To:	Honorable Mayor and Village Council	Date:	April 18, 2016
From:	Edward Silva, Village Manager	Re:	Parking Waiver Procedure 2nd Reading

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.

UPDATE SINCE FIRST READING:

This item was heard at first reading on March 7, 2016 and was approved without any changes; however, there was a request to explore golf cart parking as an additional method to achieve parking relief. The following language is offered in fulfillment of that request:

30-70.17 Golf Cart Parking

(a) Each golf cart parking space provided on-site may counted as one required automobile parking space. The total number of golf cart parking spaces provided in lieu of automobile parking spaces shall not exceed six (6) spaces or exceed 10% of the automobile parking requirement, whichever is less.

(b) Golf cart parking shall only permitted on improved hard surface areas and not be permitted within landscaped areas or walkways.

(c) Minimum dimension for a golf cart parking space shall be no less than 6 feet wide by 12 feet deep. Tandem parking is prohibited.

The above item must be voted on as a modification to the proposed Ordinance for it to be included. The remainder of the report regarding this item is as it was submitted on March 7, 2016 as attached herein. This item was continued to April 18, 2016 at the April 4, 2016 Council Hearing.

RECOMMENDATION:

Approval is recommended.

Darby P. Delsalle, AICP
Planning and Zoning Director

To: Honorable Mayor and Village Council

From: Edward Silva, Village Manager

Date: March 7, 2016

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 purse 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

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 standards[1].

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 purse 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.

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

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 July 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:

<u>Section 1.</u> Section 30-70 of the Village's Code of Ordinances shall be created to read as follows:

DIVISION 30-70. - PARKING AND LOADING STANDARDS

* * *

Additions shown by <u>underlining</u> and deletions shown by ~~overstriking~~.
"***" indicates portions of code excluded.

Sec. 30-70.2. - Location of required parking; exceptions.

* * *

(b) Exemptions.

* * *

(4) Parking Reduction Waiver Request. It is acknowledged that for parking calculation purposes, parking requirements and demand may shift for existing developments over time as the use or mix of uses change. In cases where the required parking, as provided for in this Division, for a proposed use exceeds the amount of spaces available on the receiving property, the applicant may request a Parking Reduction Waiver in lieu of pursuing a public hearing variance.

a. Eligibility. These provisions shall only apply to existing developments.

b. Application. All Parking Reduction Waiver Requests shall conform to the following:

1. The applicant shall file an application and pay a filing fee equal to half the cost of a non-use variance modification,

2. The application shall include a parking study confirming whether or not the existing parking facilities of the development adequately accommodate the proposed use. The parking study shall be prepared by a engineer, architect, or city planner, with expertise in parking, and shall be paid for by the applicant. The Village may hire its own engineer, architect, or city planner, at the applicant's expense, to evaluate applicant's parking study.

3. Other plans and documentation necessary to evaluate the request.

c. The Director of Planning and Zoning, or his/her designee, shall either approve, approve with conditions, or deny the request based on the parking study's finding of adequacy to accommodate of the proposed use. Any approval shall be specific to the applicant's requested use and will be deemed null should the operations cease for a period of six (6) months or longer. Any expansion of the approved use shall require full compliance with required parking or resubmission of a waiver request as provided by this section. Denial of a waiver request may be appealed to the Mayor and Village Council pursuant to public hearing variance procedures as provided at Division 30-30 of the Village's Land Development Code. All

Additions shown by underlining and deletions shown by ~~overstriking~~.
"***" indicates portions of code excluded.

applicable public hearing fees shall apply, and an application fee of the appeal shall be half the cost of a non-use variance modification.

