

STAFF REPORT

VILLAGE CENTER LAND USE AMENDMENT



Village of Palmetto Bay

To: Mayor and Village Council

Date: March 7, 2016

From: Edward Silva, Village Manager

Re: VMU Land Use
First Reading

AN ORDINANCE OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, ACTING IN ITS CAPACITY AS THE MAYOR AND VILLAGE COUNCIL AND AS THE LOCAL PLANNING AGENCY, AMENDING POLICY 1.1.3 OF THE VILLAGE'S COMPREHENSIVE PLAN LAND USE CATEGORY, "VILLAGE MIXED-USE", TO INCLUDE ALL PERMITTED RESIDENTIAL USES TO BE CLASSIFIED AS MULTIPLE FAMILY, AND TO PROVIDE A NOTATION REGARDING TRANSFER OF DEVELOPMENT RIGHTS CONSISTENT WITH POLICY 1.1.14 OF THE COMPREHENSIVE PLAN; PROVIDING FOR ORDINANCES IN CONFLICT, CODIFICATION, SEVERABILITY AND AN EFFECTIVE DATE.

BACKGROUND

The specific lands subject to this request are those located on the property commonly known as the "Village Center" and bear the land use designation of Village Mixed-Use (VMU). This particular request, however, is part of larger initiative by the Village of Palmetto Bay to secure certain surplus lands within the larger Village Center site that would serve to expand park lands within the Village of Palmetto Bay, preserve unique pineland and wetland resources, secure permanent parking facilities for the Village's adjacent library, and provide a site for a future fire station in the southeast quadrant of the Village. As part of the property owner's request to transfer the development rights (TDR) of 22± acres of land adjacent to Old Cutler Road, the Village will receive 40± acres of land that will serve the objectives identified above. To achieve that aim, the Village of Palmetto Bay is requesting a modification to the VMU land use provisions which would have the effect of classifying all of the permitted residential uses on the VMU portion of the property as "Multifamily", and ensure that the property is eligible to participate in the TDR program.

COMPREHENSIVE PLAN AMENDMENTS – PROCEDURALLY

This request is part of a companion ordinance that also modifies the under lying zoning provision of the same name, and a Resolution which authorizes the TDR of 85 units onto the VMU site. This amendment includes a change to the list of permitted units on lands that

exceed 10 acres and is therefore considered a large-scale request. As such, and consistent with the Village's Code requirements and state law, public hearings must be held for both first and second reading of the proposed ordinance. At the first public hearing, the Village Council shall take action to deny or approve the proposed ordinances, or approve it with modifications or conditions for purposes of transmittal to Florida Department of Economic Opportunity (DEO) Pursuant to Section 163.3161, Florida Statutes. If denied by the DEO, the Village may resubmit the application as provided under Section 30-30.2, of the Village's Code. If approved for purposes of transmittal, the Village shall thereafter provide the necessary administrative support for the DEO's review process required under Section 163.3161, et seq., Florida Statutes, and the Village's ordinance would go into effect upon adoption at the second public hearing. The TDR resolution is to be presented at the same meeting the two ordinances are to be heard for first reading. Staff recommends tabling this item so that it may be considered in tandem with the two ordinances. However, staff recommends the Village first act on the TDR resolution item prior to rendering a final decision on both ordinances.

ANALYSIS

The following is a review of the request pursuant to the Village's Comprehensive Amendment criteria found at Section 30-30.8(b) of the Land Development Code. The Background Section of this report is hereby incorporated by reference into this analysis.

Criteria (1) Whether the proposal is internally consistent with the Comprehensive Plan, including the adopted infrastructure minimum levels of service standards and the concurrency management program.

Analysis: The following Goals, Objectives and Policies (GOP) were identified as relating to this request. Each GOP is provided with a brief analysis. A final finding is provided at the end of this criterion.

Goal 1: To guide the Village of Palmetto Bay from birth to early maturity as an outstanding and truly livable community in southeast Florida by building on, and improving, the existing land use blueprint through visionary planning and place-making, cost efficient provision of high quality facilities and services, quality neighborhood protection, and enhancement of its unique and beautiful coastal environmental resources.

Analysis: See Background Section of this report. This request is part of a larger initiative that seeks to secure certain surplus lands within the larger Village Center site that would serve to expand park lands within the Village of Palmetto Bay, preserve unique pineland and wetland resources, secure permanent parking facilities for the Village's adjacent library, and provide a site for a future fire station in the southeast quadrant of the Village. By securing the surplus land at the Village Center, these objectives become achievable.

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

Analysis: See Goal 1 above and the Background Section of this report. The proposed amendment removes any development potential from the front 22± acres of the larger Village Center property that fronts Old Cutler Road. Further, this application, taken in the context of the broader initiative, provides for increased parkland, environmental protection, and the need to find a location for a fire rescue facility in the southeast quadrant of the Village.

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

Analysis: See Goal 1 above and the Background Section of this report. This application is part of a broader initiative which seeks to add park land to the Village thus having the effect of protecting the lush flora and fauna of the Village. As part of a separate application, the Village will acquire over 40 acres of land, much of which is still in its original natural state.

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

Analysis: See Policy 1.5.4 above.

Policy 2A.1.1 The Village of Palmetto Bay recognizes the Urban Development Boundary (UDB) designated by Miami-Dade County and the Urban Infill Area UIA¹ within its municipal limits. Pursuant thereto, the minimum acceptable peak-period LOS for all State and County roads within the UDB shall be the following:

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

¹ The UIA is defined as that area east and south of the State Road 826 (the Palmetto expressway) and 77th Avenue (including those portions of theoretical SW 77 Avenue.

service exists, parallel roadways within a half-mile shall operate at no greater than 150% of their capacity; and

Analysis: See Background Section of this report. The proposed amendment does not increase density above that already permitted within the Land Use Element of the Village's Comprehensive Plan.

- Obj. 4A.1.1:** The adopted level-of-service standard established by the Miami-Dade County Water and Sewer Department (WASD), for potable water service within the Village of Palmetto Bay is:
- a. Regional Treatment. System shall operate with a rated capacity that is no less than 2% above the maximum daily flow for preceding year.
 - b. User LOS. Maintain capacity to produce and deliver 200 gallons, per capita, per day.
 - c. Water Quality. Meet all Federal, State and County primary potable water standards.
 - d. Countywide Storage. Storage capacity for finished water shall equal no less than 15% of countywide average daily demand.

Analysis: Please see Policy 2A.1.1 above.

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

Analysis: Please see Policy 2A.1.1 above.

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

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

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

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

Analysis: Please see Policy 2A.1.1 above. This element is reflective of improvements that would need to be performed at the time the property is the subject of a development order request. As such, any future development of the property will require full compliance with this element at the time of site plan review or permitting.

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

Analysis: Please see Policy 2A.1.1 above. The Village of Palmetto Bay generates approximately 41,000 tons of solid waste annually which equals a rate of approximately 9.3 pounds, per-capita, per day. This accounts for only approximately 1.5% of total waste generated. As of 2003, the South Dade Landfill has a capacity of 9.148 million tons with a life expectancy through 2032. Actual impact to LOS of any site plan shall occur at site plan review or building permitting.

Objective 6.5 Protection of Natural Resources

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

Analysis: See Goal 1 and Policy 1.5.4 above, and Background Section of this report.

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

Analysis: See Goal 1 and Policy 1.5.4 above, and Background Section of this report.

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

Analysis: See Goal 1 and Policy 1.5.4 above, and Background Section of this report.

Policy 7.1.2 Through the maintenance and expansion of existing park facilities and the acquisition and/or development of new parks and open space, achieve a Level of Service (LOS) Standard of 5.0 acres by 2025.

Analysis: See Goal 1 and Policy 1.5.4 above, and Background Section of this report. This request is part of a larger initiative that will result in adding approximately 40± acres of parkland to the Village.

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

Analysis: Please see Policy 2A.1.1 above and the Background Section of this report. The application does not increase density above that already permitted by the current land use designation. Actual school concurrency will be measured at the time of site plan application is made for residential units.

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

- a. Regional Treatment. System shall operate with rated capacity that is no less than two (2) percent above the maximum daily flow for preceding year.
- b. User LOS. Maintain capacity to produce and deliver 155 gallons/per capita/per day.
- c. Water Quality. Meet all federal, state, and county primary potable water standards.
- d. Countywide Storage. Storage capacity for finished water shall equal no less than 15 percent of countywide average daily demand.

Analysis: Please see Policy 2A.1.1 above and the Background Section of this report. The property is connected to Miami-Dade County water via a 6 inch line. As of 2002, the County wide water system had a maximum capacity of 454.8 million gallons per day (MGD) with peak water demand reported at 391.3 MGD. Of that capacity, The Village of Palmetto Bay draws approximately 3.69 MGD (based upon a population of approximately 24,000 residents) or just less than one percent (.0087) of available capacity. At that rate, per capita daily consumption is 153 gallons. At an average household size of 3.01, maximum potential number of residents resulting from the proposed amendments is 123.41

(2 units per acre x 20.5 acres = 41 homes). Given the relatively small size of the development, it is unlikely the addition of the residents will result in exceeding two (2) percent of maximum flow.

Finding: Conditionally consistent provided the 40± acres of surplus land within the Village Center's larger property is deeded to the Village of Palmetto Bay.

Criteria (2) Whether, and the extent to which, land use and development conditions have changed since the effective date of the existing Comprehensive Plan, and whether the changes support or work against the proposed amendment.

Analysis: This request, taken in the context of the larger initiative identified in the Background Section of this report, provides the Village of Palmetto Bay the opportunity to expand the amount of park lands within its jurisdiction, preserve unique pineland and wetland resources, secure permanent parking facilities for the Village's adjacent library, and provide a site for a future fire station in the southeast quadrant of the Village. The request does not increase the overall density of the property beyond that already permitted by the existing land use provision.

Finding: Conditionally consistent provided the 40± acres of surplus land within the Village Center's larger property is deeded to the Village of Palmetto Bay.

Criteria (3) Whether, and the extent to which, the proposal would result in any incompatible land uses, considering the type and location of uses involved, the impact on adjacent or neighboring properties, consistency with existing development, as well as compatibility with existing and proposed neighboring property land use.

Analysis: See Criteria 1 and 2 above and the Background Section of this report. The proposal does not change the overall density of the Village Center property. As part of a larger initiative, the request works to ensure the front 22± acres of land adjacent to Old Cutler Road remains undeveloped, provided however, that land is deeded to the Village of Palmetto Bay.

Finding: Conditionally consistent provided the 40± acres of surplus land within the Village Center's larger property is deeded to the Village of Palmetto Bay.

Criteria (4) Whether, and the extent to which, the proposal would adversely affect the property values in the affected area, or adversely affect the general welfare.

Analysis: See Criteria 3 above and the Background Section of this report. Preservation of the front 22± acres will ensure a continued buffer is maintained along Old Cutler Road protecting the single family homes on the west side from the Village Center on the east.

Finding: Conditionally consistent provided the 40± acres of surplus land within the Village Center's larger property is deeded to the Village of Palmetto Bay.

Criteria (5) Whether the proposal would result in an orderly and compatible land use pattern. Any positive and negative effects on such pattern shall be identified.

