic.

Policy 4C.3.1: A primary objective of the Stormwater Master Plan is protection of Surface water quality through Land Development Code (LDC) requirements that mandate acceptable paving and drainage plans, adequate open (pervious) space areas, and stormwater detention and retention in private developments projects.

Policy 11.6.1: A primary objective of the Stormwater Master Plan is protection of Surface water quality through LDC requirements that mandate acceptable paving and drainage plans, adequate open (pervious) space areas, and stormwater detention and retention in private developments projects.

The swale area is intended to provide drainage retention/detention of storm water runoff of the adjacent road way. The proposed modification ensures that a minimum of 58% of the swale area is maintained in a pervious condition and provides relief measures to ensure adequate drainage is available should the retention area be reduced below that threshold.

The setback area adjacent to the onsite parking is intended to provide drainage retention for the adjacent impervious area. The requested three (3) foot setback may be adequate to capture all the runoff from the impervious area, particularly if that surface is at a higher grade than the adjacent property. The item was reviewed by the Village's Public Works Department and was found to meet the minimum standards for adequate disposal of stormwater runoff as detailed in Public Works Manual Part II Design and Construction Section D4 Water Control. Public Works review does not include the onsite parking areas as their regulatory jurisdiction is within the right-of-way.

Finding: Consistent.

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

Analysis: The project was reviewed for conformance with Chapter 30 of the Village Code of Ordinances. The following sections apply to the proposed modification and are as follows:

Section 30-60.1(a) A swale is defined as a depression in a stretch of flat land associated with drainage and is that land dedicated to or designated as part of the official right-of-way as provided in the plat for each parcel.

Section 30-60.1(b) Public rights-of-way areas shall be permeable to ensure proper drainage. Any landscaping in the public rights-of-way area shall be in accordance with Division 30-100. Public rights-of-way area shall be designed to retain runoff water in accordance with the Public Works Manual.

Section 30-60.2(a) *Placement within property lines.* All wall, fences and hedges must be placed within the property lines. This section shall not be construed to permit such

walls, fences and hedges to extend beyond the official right-of-way lines or property lines.

Section 30-100.1(b)(6). Contribute to the processes of air movement, air purification, oxygen regeneration, ground water recharge, and **stormwater runoff retention**, while aiding in the abatement of noise, glare, heat, air pollution and dust generation by major roadways and intense use areas. (Emphasis added).

Section 30-100.1(e)(2)l. Planting sites shall be selected as to provide adequate space and sunlight for growth so as to insure the future viability of the plant and to allow it to attain its natural mature shape and size.

Section 30-100.1(e)(5)a. When shrubs are used as a visual screen or buffer to form a hedge, shrubs shall be planted at a maximum average spacing of 30 inches on center or if planted at a minimum height of 36 inches where permitted, shall have a maximum average spacing of 36 inches on center and shall be maintained so as to form a continuous unbroken and solid visual screen within one year after time of planting.

Section 30-100.1(e)(13)(a) Stormwater retention/detention areas shall be designed to follow FYN "Florida friendly" landscaping principles by maximizing the perimeter dimension, where feasible.

Section 30-100(e)(14) It is recommended that required plants not encroach onto adjacent parcels with the exception of trees.

The swale area is intended to provide drainage retention/detention of storm water runoff of the adjacent road way. The proposed modification ensures that a minimum of 58% of the swale area is maintained in a pervious condition and provides relief measures to ensure adequate drainage is available should the retention area be reduced below that threshold. The setback area adjacent to the onsite parking is intended to provide drainage retention for the adjacent impervious area. The requested three (3) foot setback may be adequate to capture all the runoff from the impervious area, particularly if that surface is at a higher grade than the adjacent property.

It is not uncommon to find the setback area between the onsite parking area and the property line to be landscaped. The proposed setback provides space available to ensure viability of various landscape materials such as trees, palms and shrubs.

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: Both sections were adopted on October 1, 2007, when the Village created Division 30-70, entitled "Parking and Loading Standards". Section 30-70.5(b)(2) requires a development standard for driveway approaches that was to apply universally to all residential development regardless of zoning or intensity. Prior to the implementation of that provision, the driveway approaches were governed by the Miami-Dade County Public Works Manual. Because manuals are not laws, they provide for greater flexibility in their application. The proposed code would provide greater flexibility to the Village.