(5) Shared usage. Required parking spaces may be permitted to be utilized for meeting the parking requirements of two (2) separate permitted uses when it is clearly established by the applicant that the two (2) uses will utilize the spaces at different times of the day, week, month or year. If approved by the Village, a recordable covenant, with the correct legal description, shall be submitted by the owners of the property and the two (2) or more businesses or tenants involved in a form acceptable to the village attorney. The covenant shall be recorded in the public records of Miami-Dade County at the applicant's expense, and shall run with the land. The covenant shall provide that:

a. The use or portion of a use, that requires the shared parking in order to obtain the necessary permits or licenses, shall cease and terminate upon any change in their respective schedules of operation that results in conflicting or overlapping usage of the parking facilities;

b. and/or no nonresidential use may be made of that portion of the property until the required parking facilities are available and provided.

The covenant shall also provide that the Village may collect attorneys' fees if litigation is necessary to enforce the requirements of this section.

(6) On-street parking. The following is an exclusive procedure applicable to those commercially zoned lands not already covered by on-street parking provisions. On-street parking spaces may count toward the minimum parking requirements as providing for in this Division, provided the development complies with the following:

a. All allocation of on-street parking spaces counted towards on-site parking requirements shall be by written agreement between the village and property owner, as reviewed by the Village Attorney for legal sufficiency, and approved by the village manager. The agreement shall clearly delineate the terms and conditions. The village manager upon the advice of the village council, will determine if the installation of parking meters is warranted and appropriate for the area.

b. On-street parking shall be prohibited from those portions of right-of-way adjacent to single family residential uses, and shall fully comply with Division 30-100.1, Landscaping Regulations.

c. On-street parking constructed by property owner as part of their development in question shall receive a credit with the village for said spaces for a term five (5) years. Thereafter, an annual fee of $1,000.00, per space, which shall increase five percent annually, shall be paid to the village for all on-street parking spaces which

are credited or counted toward minimum parking requirements for new structures. Unallocated on-street parking spaces may be allocated to a development. The development seeking to use the unallocated on-street spaces shall pay a fee of $1,000 per space which shall increase five percent annually.

d. Failure to comply with the provisions of this subsection, shall result in the loss or revocation of the certificate of use and/or occupancy for the property failing to meet minimum parking requirements for the project, and subject the property to a daily penalty of $250.00, per day.

e. Funds received under subsection 30-70.2(b)(6)d. shall be paid into the Parking District Improvement Trust Fund, which shall be a trust account separated from the village's general fund accounts. The funds from the Parking District Improvement trust account shall be used at the village council's discretion for the specific purpose of developing or reimbursing the village for construction and improvement to public parking facilities, infrastructure with the intent to increase parking capacity, and the installation of metering devises. Funds collected in this account may also be used towards items that improve the pedestrian environment and may include, but not be limited to bicycle parking and racks, sidewalk improvements and maintenance, bench installation, water fountains, outdoor recycle bins, signage for parking and bicycle racks, tree planting and maintenance.

* * *

Sec. 30-70.5 Size and character of parking spaces.

The following requirements shall be observed for parking:

* * *

(j) *Valet parking.* Valet parking ~~may~~ shall be permitted, on-site or off-site, to ~~provide~~ contribute towards meeting ~~parking in excess of~~ minimum parking requirements for existing developments. For the village to consider approval of valet parking, a plan must be submitted and shall include the location of valet spaces, insurance requirements, staffing hours of operation, and the traffic circulations pattern indicating all aspect of the valet operation to include drop-off and stacking areas and may be used together with a shared parking agreement to ensure full compliance with minimum required parking standards. The plan cannot alter previously approved landscaping requirement, setbacks or buffers. Tandem parking shall be permitted under valet parking plan. Robotic parking in an internally enclosed parking garage shall be permitted.

* * *

Sec. 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.

* * *

Sec. 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.

PASSED and ENACTED this ____, day of _____, 2015.

First Reading: _____

Second Reading: _____

Additions shown by underlining and deletions shown by ~~overstriking~~.

"***" indicates portions of code excluded.

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 _____

Additions shown by underlining and deletions shown by ~~overstriking~~.
"***" indicates portions of code excluded.