Analysis: Please see Criteria 1 through 4 and the Background Section of the report. The request does not increase the overall density of the property beyond that already permitted by the existing land use provision. The request, as part of a larger initiative, will result in the preservation of a natural landscape buffer to those lands west of property in question.

Finding: Conditionally consistent provided the 40± acres of surplus land within the Village Center's larger property is deeded to the Village of Palmetto Bay.

Criteria (6) Whether the proposal would be in conflict with the public interest, and whether it is in harmony with the purpose and intent of the Comprehensive Plan.

Analysis: Please see Criteria 1 through 4 and the Background Section of the report.

Finding: Conditionally consistent provided the 40± acres of surplus land within the Village Center's larger property is deeded to the Village of Palmetto Bay.

Criteria (7) Whether the proposed amendment meets the requirements of Section 163.3161, Florida Statutes, entitled "The Local Government Comprehensive Planning and Land Development Regulation Act."

Analysis: Recent changes to Florida land use laws leveraged greater authority in the review and processing of large-scale land use amendments (those greater than 10 acres). Submission, review and proposed implementation of the requests pertaining to the Comprehensive are consistent with those provisions. The proposed large-scale amendment to amend the VMU land use category meets the requirements of Section 163.3161, Florida Statutes, as amended.

Finding: Consistent.

Criteria (8) Other matters which the Local Planning Agency [here the Village Council], in its legislative discretion, may deem appropriate.

Finding: Decision for the Village Council.

FISCAL/BUDGETARY IMPACT

No budgetary impact is anticipated at this time. Any future programming of acquired lands shall be considered through the regular budgetary process.

RECOMMENDATION

Staff recommends conditionally approval provided the 40± acres of surplus land within the Village Center's larger property is deeded to the Village of Palmetto Bay.



Darby Delsalle, AICP
Director of Planning and Zoning

ORDINANCE

VILLAGE CENTER LAND USE AMENDMENT

ORDINANCE NO. _____

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4 AN ORDINANCE OF THE MAYOR AND VILLAGE COUNCIL OF THE
5 VILLAGE OF PALMETTO BAY, FLORIDA, ACTING IN ITS CAPACITY AS
6 THE MAYOR AND VILLAGE COUNCIL AND AS THE LOCAL PLANNING
7 AGENCY, AMENDING POLICY 1.1.3 OF THE VILLAGE'S
8 COMPREHENSIVE PLAN LAND USE CATEGORY, "VILLAGE MIXED-
9 USE", TO INCLUDE ALL PERMITTED RESIDENTIAL USES TO BE
10 CLASSIFIED AS MULTIPLE FAMILY, AND TO PROVIDE A NOTATION
11 REGARDING TRANSFER OF DEVELOPMENT RIGHTS CONSISTENT
12 WITH POLICY 1.1.14 OF THE COMPREHENSIVE PLAN; PROVIDING FOR
13 ORDINANCES IN CONFLICT, CODIFICATION, SEVERABILITY AND AN
14 EFFECTIVE DATE.
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16
17 **WHEREAS**, in 2008, the Mayor and Village Council created the Land Use Designation
18 Village Mixed Use (VMU), which provided for a range of permitted uses and development
19 intensities for certain lands within the Village; and
20

21 **WHEREAS**, the newly created VMU district provided for up to 400 residential units of
22 which 300 were identified as "Senior Living Facility" and 100 were identified as "Multifamily
23 Residential"; and
24

25 **WHEREAS**, Senior Living Facility is not clearly defined as to the nature of the
26 development pattern be it single family or multifamily residential; and
27

28 **WHEREAS**, for clarity of desired development form, the Policy 1.1.3 of the
29 Comprehensive Plan is to be amended to reflect a total of up to 400 permitted multifamily
30 residential uses of which 300 may be allocated for a senior living facility; and
31

32 **WHEREAS**, for purposes of consistency throughout the Village's Comprehensive Plan a
33 note is added to reflect the VMU land use designation's eligibility to participate in Transfer of
34 Development Rights program as provided for at Policy 1.1.14; and
35

36 **WHEREAS**, this ordinance is being considered as part of a broader Transfer of
37 Development Rights initiative that seeks to conserve certain lands surrounding the VMU zoned
38 property, as more specifically addressed pursuant to Resolution No. _____.
39

40 **WHEREAS**, pursuant to Section 163.3174, *Florida Statutes* the Village Council has been
41 designated as the Local Planning Agency for the Village; and
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43 **WHEREAS**, on _____, 2016, the Local Planning Agency recommended approval
44 the proposed ordinance; and
45

- Commercial – incidental and supporting uses
- Office – up to 315,000 square feet (including ancillary uses).
- Any increase in commercial square footage or residential units approved by Transfer of Development rights pursuant to applicable Code.

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

* * *

Section 3. Conflicting Provisions. The provisions of the Comprehensive Plan of the Village of Palmetto Bay, Florida and all ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

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

Section 5. Codification. It is the intention of the Village Council and it is hereby ordained the provisions of this Ordinance shall become and be made part of the Comprehensive Plan of the Village of Palmetto Bay, Florida.

Section 6. Effective Date. This ordinance shall only take effect once the conditions of companion Resolution No. _____ have been fulfilled.

PASSED and ENACTED this _____ day of _____, 2016.

First Reading: _____

Second Reading: _____

Attest: _____

Meighan Alexander
Village Clerk

Eugene Flinn
Mayor

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

1
2
3 _____
4 Dexter W. Lehtinen
5 Village Attorney
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13 FINAL VOTE AT ADOPTION:
14
15 Council Member Karyn Cunningham _____
16
17 Council Member Tim Schaffer _____
18
19 Council Member Larissa Siegel Lara _____
20
21 Vice-Mayor John DuBois _____
22
23 Mayor Eugene Flinn _____

STAFF REPORT

VILLAGE CENTER ZONING AMENDMENT



Village of Palmetto Bay

To: Honorable Mayor and Village Council

Date: March 7, 2016

From: Edward Silva, Village Manager

Re: VMU Zoning
First Reading

AN ORDINANCE OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, AMENDING SECTION 30-50.19, "VILLAGE MIXED-USE DISTRICT", TO INCLUDE ALL PERMITTED RESIDENTIAL USES TO BE CLASSIFIED AS MULTIPLE FAMILY; TO ADJUST MAXIMUM PERMITTED HEIGHT FOR ALL BUILDINGS TO BE 85 FEET; AND TO PROVIDE A NOTATION THAT THE VMU ZONING DISTRICT IS ELIGIBLE TO PARTICIPATE IN SECTION 30-30.15 TRANSFER OF DEVELOPMENT RIGHTS; PROVIDING FOR ORDINANCES IN CONFLICT, CODIFICATION, SEVERABILITY AND AN EFFECTIVE DATE.

BACKGROUND

The specific lands subject to this request are those located on the property commonly known as the "Village Center" and bear the zoning designation of Village Mixed-Use (VMU). This particular request, however, is part of larger initiative by the Village of Palmetto Bay to secure certain surplus lands within the larger Village Center site that would serve to expand park lands within the Village of Palmetto Bay, preserve unique pineland and wetland resources, secure permanent parking facilities for the Village's adjacent library, and provide a site for a future fire station in the southeast quadrant of the Village. As part of the property owner's request to transfer the development rights (TDR) of 22± acres of land adjacent to Old Cutler Road, the Village will receive approximately 40± acres of land that will serve the objectives identified above. To achieve that aim, the Village of Palmetto Bay is requesting a modification to the VMU zoning provisions which would have the effect of classifying all of the permitted residential uses on the VMU portion of the property as "Multifamily", and ensure that the property is eligible to participate in the TDR program. The amendment also establishes one height standard for all building within the VMU at 85 feet, which is the current maximum permitted height for certain structures; and it corrects certain citation errors that occurred during the last time the provisions were codified.

ZONING AND COMPREHENSIVE PLAN INTER-RELATIONSHIP – PROCEDURALLY

This request is part of a companion ordinance that also modifies the under lying land use provisions of the same name, and a Resolution which authorizes the TDR of 85 units onto

the VMU site. Because the amendment includes a change of the list of permitted units on lands that exceed 10 acres, and is part of a comprehensive plan amendment, it is therefore considered a large-scale request. As such, and consistent with the Village's Code requirements and state law, public hearings must be held for both first and second reading of the proposed ordinance. At the first public hearing, the Village Council shall take action to deny or approve the proposed ordinances, or approve it with modifications or conditions. The decision regarding the companion comprehensive plan item must then be transmitted to Florida Department of Economic Opportunity (DEO) Pursuant to Section 163.3161, Florida Statutes. Second reading of the zoning ordinance cannot be held until the DEO completes its review. If denied by the DEO, the Village may resubmit the application as provided under Section 30-30.2, of the Village's Code. If approved for purposes of transmittal, the Village shall thereafter provide the necessary administrative support for the DEO's review process required under Section 163.3161, et seq., Florida Statutes, and both of the Village's ordinances would go into effect upon adoption at the second public hearing. The TDR resolution is to be presented at the same meeting the two ordinances are to be heard for first reading. Staff recommends tabling this item so that it may be considered in tandem with the two ordinances. However, staff recommends the Village first act on the TDR resolution item prior to rendering a final decision on both ordinances.

ANALYSIS

The following is a review of the request pursuant to the Village's Comprehensive Amendment criteria found at Section 30-30.7(b) of the Land Development Code. The Background Section of this report is hereby incorporated by reference into this analysis.

Criteria (1) Whether the proposal is consistent with the Comprehensive Plan, including the adopted infrastructure minimum levels of service standards and the Village's concurrency management program.

Analysis: The following Goals, Objectives and Policies (GOP) were identified as relating to this request. Each GOP is provided with a brief analysis. A final finding is provided at the end of this criterion.

Goal 1: To guide the Village of Palmetto Bay from birth to early maturity as an outstanding and truly livable community in southeast Florida by building on, and improving, the existing land use blueprint through visionary planning and place-making, cost efficient provision of high quality facilities and services, quality neighborhood protection, and enhancement of its unique and beautiful coastal environmental resources.

Analysis: See Background Section of this report. This request is part of a larger initiative that seeks to secure certain surplus lands within the larger Village Center site that would serve to expand park lands within the Village of Palmetto Bay, preserve unique pineland and wetland resources, secure permanent parking facilities for the Village's adjacent library, and provide a site for a future fire station in the southeast quadrant of the

Village. By securing the surplus land at the Village Center, these objectives become achievable.

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

Analysis: See Goal 1 above and the Background Section of this report. The proposed amendment removes any development potential from the front 22± acres of the larger Village Center property that fronts Old Cutler Road. Further, this application, taken in the context of the broader initiative, provides for increased parkland, environmental protection, and the need to find a location for a fire rescue facility in the southeast quadrant of the Village.

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

Analysis: See Goal 1 above and the Background Section of this report. This proposed ordinance is part of a broader initiative which seeks to add park land to the Village thus having the effect of protecting the lush flora and fauna of the Village. As part of a separate application, the Village will acquire approximately 40± acres of land, much of which is still in its original natural state.

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

Analysis: See Policy 1.5.4 above.