The Miami-Dade County Zoning Code permits driveways for low density residential uses to be located within the required five (5) foot setback area, and as with the driveway approaches, approval of their configuration was guided by the County Manual. When the Village created Division 30-70, it required all driveway approaches and parking areas to comply with the five (5) foot minimum setback requirement regardless of use. As a result, there are homes throughout Palmetto Bay developed with alternative driveway approach configurations contrary to current development provisions.

Given the above, application of Sections 30-70.5(b)(2) and 30-70.6 may limit on-site parking configurations in a manner that may not be reflective of the existing development pattern of some of the homes within the community.

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: See Analysis under Criteria 3.

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: See Analysis under Criteria 1.

Finding: Consistent.

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

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

Finding: Consistent.

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

Analysis: See Analysis under Criteria 3.

Findings: Consistent.

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

Analysis: See Analysis under Criteria 3.

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 1 and Criteria 2. The proposed ordinance reflects a development methodology that was similarly applied throughout the Village under Miami-Dade County. However, the reduced setback may result in an inappropriately sized drainage retention/detention area, limited landscaped area with possible encroachment issues, and diminished turning radius of the driveway approach flare at the street connection.

Finding: Inconsistent due to the reduced setback standard.

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

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SFR Driveways
2nd Reading
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Analysis: As per the direction of the Village Council.

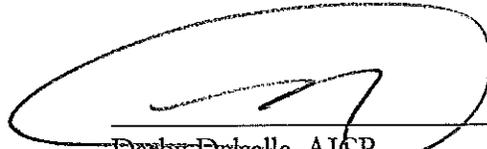
Finding: As determined by the Village Council.

FISCAL/BUDGETARY IMPACT:

None at this time.

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; AMENDING SECTIONS 30-70.5(b)(2) AND 30-70.6 OF THE LAND DEVELOPMENT CODE RELATING TO SINGLE-FAMILY DETACHED RESIDENTIAL DRIVEWAYS; PROVIDING FOR ORDINANCES IN CONFLICT, CODIFICATION, SEVERABILITY AND AN EFFECTIVE DATE. [Sponsored by Councilman Tim Schaffer].

WHEREAS, on October 1, 2007, the Mayor and Village Council adopted Section 30-70.6, which provided for parking lot setbacks, and adopted Section 30-70.5(b)(2), which provided for driveway approaches on residentially developed properties; and,

WHEREAS, Section 30-70.5(b)(2) applies generally to all residentially developed properties regardless of residential density, type, or lot configuration, the provision is silent as to providing alternative driveway approach configurations for single-family detached homes that are corner or through lots, and limits the driveway approach configuration of residential lots with less than 100 feet of street frontage; and,

WHEREAS, Section 30-70.6 applies to all parking lots regardless of use; and,

WHEREAS, the application of the current code does not necessary reflect the development standards previously applied to single-family detached residential homes built within the Village whose driveway approaches were constructed under the Miami- Dade County Code and County Public Works Manual, and as such those driveways are now considered nonconforming; and,

WHEREAS, there has been an expressed desire by the Mayor and Village Council to provide for parking and driveway approach configurations typical of single-family detached construction already in existence in the Village to include provisions for corner and through lots; and,

WHEREAS, the proposed changes contemplate herein the continued use of the swale area for adequate infiltration of storm water runoff from adjacent roadway, driveways and surface parking areas, whether through retention or installation of alternative capture methods.

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

Section 1. Section 30-70.5(b)(2), of the Village's Code of Ordinances entitled "Residential driveways" shall be amended as follows:

* * *

30-70.5 Size and character of parking spaces

1
2 * * *

3
4 (b) *Accessibility.*

5
6 * * *

7
8 (2) Residential driveways. Residential access driveways shall conform with the
9 following unless a specific provision is provided for in the specific residential
10 zoning district.

11
12 a. All Residential Driveway Approaches. Residential driveway
13 approaches shall be identified on the site plans and shall be constructed according
14 to approved public work standards. Residential driveway approaches and access
15 ways shall be 35 feet from street intersections and are subject to the required
16 Public Works road-way triangle of visibility standards. All driveway approach
17 dimensions except the flares at the roadway end shall be measured from any
18 adjoining property at all points. Remaining pervious areas of the swale, less
19 driveway approach(es) and sidewalks (where applicable) shall be landscaped in
20 accordance with the provisions of Division 30-100. These standards shall be
21 applicable to any property under one ownership.