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 forwarded 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 1970[1], 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 review[2]. This is of course not always the case. There are from time to time requests that do not

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[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 centers[3]. 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 gleamed 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.

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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 8am-5pm	M-F 6pm-12am	M-F 12am-6am	Sat. & Sun. 8am-5pm	Sat. & Sun. 6pm-12am	Sat. & Sun. 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 300[4] 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 limitation[5]. 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 1970[1], 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:

<u>Section 1.</u> 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.

* * *

(b) Exemptions.

* * *

(4) Parking Reduction Waiver Request. It is acknowledge that for parking calculation purposes, parking requirements and demand may shift for existing developments over time as the use or mix of uses change. In cases where the required parking, as provided for in this Division, for a proposed use exceeds the amount of spaces available on the receiving property, the applicant may request a Parking Reduction Waiver in lieu of pursuing a public hearing variance.

(1) Eligibility. These provisions shall only apply to existing developments.

(2) Application. All Parking Reduction Waiver Requests shall conform to the following:

a. The applicant shall file an application and pay a filing fee equal to half the cost of a non-use variance modification,

b. The application shall include a parking study confirming whether or not the existing facilities can accommodate the proposed use. The parking study shall be prepared by a certified engineer, licensed in the State of Florida with expertise in parking, and shall be paid for by the applicant. The Village may hire its own engineer, at the applicant's expense, to evaluate applicant's parking study.

c. Other plans and documentation necessary to evaluate the request.

(3) The Director of Planning and Zoning, or his/her designee, shall either approve, approve with conditions, or deny the request. Any approval shall be specific to the applicant's requested use and will be deemed null should the operations cease for a period of six (6) months or longer. Any expansion of the approved use shall require full compliance with required parking or resubmission of a waiver request as provided by this section. Denial of a waiver request may be appealed to the Mayor and Village Council pursuant to public hearing variance procedures as provided at Division 30-30 of the Village's Land Development Code. All applicable public hearing fees shall apply however the application fee shall be half the cost of a non-use variance modification.

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.

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 Katyn Cunningham _____

Council Member Tim Schaffer _____

Council Member Larissa Siegel Lara _____

Vice-Mayor John DuBois _____

Mayor Eugene Flinn _____

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.

Additions shown by underlining and deletions shown by ~~overstriking~~.
"***" indicates portions of code excluded.

30-70.2. - Location of required parking; exceptions.

* * *

(b) Exemptions.

* * *

(4) Parking Reduction Waiver Request. It is acknowledged that for parking calculation purposes, parking requirements and demand may shift for existing developments over time as the use or mix of uses change. In cases where the required parking, as provided for in this Division, for a proposed use exceeds the amount of spaces available on the receiving property, the applicant may request a Parking Reduction Waiver in lieu of pursuing a public hearing variance.

a. Eligibility. These provisions shall only apply to existing developments.

b. Application. All Parking Reduction Waiver Requests shall conform to the following:

1. The applicant shall file an application and pay a filing fee equal to half the cost of a non-use variance modification,

2. The application shall include a parking study confirming whether or not the existing parking facilities of the development adequately accommodate the proposed use. The parking study shall be prepared by a engineer, architect, or city planner, with expertise in parking, and shall be paid for by the applicant. The Village may hire its own engineer, architect, or city planner, at the applicant's expense, to evaluate applicant's parking study.

3. Other plans and documentation necessary to evaluate the request.

c. The Director of Planning and Zoning, or his/her designee, shall either approve, approve with conditions, or deny the request based on the parking study's finding of adequacy to accommodate of the proposed use. Any approval shall be specific to the applicant's requested use and will be deemed null should the operations cease for a period of six (6) months or longer. Any expansion of the approved use shall require full compliance with required parking or resubmission of a waiver request as provided by this section. Denial of a waiver request may be appealed to the Mayor and Village Council pursuant to public hearing variance procedures as provided at Division 30-30 of the Village's Land Development Code. All

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applicable public hearing fees shall apply, and an application fee of the appeal shall be half the cost of a non-use variance modification.