Policy 2A.1.1 The Village of Palmetto Bay recognizes the Urban Development Boundary (UDB) designated by Miami-Dade County and the Urban Infill Area UIA¹ within its municipal limits. Pursuant thereto, the minimum acceptable peak-period LOS for all State and County roads within the UDB shall be the following:

1. All development applications within the Urban Infill Area Transportation Concurrency Exception Area are exempt from transportation concurrency requirements; however the following level of service thresholds are established for reviewing projects within the UIA TCEA: (1) Where no public mass transit service exists, roadways shall operate at or above Level of Service E (100% of capacity), (2) Where mass transit service having headways of 20

¹ The UIA is defined as that area east and south of the State Road 826 (the Palmetto expressway) and 77th Avenue (including those portions of theoretical SW 77 Avenue.

minutes or less is provided within a half-mile distance, roadways shall operate at Level of Service of 120% of capacity (3) Where extraordinary transit service, such as express bus service exists, parallel roadways within a half-mile shall operate at no greater than 150% of their capacity; and

Analysis: See Background Section of this report. The proposed amendment does not increase density above that already permitted within the Land Use Element of the Village's Comprehensive Plan. Level of service impacts will be evaluated at the time of site plan review.

- Obj. 4A.1.1:** The adopted level-of-service standard established by the Miami-Dade County Water and Sewer Department (WASD), for potable water service within the Village of Palmetto Bay is:
- a. Regional Treatment. System shall operate with a rated capacity that is no less than 2% above the maximum daily flow for preceding year.
 - b. User LOS. Maintain capacity to produce and deliver 200 gallons, per capita, per day.
 - c. Water Quality. Meet all Federal, State and County primary potable water standards.
 - d. Countywide Storage. Storage capacity for finished water shall equal no less than 15% of countywide average daily demand.

Analysis: Please see Policy 2A.1.1 above.

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

Analysis: Please see Policy 2A.1.1 above.

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

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

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

- a. Post development runoff shall not exceed the pre-development runoff rate for a 25-year storm event, up to and including an event with a 24-hour duration.

- b. Treatment of the runoff from the first one (1) inch of rainfall onsite or the first 0.5 inch of runoff, whichever is greater.

Analysis: Please see Policy 2A.1.1 above. This element is reflective of improvements that would need to be performed at the time the property is the subject of a development order request. As such, any future development of the property will require full compliance with this element at the time of site plan review or building permitting.

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

Analysis: Please see Policy 2A.1.1 above. The Village of Palmetto Bay generates approximately 41,000 tons of solid waste annually which equals a rate of approximately 9.3 pounds, per-capita, per day. This accounts for only approximately 1.5% of total waste generated. As of 2003, the South Dade Landfill has a capacity of 9.148 million tons with a life expectancy through 2032. Actual impact to LOS of any site plan shall occur at site plan review or building permitting.

Objective 6.5 Protection of Natural Resources

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

Analysis: See Goal 1 and Policy 1.5.4 above, and Background Section of this report.

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

Analysis: See Goal 1 and Policy 1.5.4 above, and Background Section of this report.

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

Analysis See Goal 1 and Policy 1.5.4 above, and Background Section of this report.

Policy 7.1.2 Through the maintenance and expansion of existing park facilities and the acquisition and/or development of new parks and open space, achieve a Level of Service (LOS) Standard of 5.0 acres by 2025.

Analysis: See Goal 1 and Policy 1.5.4 above, and Background Section of this report. This request is part of a larger initiative that will result in adding approximately 40± acres of parkland to the Village.

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

Analysis: Please see Policy 2A.1.1 above and the Background Section of this report. The proposed ordinance does not increase density above that already permitted by the current land use designation. Actual school concurrency will be measured at the time of site plan application is made for residential units.

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

- a. Regional Treatment. System shall operate with rated capacity that is no less than two (2) percent above the maximum daily flow for preceding year.
- b. User LOS. Maintain capacity to produce and deliver 155 gallons/per capita/per day.
- c. Water Quality. Meet all federal, state, and county primary potable water standards.
- d. Countywide Storage. Storage capacity for finished water shall equal no less than 15 percent of countywide average daily demand.

Analysis: Please see Policy 2A.1.1 above and the Background Section of this report. The property is connected to Miami-Dade County water via a 6 inch line. As of 2002, the County wide water system had a maximum capacity of 454.8 million gallons per day (MGD) with peak water demand reported at 391.3 MGD. Of that capacity, The Village of Palmetto Bay draws approximately 3.69 MGD (based upon a population of approximately 24,000 residents) or just less than one percent (.0087) of available capacity. At that rate, per capita daily consumption is 153

gallons. At an average household size of 3.01, maximum potential number of residents resulting from the proposed amendments is 123.41 (2 units per acre x 20.5 acres = 41 homes). Given the relatively small size of the development, it is unlikely the addition of the residents will result in exceeding two (2) percent of maximum flow.

Finding: Conditionally consistent provided the 40± acres of surplus land within the Village Center's larger property is deeded to the Village of Palmetto Bay.

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

Analysis: See Criteria 1 and the Background Section of this report. The proposed amendment does not conflict with the other requirements of Chapter 30.

Finding: Consistent.

Criteria (3) Whether, and the extent to which, land use and development conditions have changed since the effective date of the existing regulations, and whether the changes support or work against the proposed change in land use policy.

Analysis: Please see Criteria 1 and the Background Section of the report. This request, taken in the context of the larger initiative identified in the Background Section of this report, provides the Village of Palmetto Bay the opportunity to expand the amount of park lands within its jurisdiction, preserve unique pineland and wetland resources, secure permanent parking facilities for the Village's adjacent library, and provide a site for a future fire station in the southeast quadrant of the Village. The request does not increase the overall density of the property beyond that already permitted by the existing land use provision.

Finding: Conditionally consistent provided the 40± acres of surplus land within the Village Center's larger property is deeded to the Village of Palmetto Bay.

Criteria (4) Whether, and the extent to which, the proposal would result in any incompatible land uses, considering the type and location of uses involved, the impact on adjacent or neighboring properties, consistency with existing development, as well as compatibility with existing and proposed land uses.

Analysis: See Criteria 1 and 2 above and the Background Section of this report. The proposal does not change the overall density of the Village Center property. As part of a larger initiative, the request works to ensure the front 22± acres of land adjacent to Old Cutler Road remains undeveloped, provided however, that land is deeded to the Village of Palmetto Bay.

Findings: Conditionally consistent provided the 40± acres of surplus land within the Village Center's larger property is deeded to the Village of Palmetto Bay.

Criteria (5) Whether, and the extent to which, the proposal would result in demands on transportation systems, public facilities and services; would exceed the capacity of the facilities and services, existing or programmed, including: transportation, water and wastewater services, solid waste disposal, drainage, recreation, education, emergency services, and similar necessary facilities and services.

Analysis: See Criteria 1, 3, 4, and the Background Section of this report. The proposal does not add any additional units than that which may be grantable under existing law.

Finding: Conditionally consistent provided the 40± acres of surplus land within the Village Center's larger property is deeded to the Village of Palmetto Bay.

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

Analysis: Analysis: See Criteria 1, 3, 4, and the Background Section of this report. The proposal does not add any additional units than that which may be grantable under existing law.

Finding: Conditionally consistent provided the 40± acres of surplus land within the Village Center's larger property is deeded to the Village of Palmetto Bay.

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

Analysis: See Criteria 1, 3, and 4, and the Background Section of this report. Preservation of the front 22± acres will ensure a continued buffer is maintained along Old Cutler Road protecting the single family homes on the west side from the Village Center on the east.

Finding: Conditionally consistent provided the 40± acres of surplus land within the Village Center's larger property is deeded to the Village of Palmetto Bay.

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

Analysis: Please see Criteria 1 through 4 and the Background Section of the report. The request does not increase the overall density of the property beyond that already permitted by the existing land use provision. The request, as part of a larger initiative, will result in the preservation of a natural landscape buffer to those lands west of property in question.

Finding: Conditionally consistent provided the 40± acres of surplus land within the Village Center's larger property is deeded to the Village of Palmetto Bay.

Criteria (9) Whether the proposal would be in conflict with the public interest, and whether it is in harmony with the purpose and intent of Chapter 30.

Analysis: See Criteria 1 through 4, and the Background Section of this report.

Finding: Conditionally consistent provided the 40± acres of surplus land within the Village Center's larger property is deeded to the Village of Palmetto Bay.

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

Finding: Decision for the Village Council.

FISCAL/BUDGETARY IMPACT

No budgetary impact is anticipated at this time. Any future programming of acquired lands shall be considered through the regular budgetary process.

RECOMMENDATION

Staff recommends conditionally approval provided all of the conditions of the Resolution No. _____ is fulfilled and the 40± acres of surplus land within the Village Center's larger property is deeded to the Village of Palmetto Bay.



Darby Delsalle, AICP
Director of Planning and Zoning

ORDINANCE

VILLAGE CENTER ZONING AMENDMENT

1 Records Book 14089 at Pages 2349-52 and Official Records Book 12428 at
2 Pages 923-1010, of the Public Records of Miami-Dade County, Florida, and
3 the Amended Declaration of Restrictive Covenants in Lieu of Unity of Title
4 recorded Official Resources Book 27101 at Pages 2672-2678 of the public
5 Records of Miami-Dade County, Florida.

- 6 i. ~~Multi-family residential rowhouses/townhouses up to 100 units.~~
- 7 ii. ~~Senior housing, intended to comply with F.S. § 760.29, in the form of~~
8 ~~multi-family condominiums or apartments up to 300 residential units~~

9
10 * * *

11
12 (e) *General requirements.* These requirements shall not be deemed or construed to prohibit a
13 continuation or restoration after casualty of any structure, use or occupancy in the VMU
14 District that was existing as of the date of the effective date of this section.

15
16 (1) *Buildings.*

- 17 a. *Heights.* All height restrictions herein are deemed as consistent with the intent
18 of the previously enacted Village of Palmetto Bay Comprehensive Plan which
19 established parameters for this VMU District. Furthermore, all height
20 restrictions must remain in conformity with any existing deed restrictions,
21 declarations, or covenants in effect as to any lands within the VMU District.
22 ~~Multi-family rowhouse/townhouse units shall not exceed 70 feet above grade~~
23 ~~in height. Multi-family senior housing facilities shall not exceed 85 feet above~~
24 ~~grade in height. Nonresidential~~ All buildings shall be no higher than 85 feet
25 above grade in height. This shall not preclude, above such height restrictions,
26 bonuses granted by a Transfer of Development Right, antennae, elevator and
27 roof equipment, stairway roof access and railings or similar safety barrier, as
28 long as said structures are not visible from the property line of the VMU
29 District at Old Cutler Road.

30
31 * * *

- 32 e. *Density.* Overall density for all residential units on the property, including
33 senior housing facilities, shall be a minimum of 3.0 and a maximum of
34 14.0 dwelling units per gross acre, all as consistent with the comprehensive
35 plan of the village. Residential density calculations pursuant to the
36 preceding sentence shall be calculated based upon the entire land area
37 zoned VMU, regardless of any non-residential development within the
38 VMU. Additional units may be developed in accordance with an approved
39 Transfer of Development Rights.