22
23 b. Single-Family Detached Residential. A single-family detached
24 residential home shall be permitted to have up to three (3) driveway approaches
25 provided the total width of the combined approaches does not exceed 32 feet of
26 linear driveway on any one frontage. Maximum permitted width of any single
27 driveway approach shall not exceed 24 feet or be less than 10 feet in width. The
28 driveway must be set back at least ~~two (2)~~ three (3) feet from any adjoining
29 properties at all points however, it may flare out on a ~~two (2)~~ three (3) foot radius
30 on each side where the drive connects with the adjacent roadway. Corner and
31 through lots are permitted to locate up to one (1) of the three (3) permitted
32 driveway approaches along their secondary frontages provided it does not to
33 exceed twelve 12 feet in width. ~~Corner or through lots are permitted one (1)~~
34 ~~additional to have a driveway approach not to exceed twelve (12) feet in width.~~
35 Any driveway configuration which dimensionally complies with this section, but
36 results in a reduction of the pervious area of the swale below 58 percent shall be
37 required to provide either storm water drainage infrastructure(s) or a study from a
38 licensed engineer confirming the design of the swale is adequate to manage storm
39 water runoff as detailed in the Public Works Manual Part II - Design and
40 Construction: Section D4.03(2) - Storm Drainage Details for Streets and
41 Driveways for the length of the subject property, adjacent to the road section.

1
2 c. Other Residential. The driveway approach shall be a minimum
3 width of 12 feet but not be wider than 20 feet, ~~except for five-inch foot radius on~~
4 ~~either side.~~ The driveway must be set back at least five (5) feet from any
5 adjoining properties at all points provided, however, it may flare out on a five (5)
6 foot radius on each side where the drive connects with the adjacent roadway.
7 ~~Residential driveway approaches and access ways must be 35 feet from street~~
8 ~~intersections and are subject to required triangle of visibility standards.~~ No more
9 than one two-way access way shall be permitted for any street frontage of up to
10 100 lineal feet, or no more than two one-way access ways shall be permitted for
11 any street frontage of up to 100 lineal feet. ~~These standards shall be applicable to~~
12 ~~any property under one ownership.~~ Where ownership involves over 100 feet of
13 street frontage, one additional two-way or two additional one-way drives may be
14 permitted for each additional 100 feet of frontage or major fraction thereof. ~~The~~
15 ~~balance of such street frontage not involved with access ways shall be landscaped~~
16 ~~in accordance with the provisions of division 30-100.~~

17
18 * * *

19
20 **Section 2.** Section 30-70.6, of the Village's Code of Ordinances entitled "Residential
21 driveways" shall be amended as follows:

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23 * * *

24
25 **Section 30-70.6 Parking setbacks.**

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27 * * *

28
29 (b) Edge of all parking pavements for single-family detached residential uses shall be
30 setback a minimum of two (2) feet from the interior line. Said area shall be pervious area.

31
32 (c) The edge of all parking pavements for all other uses shall be setback a minimum
33 of five (5) feet from the interior property line. Said area shall be pervious area.

34
35
36 **Section 3. Codification.** This ordinance shall be codified and included in the code of
37 ordinances.

38
39 **Section 4. Severability.** If any section, clause, sentence, or phrase of this ordinance is
40 for any reason held invalid or unconstitutional by a court of competent jurisdiction, the holding
41 shall not affect the validity of the remaining portions of this ordinance.
42

1 Section 5. Effective Date. This ordinance shall take effect immediately upon
2 enactment.

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4
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6 First reading: _____
7

8 Second reading: _____
9

10 PASSED AND ENACTED this _____ day of _____, 2013.
11

12
13 Attest: _____

14 Meighan Alexander
15 Village Clerk

Shelley Stanczyk
Mayor

16
17 APPROVED AS TO FORM:
18

19
20 _____
21 Eve Boutsis
22 Village Attorney

23
24 FINAL VOTE AT ADOPTION:
25

26 Council Member Patrick Fiore _____
27
28 Council Member Tim Schaffer _____
29
30 Council Member Joan Lindsay _____
31
32 Vice-Mayor John DuBois _____
33
34 Mayor Shelley Stanczyk _____
35