(5) Shared usage. Required parking spaces may be permitted to be utilized for meeting the parking requirements of two (2) separate permitted uses when it is clearly established by the applicant that the two (2) uses will utilize the spaces at different times of the day, week, month or year. If approved by the Village, a recordable covenant, with the correct legal description, shall be submitted by the owners of the property and the two (2) or more businesses or tenants involved in a form acceptable to the village attorney. The covenant shall be recorded in the public records of Miami-Dade County at the applicant's expense, and shall run with the land. The covenant shall provide that:

a. The use or portion of a use, that requires the shared parking in order to obtain the necessary permits or licenses, shall cease and terminate upon any change in their respective schedules of operation that results in conflicting or overlapping usage of the parking facilities;

b. and/or no nonresidential use may be made of that portion of the property until the required parking facilities are available and provided.

The covenant shall also provide that the Village may collect attorneys' fees if litigation is necessary to enforce the requirements of this section.

(6) On-street parking. The following is an exclusive procedure applicable to those commercially zoned lands not already covered by on-street parking provisions. On-street parking spaces may count toward the minimum parking requirements as providing for in this Division, provided the development complies with the following:

a. All allocation of on-street parking spaces counted towards on-site parking requirements shall be by written agreement between the village and property owner, as reviewed by the Village Attorney for legal sufficiency, and approved by the village manager. The agreement shall clearly delineate the terms and conditions. The village manager upon the advice of the village council, will determine if the installation of parking meters is warranted and appropriate for the area.

b. On-street parking shall be prohibited from those portions of right-of-way adjacent to single family residential uses, and shall fully comply with Division 30-100.1, Landscaping Regulations.

c. On-street parking constructed by property owner as part of their development in question shall receive a credit with the village for said spaces for a term five (5) years. Thereafter, an annual fee of $1,000.00, per space, which shall increase five percent annually, shall be paid to the village for all on-street parking spaces which

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are credited or counted toward minimum parking requirements for new structures. Unallocated on-street parking spaces may be allocated to a development. The development seeking to use the unallocated on-street spaces shall pay a fee of $1,000 per space which shall increase five percent annually.

d. Failure to comply with the provisions of this subsection, shall result in the loss or revocation of the certificate of use and/or occupancy for the property failing to meet minimum parking requirements for the project, and subject the property to a daily penalty of $250.00, per day.

e. Funds received under subsection 30-70.2(b)(6)d. shall be paid into the Parking District Improvement Trust Fund, which shall be a trust account separated from the village's general fund accounts. The funds from the Parking District Improvement trust account shall be used at the village council's discretion for the specific purpose of developing or reimbursing the village for construction and improvement to public parking facilities, infrastructure with the intent to increase parking capacity, and the installation of metering devises. Funds collected in this account may also be used towards items that improve the pedestrian environment and may include, but not be limited to bicycle parking and racks, sidewalk improvements and maintenance, bench installation, water fountains, outdoor recycle bins, signage for parking and bicycle racks, tree planting and maintenance.

* * *

30-70.5 Size and character of parking spaces.

The following requirements shall be observed for parking:

* * *

(j) *Valet parking.* Valet parking ~~may~~ shall be permitted, on-site or off-site, to ~~provide~~ contribute towards meeting ~~parking in excess of~~ minimum parking requirements for existing developments. For the village to consider approval of valet parking, a plan must be submitted and shall include the location of valet spaces, insurance requirements, staffing hours of operation, and the traffic circulations pattern indicating all aspect of the valet operation to include drop-off and stacking areas and may be used together with a shared parking agreement to ensure full compliance with minimum required parking standards. The plan cannot alter previously approved landscaping requirement, setbacks or buffers. Tandem parking shall be permitted under valet parking plan. Robotic parking in an internally enclosed parking garage shall be permitted.

* * *

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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.

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 _____

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