40
41 * * *

42
43 (i) *Nonconforming structures, uses, and occupancies.* Nothing contained in this section 30-
44 50.2019 shall be deemed or construed to prohibit a continuation or restoration after
45 casualty of a legal nonconforming structure, use or occupancy in the VMU District that
46 was existing as of the effective date of this division.

1
2 (j) *Review procedure/administrative site plan review.* All applications for development approval
3 within the VMU District that are not otherwise permitted as nonconforming uses or
4 structures shall comply with the requirements of section 30-30.5 and this section and with
5 the site plan review criteria contained therein. Developments shall be processed and
6 approved administratively or by village council action, as applicable, as follows:

7 (1) *Administrative site plan review.*

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

13
14 **Section 3. Companion TDR Resolution.** The provisions of the ordinance are offered
15 and approved contingent upon the owner(s) of those lands zoned VMU fulfill all conditions of the
16 companion TDR Resolution No ____.

17
18 **Section 4. Conflicting Provisions.** The provisions of the Code of Ordinances of the
19 Village of Palmetto Bay, Florida and all ordinances or parts of ordinances in conflict with the
20 provisions of this ordinance are hereby repealed.

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

27
28 **Section 6. Codification.** It is the intention of the Village Council and it is hereby
29 ordained the provisions of this Ordinance shall become and be made part of the Code of
30 Ordinances of the Village of Palmetto Bay, Florida, that sections of this Ordinance may be
31 renumbered or re-lettered to accomplish such intentions, and that the word "Ordinance" shall be
32 changed to "Section" or other appropriate word.

33
34 **Section 7. Effective Date.** This ordinance shall only take effect once the conditions of
35 companion Resolution No. _____ have been fulfilled.

36
37 **PASSED and ENACTED** this _____ day of _____, 2016.

38
39
40 First Reading: _____

41
42 Second Reading: _____

43
44
45
46 Attest: _____

1 Meighan Alexander
2 Village Clerk

Eugene Flinn
Mayor

3
4 APPROVED AS TO FORM AND LEGAL SUFFICIENCY FOR THE
5 USE AND RELIANCE OF THE VILLAGE OF PALMETTO BAY ONLY:
6

7
8 _____
9 Dexter W. Lehtinen
10 Village Attorney

11
12 FINAL VOTE AT ADOPTION:

13
14 Council Member Karyn Cunningham _____

15
16 Council Member Tim Schaffer _____

17
18 Council Member Larissa Siegel Lara _____

19
20 Vice-Mayor John DuBois _____

21
22 Mayor Eugene Flinn _____
23



To: Honorable Mayor and Village Council

Date: March 7, 2016

From: Edward Silva, Village Manager

Re: 13650 SW 82 Court
Rezoning – 1st Reading

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

UPDATE SINCE FIRST READING:

This item was heard during First Reading on February 1, 2016 however, the item was continued for the Regular Council Meeting scheduled on March 7, 2016. During First Reading, the Village Council did not vote to approve or deny the item. Instead the Village Council requested the item to be advertised in a manner similar to a typical zoning application request (ex. site plan, plat, variance, etc.) prior to First Reading occurring. Attached are copies of the postings, mailings, and advertising that were completed for this item (Attachment A). The same procedure will be followed again prior to returning the item for Second Reading. The remainder of the report regarding this item was submitted on February 1, 2016. A copy of the previous report is included (Attachment B).

RECOMMENDATION:

Approval is recommended.

Attachments:

- (A) Postings, mailings, and advertising
- (B) Report submitted on February 1, 2016 Regular Council Meeting



Darby Delsalle, AICP
Director of Planning and Zoning

Manager's Report
for
13650 SW 82 Court Rezoning

ATTACHMENT A



VILLAGE OF PALMETTO BAY NOTICE OF PUBLIC HEARING FOR A PROPOSED ZONING DISTRICT BOUNDARY CHANGE

The Village of Palmetto Bay shall conduct a public hearing to consider an item on first reading on Monday, March 7, 2016, at 7:00 p.m. The hearing shall be held at Village Hall, 9705 East Hibiscus Street, Council Chambers, Palmetto Bay, FL 33157. Discussion and public input will be welcome concerning the following items that may be of interest to your immediate neighborhood.

John Andrew Smith submitted an application for the property, located at 13650 SW 82nd Court (Folio 33-5022-000-0191) is requesting the following:

AN ORDINANCE OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, RELATING TO ZONING; AMENDING THE OFFICIAL ZONING MAP TO REFLECT A DISTRICT BOUNDARY ZONE; CHANGING .98 ACRES (+/-), FROM E-1 ESTATE SINGLE FAMILY DISTRICT TO E-M ESTATE MODIFIED; FOR THE PROPERTY LOCATED AT 13650 SW 82ND COURT BEARING FOLIO 33-5022-000-0191, IN PALMETTO BAY, FLORIDA; PROVIDING FOR ORDINANCES IN CONFLICT, CODIFICATION, SEVERABILITY, AND AN EFFECTIVE DATE. [4/5 Vote].

All persons are invited to appear and be heard. The documents pertaining to this public hearing may be inspected during regular working hours at the Department of Planning & Zoning at Village Hall, 9705 East Hibiscus Street, Palmetto Bay, FL 33157. Inquiries may be directed to the Village Clerk at (305) 259-1234. Any meeting may be opened and continued, and, under such circumstances, additional legal notice would not be provided. Any person may contact Village Hall for more information.

Pursuant to Section 286.0105, F.S., if any person decides to appeal any decision by the Village Council with regard to this or any matter, he/she will need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based. This notice does not constitute consent by the Village for the introduction or admission of otherwise inadmissible evidence, nor does it authorize challenges or appeals not otherwise allowed by law.

In accordance with the Americans with Disabilities Act of 1990, persons needing special accommodation (or hearing impaired) to participate in this proceeding or to review any documents relative thereto should contact the Village for assistance at (305) 259-1234 no later than seven (7) days prior to the proceedings.

A handwritten signature in blue ink, enclosed within a faint blue circular outline.

**VILLAGE OF PALMETTO BAY
NOTICE OF PUBLIC HEARING**

HEARING NUMBER: VPB-16-003
APPLICANT NAME: John Andrew Smith
FOLIO: 33-5022-000-0191
PROJECT LOCATION: 13650 SW 82nd Court
PALMETTO BAY, FL 33158

REQUEST: Changing .98 acres (+/-), from E-1, Estate Single Family to E-M, Estate Modified Single Family.

PLANS ARE ON FILE AND MAY BE EXAMINED IN THE DEPARTMENT OF PLANNING AND ZONING AT VILLAGE HALL. PLANS MAY BE MODIFIED BEFORE AND DURING THE PUBLIC HEARING.

A PUBLIC HEARING WILL BE HELD MONDAY, MARCH 7, 2016, AT 7:00 PM AT THE COUNCIL CHAMBERS LOCATED WITHIN VILLAGE HALL, 9705 EAST HIBISCUS STREET, PALMETTO BAY, FL 33157.

YOU ARE NOT REQUIRED TO RESPOND TO THIS NOTICE: However, objections or waivers of objection may be made in person at the hearing or filed in writing prior to the hearing date with the Department of Planning and Zoning. Any meeting may be opened and continued, and under such circumstances, additional legal notice would be provided. Any person may contact Village Hall at (305) 259-1234 for additional information. Please call the Village Clerk for ADA needs (or hearing impaired) no later than four (4) days prior to the proceedings.

**VILLAGE OF PALMETTO BAY
NOTICE OF PUBLIC HEARING**

HEARING NUMBER: VPB-16-003
APPLICANT NAME: John Andrew Smith
FOLIO: 33-5022-000-0191
PROJECT LOCATION: 13650 SW 82nd Court
PALMETTO BAY, FL 33158

REQUEST: Changing .98 acres (+/-), from E-1, Estate Single Family to E-M, Estate Modified Single Family.

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**VILLAGE OF PALMETTO BAY
NOTICE OF PUBLIC HEARING**

HEARING NUMBER: VPB-16-003
APPLICANT NAME: John Andrew Smith
FOLIO: 33-5022-000-0191
PROJECT LOCATION: 13650 SW 82nd Court
PALMETTO BAY, FL 33158

REQUEST: Changing .98 acres (+/-), from E-1, Estate Single Family to E-M, Estate Modified Single Family.

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**VILLAGE OF PALMETTO BAY
NOTICE OF PUBLIC HEARING**

HEARING NUMBER: VPB-16-003
APPLICANT NAME: John Andrew Smith
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PROJECT LOCATION: 13650 SW 82nd Court
PALMETTO BAY, FL 33158

REQUEST: Changing .98 acres (+/-), from E-1, Estate Single Family to E-M, Estate Modified Single Family.

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A PUBLIC HEARING WILL BE HELD MONDAY, MARCH 7, 2016, AT 7:00 PM AT THE COUNCIL CHAMBERS LOCATED WITHIN VILLAGE HALL, 9705 EAST HIBISCUS STREET, PALMETTO BAY, FL 33157.

YOU ARE NOT REQUIRED TO RESPOND TO THIS NOTICE: However, objections or waivers of objection may be made in person at the hearing or filed in writing prior to the hearing date with the Department of Planning and Zoning. Any meeting may be opened and continued, and under such circumstances, additional legal notice would be provided. Any person may contact Village Hall at (305) 259-1234 for additional information. Please call the Village Clerk for ADA needs (or hearing impaired) no later than four (4) days prior to the proceedings.







Manager's Report
for
13650 SW 82 Court Rezoning

ATTACHMENT B



To: Honorable Mayor and Village Council

Date: February 1, 2016

From: Edward Silva, Village Manager

Re: Amendment of Official Zoning Map for property located at 13650 SW 82nd CT - 1st Reading

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

BACKGROUND:

The property in question is located at 13650 SW 82nd Court, consisting of approximately .98 acres, and is in the center of a residential block. In 2009, as part of Ordinance No. 2009-17, the Village adopted its own Official Zoning Map, thus replacing the Miami-Dade Zoning Map. The overall affect, with few exceptions, was the re-labeling of zoning designations throughout the Village in a manner consistent with the Miami-Dade County's designations. During that zoning mapping/adoption process, this section was zoned from EU-1 to E-1. This designation is inconsistent with all of the surrounding properties. As such the applicant is now seeking to realign the zoning of this parcel to be consistent with the surrounding parcels. The property was never platted. It is now the intent of the applicant to plat this property and create two E-M lots consistent with the surrounding neighborhood.

The parcel is question is described as follows:

The South 153 Feet of the North 548 Feet of the W 1/2 of the East 1/2 of the NE 1/4 of the NW 1/4 less the East 25 feet and the West 25 Feet thereof, in Section 22, Township 55 South, Range 40 East, lying and being in Miami-Dade County, Florida, and containing 42,688 square feet or .98 acres, more or less.

ZONING HEARING HISTORY:

In October 2009, the Village created its Land Development Code and Comprehensive Zoning Map, and re-designated the subject property as E-1 (residential). (Documentation not provided in this back-up as it is voluminous and is existing Code).

NEIGHBORHOOD CHARACTERISTICS:

ZONING	LAND USE DESIGNATION
Subject Property:	
E-1; Estate Single Family Residential	Estate Density Residential
Surrounding Properties:	
NORTH:	
E-M; Estate Modified Single Family	Estate Density Residential
EAST:	
E-M; Estate Modified Single Family	Estate Density Residential
SOUTH:	
E-M; Estate Modified Single Family	Estate Density Residential
WEST:	
E-M; Estate Modified Single Family	Estate Density Residential

ANALYSIS:

The following is a review of the request pursuant to the Village's rezoning criteria found at Section 30-30.7(b), of the Land Development Code. The Background Section and the Analysis is hereby incorporated by reference.

Criteria (1) Whether the proposal is consistent with the Comprehensive Plan, including the adopted infrastructure minimum levels of service standards and the Village's concurrency management program.

Analysis: The underlying land use designation is Estate Density Residential which permits up to 2.5 units per acre. The E-M zoning fits within that land use density category. The rezoning aligns the property with the zoning of the surrounding properties.

Finding: Consistent.

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

Analysis: Please see Background Section of this report. The parcel in question is currently zoned differently from all of the properties that surround it. In this case, the parcel was zoned E-1 in 2009. Changing of the parcel's zoning would make it consistent with the surrounding properties and thus, consistent with all requirements of Chapter 30.

Finding: Consistent.

Criteria (3) Whether, and the extent to which, land use and development conditions have changed since the effective date of the existing regulations, and whether the changes support or work against the proposed change in land use policy.

Analysis: Not applicable. There were no changes to land use policy.

Finding: Consistent.

Criteria (4) Whether, and the extent to which, the proposal would result in any incompatible land uses, considering the type and location of uses involved, the impact on adjacent or neighboring properties, consistency with existing development, as well as compatibility with existing and proposed land uses.

Analysis: See Criteria 1 and 2, and the Background Section of this report. The rezoning is consistent with the surrounding uses and will mirror the zoning on all sides if approved.

Findings: Consistent.

Criteria (5) Whether, and the extent to which, the proposal would result in demands on transportation systems, public facilities and services; would exceed the capacity of the facilities and services, existing or programmed, including: transportation, water and wastewater services, solid waste disposal, drainage, recreation, education, emergency services, and similar necessary facilities and services.

Analysis: Please see Criteria 1. The proposed rezoning is for .98 acres. Any impact on infrastructure and services would be de minimis. Any impact would be measured at the time of development application.

Finding: Consistent.

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

Analysis: The proposed rezoning is on a parcel of land consisting of .98 acres. The site is an in area populated with single family homes. There does not appear to be any significant natural resources at the site.

Finding: Consistent.

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

Analysis: The rezoning is consistent with the surrounding zoning on all four sides.

Finding: Consistent.

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

Analysis: The rezoning is consistent with the surrounding zoning on all four sides.

Finding: Consistent.

Criteria (9) Whether the proposal would be in conflict with the public interest, and whether it is in harmony with the purpose and intent of Chapter 30.

Analysis: The rezoning is consistent with the surrounding uses and will mirror the zoning on all four sides.

Finding: Consistent.

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

Finding: Decision for the Village Council.

FISCAL/BUDGETARY IMPACT:

No budgetary impact is anticipated at this time.

RECOMMENDATION:

Approval is recommended.



Darby Delsalle, AICP
Director of Planning and Zoning

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ORDINANCE NO. _____

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

WHEREAS, the property in question is located at 13650 SW 82nd Court, consists of approximately .98 acres, and is landlocked by adjoining properties; and

WHEREAS, in 2009, the Mayor and Village Council adopted Ordinance No. 2009-17, which created the Village's Official Zoning Map, thus replacing the Miami-Dade County Zoning Map; and

WHEREAS, in creating the Official Zoning Map, this section was rezoned from EU-1 to E-1, Estate Single Family; and

WHEREAS, the surrounding properties are all zoned E-M; Estate Modified Single Family, and

WHEREAS, pursuant to Chapter 166, Florida Statutes, a change of zoning, otherwise known as a district boundary change, of less than 10 acres, requires a public hearing on second reading, and a Land Planning Agency public hearing prior to approval of the rezoning by ordinance; and

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

WHEREAS, on _____, 2016, the Local Planning Agency approved the proposed amendment; and

WHEREAS, to approve a rezoning, the request must be consistent with the Village's Comprehensive Plan and a basic finding of compatibility to Code Section 30-30.7(b) must be rendered by the Mayor and Village Council; and

WHEREAS, the Mayor and Village Council, now desire to rezone the property described in Attachment E-1 from Estate Single Family, to E-M, Estate Modified Single Family District.

1 BE IT ENACTED BY THE MAYOR AND VILLAGE COUNCIL OF THE
2 VILLAGE OF PALMETTO BAY, FLORIDA, AS FOLLOWS:
3

4 Section 1. In evaluating an application for a rezoning, from E-1 Estate Single Family
5 to, E-M, Estate Modified Single Family for .98 acres (+/-), for the property located at 13650 SW
6 82nd Court bearing folio 33-5022-000-0191, the Palmetto Bay Village Council applied the criteria
7 under 30-30.7(b) of the Village's Code and found the request to be consistent. The map
8 amendment is attached and incorporated by reference herein as Attachment 1.
9

10 Section 2. The property that is the subject of the rezoning bears the following legal
11 description:

12
13 The South 153 Feet of the North 548 Feet of the W 1/2 of the East 1/2 of the NE
14 1/4 of the NW 1/4 less the East 25 feet and the West 25 Feet thereof, in Section 22,
15 Township 55 South, Range 40 East, lying and being in Miami-Dade County,
16 Florida, and containing 42,688 square feet or .98 acres, more or less.
17

18 Section 3. The Village Council in compliance with Chapter 166, Florida Statutes,
19 after the first reading approved the request to rezone.
20

21 Section 4. All ordinances or parts of ordinances in conflict with the provisions of
22 this ordinance are repealed.
23

24 Section 5. If any section, clause, sentence, or phrase of this ordinance is for any
25 reason held invalid or unconstitutional by a court of competent jurisdiction, the holding shall not
26 affect the validity of the remaining portions of this ordinance.
27

28 Section 6. Effective Date. This ordinance shall take effect immediately upon
29 enactment.
30

31 PASSED and ENACTED this ____ day of _____, 2016.
32

33 First Reading: _____
34

35 Second Reading: _____
36
37
38

39 Attest: _____

40 Meighan Alexander
41 Village Clerk
42
43

Eugene Flinn
Mayor

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

Dexter W. Lehtinen
Village Attorney

FINAL VOTE AT ADOPTION:

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

Attachment A

Proposed & Existing Zoning

Proposed Zoning for 13650 SW 82 CT



0 100 200
Feet
Created: 1/10/2016



AG



E-M



E-1



Water



Existing Zoning for 13650 SW 82 CT



0 100 200
Feet
Created: 1/10/2016



AG



E-M



E-1



Water



Application

John Andrew Smith & Hollub Homes
9771 South Dixie Highway
Pinecrest, FL 33156

Village of Palmetto Bay
Department of Planning and Zoning
Re: Letter of Intent for Zoning Hearing



Dear Department of Planning and Zoning,

Our company, Hollub Homes, contract purchaser, on behalf of the property owner, John Andrew Smith, requests a distinct boundary change on property located within Palmetto Bay, Miami-Dade County,

Subject Property Information:

Folio Number: 33-5022-000-0191

Address: 13650 SW 82 CT,
Palmetto Bay, FL 33158

Acreage: .98 acres or 42,689 SQ FT

RECEIVED
Zoning Department
11/30/15
Village of Palmetto Bay
Building & Zoning Department
By: [Signature]

Our intention is to split the existing property, currently zoned E-1, into two E-M lots of similar size to conform with adjacent and nearby property zoning. The request, therefore, is to change the subject property's zoning from E-1 to E-M. Our project will involve the demolition of the existing single family home, built in 1947, in order to build two new single family homes. Based on surveys provided, no variance is needed or requested. The request complies with the future land use map designation of estate density residential development of up to 2.5 units per acre.

Our company, Hollub Homes, is a 61 year old, third generation family business based in Pinecrest, but with strong ties to the Palmetto Bay community. Our company has built many homes and communities in Palmetto Bay over the years, including Pine Bay South and Lychee Grove.

Should you have any questions, please contact our office:

Hollub Homes
9771 South Dixie Highway
Pinecrest, FL 33156
(305) 665-4275

Best,
Aaron Hollub
Vice President - Hollub Homes



SEC: _____ TWP: _____ RGE: _____
RECEIVED
Zoning Department

11/30/15

ZONING HEARING (ZH) APPLICATION
 Village of Palmetto Bay, Department of Planning and Zoning

Village of Palmetto Bay
 Building & Zoning Department

By: AW

LIST ALL FOLIO #S: 33-5022-000-0191 Date Received _____

1. NAME OF APPLICANT (Owner(s) of record of the property or lessee. If applicant is a lessee, an executed 'Owner's Sworn-to-Consent' and copy of a valid lease for 1 year or more is required. If the applicant is a corporation, trust, partnership, or like entity, a 'Disclosure of Interest' is required).

John Andrew Smith

2. APPLICANT'S MAILING ADDRESS, TELEPHONE NUMBER:

Mailing Address: 5530 Nagami Drive
 City: WINDERMERE State: FL Zip: _____ Phone#: _____

3. OWNER'S NAME, MAILING ADDRESS, TELEPHONE NUMBER:

Owner's Name (Provide name of ALL owners): John Andrew Smith
5330 Nagami Drive
 City: WINDERMERE State: FL Zip: 34786 Phone#: _____

4. CONTACT PERSON'S INFORMATION:

Name: Company: ARON HOLLUB - HOLLUB HOMES
 City: Ancorest State: FL Zip: 33156 Cell Phone#: 305-987-9324
 Phone#: 305-665-9275 Fax#: _____ E-mail: ARON@HOLLUBHOMES.COM

5. LEGAL DESCRIPTION OF ALL PROPERTY COVERED BY THE APPLICATION

(Provide complete legal description, i.e., lot, block, subdivision name, plat book & page number, or metes and bounds. Include section, township, range. If the application contains multiple rezoning requests, a legal description for each requested zone must be provided. Attach separate sheets as needed and clearly label (Identify) each legal description attached. In addition to paper version it is requested that lengthy metes and bounds descriptions be provided on diskette or compact disc in Microsoft Word or compatible software.)

The south 153 Feet of the North 548 Feet of the W-1/2 of the E-1/2 of the NE-1/4 of the NW-1/4, less the East 25 feet AND the West 25 feet thereof, in Section 22, Township 55 South, Range 40 East, lying AND BEING in Dade County, Florida.

6. ADDRESS OR LOCATION OF PROPERTY (For location, use description such as NE corner of, etc.)

13650 S.W. 82ND Court, Miami, FL 33168

7. SIZE OF PROPERTY (In acres): .98 (divide total sq. ft. by 43,560 to obtain acreage)

8. DATE property acquired leased: June, 1973 9. Lease term: _____ years (month & year)

10. IS CONTIGUOUS PROPERTY OWNED BY THE SUBJECT PROPERTY OWNER(S)? yes no If yes, provide complete legal description of said contiguous property.

11. Is there an option to purchase or lease the subject property or property contiguous thereto? no yes (If yes, identify potential purchaser or lessee and complete 'Disclosure of Interest' form)

12. PRESENT ZONING CLASSIFICATION: _____

13. APPLICATION REQUESTS (Check all that apply and describe nature of the request in space provided)

District Boundary(zone) Changes [Zone(s) requested]: Convert property to 2 equally sized e-m lots.
(Provide a separate legal description for each zone requested)

Unusual Use: _____

Use Variance: _____

Non-Use Variance: _____

Alternative Site Development: Option: _____

Special Exception: _____

Modification of previous resolution/plan: _____

Modification of Declaration or Covenant: _____

14. Has a public hearing been held on this property within the eighteen (18) months? no yes. If yes, provide applicant's name, date, purpose and result of hearing, and resolution number:

15. Is this application a result of a violation notice? no yes. If yes, give name to whom the violation notice was served: and describe the violation: _____

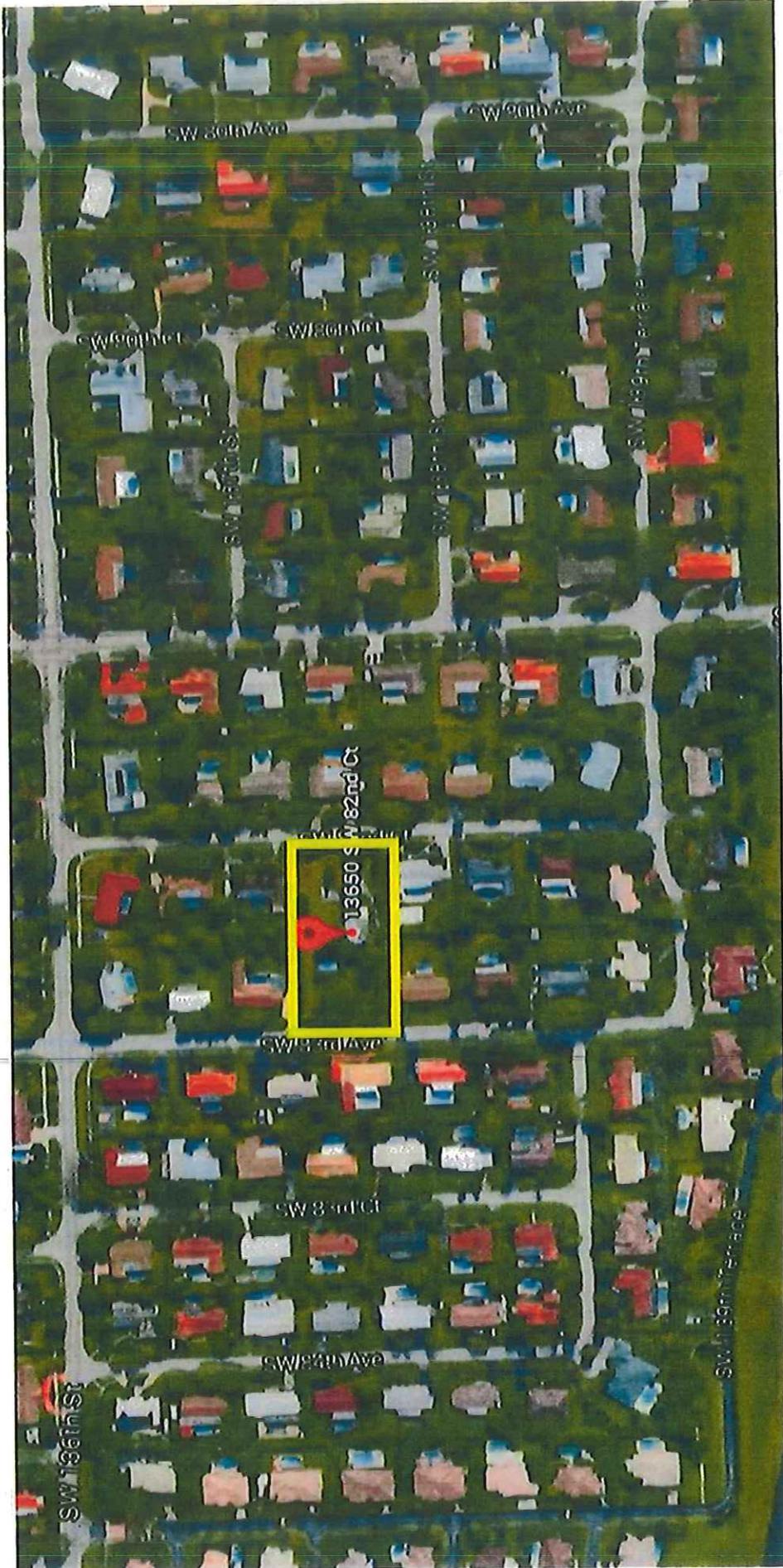
16. Describe structures on the property: Single family home, detached porch and pool

17. Is there any existing use on the property? no yes. If yes, what use and when established? _____
Use: _____ Year: _____

Planning Staff Use Only

Base Fee	Reviewed and Accepted by	Date
Receipt No.	Deemed Complete By	Date





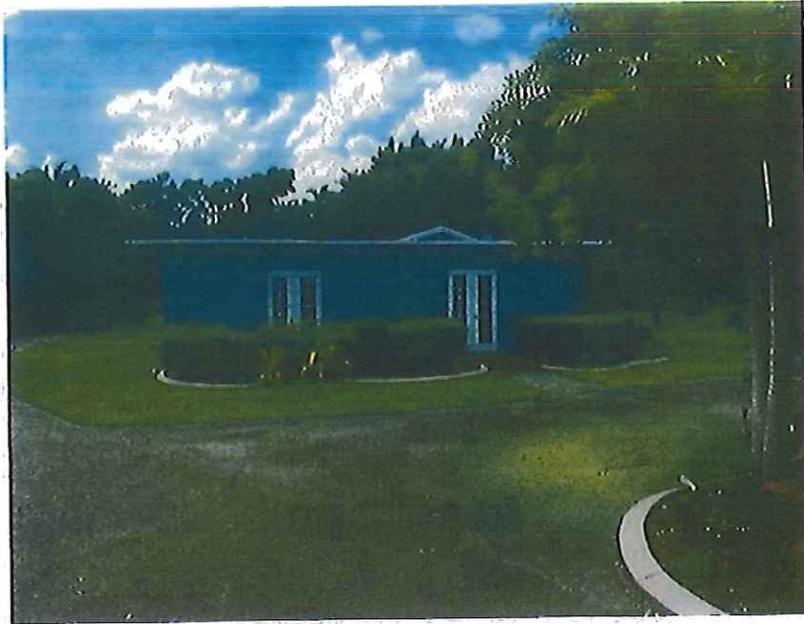
1.



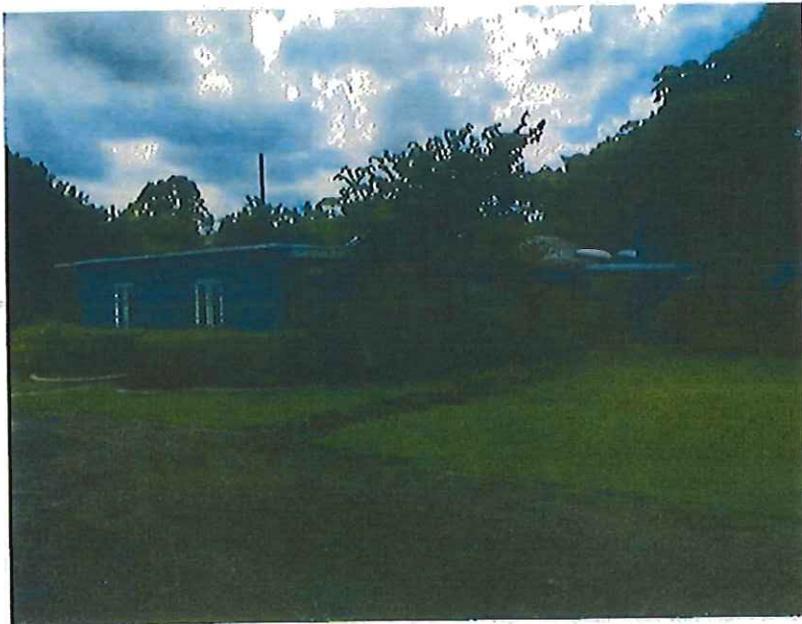
2.



3.



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5.



6.



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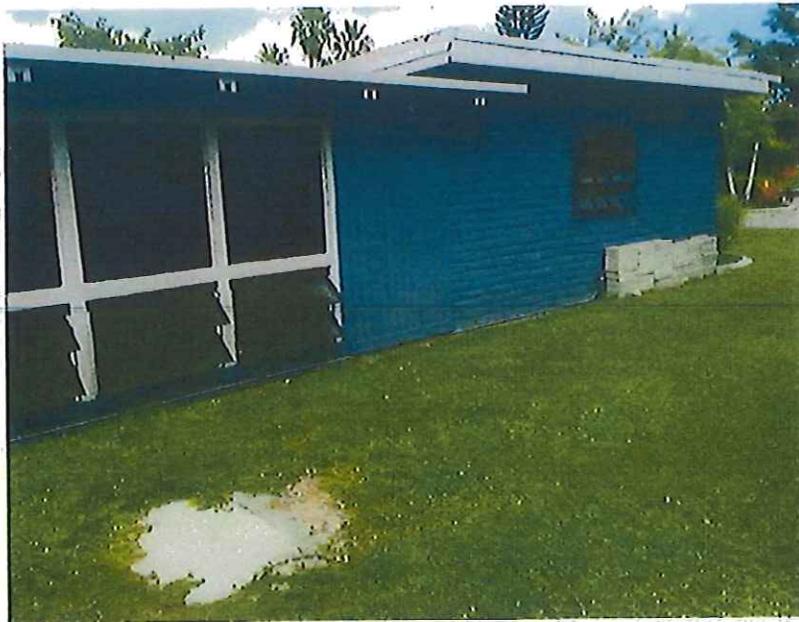
8.



9.



10.



11.



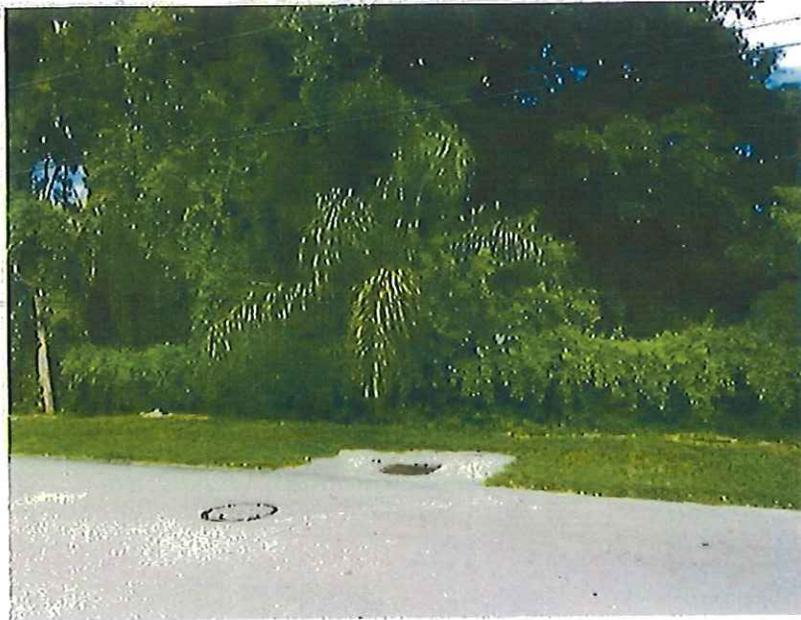
12.



13.



14.



15.



APPLICANT'S AFFIDAVIT

The Undersigned, first being duly sworn, depose that all answers to the questions in this application, and all supplementary documents made a part of the application are honest and true to the best of (my)(our) knowledge and belief. (I)(We) understand this application must be complete and accurate before the application can be submitted and the hearing advertised.

OWNER OR TENANT AFFIDAVIT

(I)(WE), Jennifer Smith, being first duly sworn, depose and say that (I am) (we are) owner tenant of the property described and which is the subject matter of the proposed hearing.

Jennifer Smith (POA)
Signature

Chontay Clark
Signature



CHONTAY A. CLARK
MY COMMISSION # FF897763
EXPIRES July 09, 2019
FloridaNotaryService.com

Sworn to and subscribed to before me
this 15th day of October, 2015.

Notary Public: 07-09-2019
Commission Expires:

CORPORATION AFFIDAVIT N/A

(I) (WE), _____, being first duly sworn, depose and say that (I am) (we are) the President Vice-President Secretary Asst. Secretary of the aforesaid corporation, and as such, have been authorized by the corporation to file this application for public hearing; and that said corporation is the owner tenant of the property described herein and which is the subject matter of the proposed hearing.

Attest: _____

Authorized Signature

Office Held

(Corp. Seal)

Sworn to and subscribed to before me
This _____ day of _____

Notary Public: _____
Commission Expires:

PARTNERSHIP AFFIDAVIT N/A

(I)(WE), _____, being first duly sworn, depose and say that (I am) (we are) partners of the hereinafter named partnership, and as such, have been authorized to file this application for a public hearing; and that said partnership is the owner tenant of the property described herein which is the subject matter of the proposed hearing.

By _____ %

By _____ %

By _____ %

By _____ %

Sworn to and subscribed to before me
This _____ day of _____

Notary Public: _____
Commission Expires:

ATTORNEY AFFIDAVIT N/A

I, _____, being first duly sworn, depose and say that I am a State of Florida Attorney at Law, and I am Attorney for the Owner of the property described and which is the subject matter of the proposed hearing.

Signature

Sworn to and subscribed to before me
This _____ day of _____

Notary Public: _____
Commission Expires:

RESPONSIBILITIES OF THE APPLICANT AFFIDAVIT

I AM AWARE THAT:

1. The Public Works Department, the Department of Environmental Resources Management (DERM), and other County agencies review and critique zoning hearing applications which may affect the scheduling and outcome of my hearing. These reviews may require additional hearings before DERM's Environmental Quality Control Board (EQCB), or other County boards, and/or the proffering of agreements to be recorded. I am also aware that I must comply promptly with any DERM or Public Works conditions and advise this office in writing if my application will be withdrawn.
2. Filing fees may not be the total cost of a hearing. Some requests require notices to be mailed to property owners up to a mile from the subject property and I am responsible for paying the additional radius mailing costs. In addition to mailing costs, I am responsible for additional fees related to application changes, plan revisions, deferrals, re-advertising, etc., that may be incurred. I understand that fees must be paid promptly. Applications withdrawn within 60 days of the filing are eligible for a refund of 50% of the hearing fee but after that time hearings withdrawn or returned will be ineligible for a refund. Refunds must be requested in writing.
3. The Florida Building code requirements may affect my ability to obtain a building permit even if my zoning application is approved; and a building permit will probably be required. I am responsible for obtaining any required permits and inspections for all structures and additions proposed, or built without permits. And that a Certificate of Use (C.U.) must be obtained for the use of the property after it has been approved at Zoning Hearing. Failure to obtain the required permits and/or C.U., Certificates of Completion (C.C.) or Certificate of Occupancy (C.O.) will result in enforcement action against any occupant and owner. Submittal of the Zoning Hearing application may not forestall enforcement action against the property.
4. The 3rd District Court of Appeal has ruled that zoning applications inconsistent with the Comprehensive Plan (CP) cannot be approved by a zoning board based upon considerations of fundamental fairness. Therefore, I acknowledge that if the hearing request is inconsistent with the CP and I decide to go forward then my hearing request can only be denied or deferred, but not approved.
5. Any covenant to be proffered must be submitted to the Village Attorney, on County form, at least 1 month prior to the hearing date. The covenant will be reviewed and the applicant will be notified if changes or corrections are necessary. Once the covenant is acceptable, the applicant is responsible to submit the executed covenant with a current 'Opinion of Title' within 1 week of the hearing. Village Attorney can advise as to additional requirements applicable to foreign corporations. Documents submitted to the Village Attorney must carry a cover letter indicating subject matter, application number and hearing date. Village Attorney may be reached at (305) 854-5353.

Jennifer Smith, POA
(Applicant's Signature)
Jennifer Smith
(Print Name)

Sworn to and subscribed before me this 15 day of October, 2015. Affiant is personally known to me or has produced personally known as identification.

(Notary Public)
My commission expires 07-09-2019

FORM ZH-0107-04



OWNERSHIP AFFIDAVIT
FOR
INDIVIDUAL

STATE OF FLORIDA
COUNTY OF Miami-Dade

Public Hearing No. _____

Before me, the undersigned authority, personally appeared Jennifer Smith
hereinafter the Affiant, who being first duly sworn by me, on oath, deposes
and says:

1. Affiant is the fee owner of the property that is the subject of the proposed hearing.
2. The subject property is legally described as:

THE SOUTH 163 FEET OF THE NORTH 548 FEET OF THE W-1/2 OF THE E-1/2 OF THE NE-1/4 OF THE NW-1/4,
LESS THE EAST 25 FEET AND THE WEST 25 FEET THEREOF, IN SECTION 22, TOWNSHIP 55 SOUTH, RANGE 40
EAST, LYING AND BEING IN DADE COUNTY, FLORIDA.

3. Affiant understands this affidavit is subject to the penalties of law for perjury and the possibility of voiding of any zoning granted at public hearing.

Witnesses:

[Signature]
Signature

Sheron Shelton
Print Name

[Signature]
Signature

Annea Westbrook
Print Name

Jennifer Smith (PSA)
Affiant's signature

Jennifer Smith
Print Name

Sworn to and subscribed before me on the 15th day of October 2015.

Affiant is personally known to me or has produced Personally Present as identification.

Notary

(Stamp/Seal)
Commission Expires:



DURABLE POWER OF ATTORNEY

NOTE: A THIRD PARTY WHO IMPROPERLY REFUSES TO ACCEPT THIS POWER OF ATTORNEY WILL BE LIABLE FOR DAMAGES, INCLUDING REASONABLE ATTORNEY'S FEES AND COSTS, INCURRED IN ANY ACTION OR PROCEEDING THAT CONFIRMS THE VALIDITY OF THIS POWER OF ATTORNEY PURSUANT TO F.S. 709.2120 .

I, JOHN A. SMITH, a/k/a JOHN ANDREW SMITH, as of this June 13, 2013, hereby appoint JENNIFER MARIE SMITH, my daughter, as my true and lawful attorney-in-fact ("my Agent"), to act for me and in my name and on my behalf to exercise the powers listed in this instrument. Except as otherwise provided in the Florida Power of Attorney Act (Fla. Stat. Ch. 709), my Agent may exercise these powers independently and without the approval of any court. My Agent, however, shall exercise all powers in a fiduciary capacity in good faith, as a prudent person would using reasonable care, skill, and caution.

Successors. If at any time my Agent named above fails or ceases to serve as my attorney-in-fact, I appoint STEPHEN MICHAEL SMITH, my son, as my attorney-in-fact.

All successor Agents will have the rights, powers, privileges and discretions specified in this instrument while they are serving as my attorney-in-fact.

Third Parties. Any third party to whom this power of attorney is presented may rely upon an affidavit by my Agent stating, to the best of my Agent's knowledge and belief, that this power has not been revoked, that I am then living, and that no proceedings have been initiated to determine my incapacity. No third party relying on this power and that affidavit will be liable for any losses, damages, or claims caused by compliance with the action requested by my Agent, unless that third party has actual knowledge of my death or the revocation of this power.

Durable Power. This durable power of attorney will not be affected by my subsequent incapacity except as provided in Chapter 709 of the Florida Statutes. It is my specific intent that the power conferred on my Agent will be exercisable from the date of this instrument, notwithstanding my subsequent disability or incapacity, except as otherwise specifically provided by statute.

My Agent will have the following powers and duties:

GENERAL AUTHORITY

1. To manage all assets and properties belonging to me or in which I have any interest, and

DURABLE POWER OF ATTORNEY

to expend whatever funds my Agent deems proper for the preservation, maintenance, or improvement of those assets or properties.

2. To exercise all powers even though my Agent may also be acting individually or on behalf of any other person or entity interested in the same matters (as more fully set forth in the Additional Provisions section).
3. To seek on my behalf the assistance of a court or other governmental agency to carry out an act authorized in this power of attorney and to enforce the exercise of these powers granted to my Agent.
4. To execute, acknowledge, seal, deliver, file, or record any instrument or communication the Agent considers desirable to accomplish a purpose of a transaction, including creating at any time a schedule listing some or all of my property and attaching it to the power of attorney;
5. To exercise any authority reasonably necessary to give effect to an express grant of specific authority in this power of attorney.
6. To the extent not limited under the law of the jurisdiction in which this power of attorney is presented, to take all other actions as may be necessary or appropriate for my personal well-being and the management of my affairs, as fully and as effectively as if made or done by me personally.

REAL PROPERTY

To manage and conserve any real property, or any interest or incidents in real property, on my behalf as stated below. Such property and incidents in property include any interest in homestead property, mineral rights, and cooperative apartments. I give my Agent the following powers:

7. To receive, buy, sell, exchange, lease, encumber, and convey such property; to impose restrictions and covenants; to grant options, releases, and easements, including for public use; to adjust boundaries; and to partition or consent to partitioning, subdivide, apply for zoning or other governmental permits, plat or consent to platting, and engage in development activities for such property; further to do everything necessary to transfer, assign, convey, and deliver any interest I may have in property owned by me (real or personal, tangible or intangible), including, but not limited to, my homestead property as such property is defined by Florida law as amended, to any person or entity, including, but not limited to a trust, such as a revocable or irrevocable trust, or entity, such as a limited liability company, corporation, professional association, partnership, limited partnership, or limited liability limited partnership.
8. To pay or contest any taxes due on such property, and to receive refunds.
9. To engage in any form of litigation regarding the possession, ownership or liability involving such property, including foreclosure on a mortgage, or enforcement of a

DURABLE POWER OF ATTORNEY

contract for sale (including specific performance).

10. To create or receive a security interest in such property, and to satisfy a mortgage.
11. To lease or sublease such property; any such lease will be valid and binding for its full term even if it extends beyond the duration of this power of attorney.
12. To insure the property against liability or casualty or other loss, and to maintain, repair or alter such property, including removing or erecting structures on the property.
13. If not prohibited in this instrument, to change the form of title of such property, including contribution into a business entity in exchange for an interest in that entity.
14. To join with other persons with whom I own property as joint tenants with right of survivorship or as tenants by the entireties in any transaction regarding that property.
15. With respect to income-producing real property, my Agent will have the powers:
 - a. To retain and operate the property for as long as advisable;
 - b. To control, direct, and manage the property, determining the manner and extent of my Agent's active participation in these operations, and to hire one or more supervisors for the property;
 - c. To hire and discharge employees, fix their compensation, and define their duties;
 - d. To invest funds in other land holdings and to use those funds for all improvements, operations, or similar purposes;
 - e. To retain any of the net earnings for working capital and other purposes as advisable in conformity with sound and efficient management; and
 - f. To purchase and sell machinery, equipment, and supplies of all kinds as needed for the operation and maintenance of the property.

TANGIBLE PERSONAL PROPERTY

To manage and conserve any tangible personal property, or any interest in tangible personal property, including exempt property, on my behalf, as follows:

16. To receive, buy, sell, exchange, or otherwise dispose of such property, even if without consideration.
17. To pay or contest any taxes due on such property, and to receive refunds.
18. To engage in any form of litigation regarding the possession, ownership or liability involving such property.
19. To create or receive a security interest in or grant options regarding such property.

DURABLE POWER OF ATTORNEY

20. To lease or sublease such property; any such lease will be valid and binding for its full term even if it extends beyond the duration of this power of attorney.
21. To insure, store, move, maintain, repair or alter such property.
22. If not prohibited in this instrument, to change the form of title of such property, including contribution into a business entity in exchange for an interest in that entity.
23. To surrender possession of such property to me or to members of my family without liability for wear, tear, and obsolescence of the property.

INVESTMENTS

24. To invest in assets, securities, or interests in securities of any nature, whether domestic or foreign markets, including (without limit) stocks, bonds, mutual funds, index funds, or investment funds, including common trust funds, provided such securities are traded on a regulated exchange.
25. To establish or maintain and to trade in credit or margin accounts (whether secured or unsecured), and to pledge assets for that purpose.
26. To hold funds uninvested for such periods as the Agent deems prudent, and to invest in any assets the Agent deems advisable even though they are not technically recognized or specifically listed in so-called "legal lists," without responsibility for depreciation or loss on account of those investments, or because those investments are non-productive, as long as the Agent acts in good faith.
27. To trade in commodities, options, futures, precious metals, and currencies, provided such items are traded on a regulated exchange.
28. To employ a custodian or agent ("the Custodian") located anywhere within the United States, at my expense, whether or not such Custodian is an affiliate of an Agent; to register securities in the name of the Custodian or a nominee thereof without designation of fiduciary capacity; and to appoint the Custodian to perform such other ministerial functions as the Agent may direct, all as permitted in Fla. Stat. Chapter 709. While such securities are in the custody of the Custodian, the Agent will be under no obligation to inspect or verify such securities, nor will the Agent be responsible for any loss by the Custodian.
29. To employ any investment management service, financial institution, or similar organization to advise the Agent; to handle investment of my assets; and to render all accountings of funds held on my behalf under custodial, agency, or other agreements. If the Agent is an individual, these costs may be paid from my assets in addition to compensation payable to the Agent.
30. To receive and hold certificates and other evidences of ownership with respect to stocks and bonds, or to hold such securities in street certificates or in a book entry system.

DURABLE POWER OF ATTORNEY

31. To exercise voting rights with respect to stocks and bonds in person or by proxy, enter into voting trusts, and consent to limitations on the right to vote.
32. To the extent not limited in the Special Transactions section, to apply for, fund, modify, withdraw from, or terminate a qualified tuition plan authorized under 26 USC §529, or its successor provisions, for any of my descendants, including the right to combine accounts, to transfer an account from one state to another, to redirect the investment of the account (to the extent permitted by law), or to change the designated beneficiary of the plan.
33. To conduct investment transactions as provided in Fla. Stat. §709.2208(2).

FINANCIAL MATTERS

34. To collect, receive, and receipt for any and all sums of money or payments due or to become due to me.
35. To continue, establish, modify, or terminate an account, credit or debit card, electronic transfer authorization, or other banking arrangement with a bank, trust company, savings and loan association, credit union, thrift company, brokerage firm, insurance company, or other financial institution selected by the Agent.
36. To make, assign, draw, endorse, discount, guarantee, and negotiate promissory notes, checks, drafts, and other negotiable or nonnegotiable paper.
37. To deposit to or withdraw from, by check, order, electronic funds transfer, wire transfer, or otherwise, money or property of mine held by a financial institution.
38. To receive statements of account, notices, and similar documents from a financial institution and act with respect to them; to contract with a financial institution for services, including renting a safe deposit box or space in a vault.
39. To enter any safe deposit box or vault on which I am a signer and withdraw or add to the contents.
40. To adjust, renew or extend the time of payment of commercial paper, a debt owed to me, a debt I owe, or a debt guaranteed by me, or any other financial transaction.
41. To borrow money on my behalf and pledge as security my personal property; to apply for, receive, and use letters of credit from a financial institution, and give an indemnity or other agreement in connection with them.
42. To conduct banking transactions as provided in Fla. Stat. §709.2208(1).

BUSINESSES AND CONTRACTS

43. To act for me in any business or enterprise, including sole proprietorships, general or limited partnerships, joint ventures, business trusts, land trusts, limited liability companies, and other domestic and foreign forms of organizations (each referred to as an

DURABLE POWER OF ATTORNEY

"Entity"), in which I am now or have been engaged or interested.

44. To change the form of organization or governing jurisdiction under which an Entity is operated, or its name, or any of the above, and to continue any unincorporated business that the Agent determines is not advisable to incorporate.
45. To buy, sell, enlarge or reduce my ownership interest in any Entity, and to contribute additional capital into an Entity in which I have an interest.
46. To enter into an ownership agreement with other persons to take over all or part of the operation of an Entity.
47. To establish the value of an Entity under a buy-sell agreement to which I am a party, and to enforce the terms of any agreement relating to ownership (or sale) of an interest in an Entity.
48. To participate in any type of liquidation or reorganization of any enterprise.
49. To vote and exercise all rights and options, or empower another to vote and exercise those rights and options as permitted by law, concerning any interests in an Entity, in securities, or in other assets; to enter into or approve agreements for merger, reorganization, conversion, domestication or equivalent transactions with respect to any Entity; and to enter into voting trusts and other agreements or subscriptions.
50. To exercise in person or by proxy, or enforce by litigation or otherwise, a right, power, privilege, or option I have as the holder of stocks and bonds;
51. To compromise, arbitrate, or otherwise adjust claims in favor of or against any Entity in which I have an interest.
52. Except as otherwise provided under Fla. Stat. Chapter 709 relating to contracts for personal services, to contract with any person or Entity for any purpose, and to perform that contract; to agree to any termination, release, rescission or modification of any contract or agreement.

INSURANCE, ANNUITIES, AND RETIREMENT FUNDS

For purposes of this section, a "Contract" means a contract of insurance on my life, a contract of insurance regarding my disability or long term care, or an annuity (however denominated). A "Plan" means a retirement plan or account created by an employer, by me, or by another person to provide retirement benefits or deferred compensation for me as a participant, beneficiary, or owner, including a plan or account under the following sections of the Internal Revenue Code (as amended from time to time): an individual retirement account under §§408, 408A, or 408(q); an annuity or mutual fund custodial account under §403(b); a pension, profit-sharing, stock bonus, or other retirement plan qualified under §401(k); a plan under §457(b), and a nonqualified deferred compensation plan under §409A. To the extent not limited in the Special Transactions section, I give my Agent the following powers:

DURABLE POWER OF ATTORNEY

53. To continue, pay the premium or make a contribution on, modify, exchange, rescind, release, or terminate a Contract, whether or not I am a beneficiary under the contract, and whether owned by me or obtained by my Agent;
54. To procure new Contracts for me and any member of my family;
55. To exercise the following rights for Contracts:
- a. To obtain a loan secured by a Contract or to borrow against its value;
 - b. To surrender a Contract and receive its cash surrender value;
 - c. To exercise any election available under that Contract;
 - d. To exercise investment powers, if applicable;
 - e. To change the manner of paying premiums and to select the form and timing of the payment of proceeds;
 - f. To change or convert the Contract to another type;
 - g. To sell, assign, or otherwise transfer the Contract.
56. To obtain property, casualty, liability or any other insurance for me and my property.
57. With respect to a Plan, I give my Agent the following powers:
- a. To select the form and timing of payments and withdraw benefits from the Plan; To make rollovers, including a direct trustee-to-trustee rollover, of benefits from one Plan to another;
 - c. To establish a Plan in my name;
 - d. To make contributions to a Plan;
 - e. To exercise investment powers, if applicable;
 - f. To borrow from, sell assets to, or purchase assets from a Plan.

ESTATES, TRUSTS, AND OTHER BENEFICIAL INTERESTS

To the extent not limited in the Special Transactions section, to act for me regarding any trust, probate estate, guardianship, conservatorship, escrow, custodianship or fund in which I may have a right or beneficial interest, including:

58. To make an election on my behalf for me to receive an elective share, if any, as provided by Florida law as amended from time to time.
59. To exercise for my benefit a presently exercisable general power of appointment.
60. To transfer property to the trustee of a trust created by me or for my benefit.
61. To accept, receipt for, sell, assign, pledge, or exchange my interest; to reject or disclaim, or consent to a modification of, my interest.

DURABLE POWER OF ATTORNEY

62. To initiate and pursue litigation, including settlement, compromise, or alternative dispute resolution, regarding my interest, including a determination of the meaning, validity, or effect of a deed, Will, declaration of trust, or other instrument or transaction affecting my interest, or to remove, substitute, or surcharge a fiduciary.

CLAIMS AND LITIGATION

63. To sue in my name and behalf for the recovery of any and all sums of money or other things of value, payments due or to become due to me, or damages I have sustained or will sustain; to seek an attachment, garnishment, order of arrest, or other preliminary, provisional, or intermediate relief and use an available procedure to effect or satisfy a judgment, order, or decree; and to collect, hold and disburse any property received in satisfaction of judgments.
64. To initiate or participate in adjustments of claims, either by me or against me, including submission to alternative dispute resolution, and to settle or compromise such claims.
65. To participate and bind me in any litigation, including: to waive or accept service of process on my behalf; to appear for me; to agree to stipulations or admission of facts on my behalf (other than a representation as to my personal knowledge); to verify pleadings, seek appellate review, procure and give surety and indemnity bonds, authorize and pay for records and briefs; to receive, execute, and file a consent, waiver, release, confession of judgment, satisfaction of judgment, notice, agreement, or other instrument; and to make or accept a tender or offer of judgment.
66. To pay any and all bills, accounts, claims, and demands now or hereafter payable by me, including a judgment, award, order or settlement made in connection with a claim or litigation.
67. To assert and maintain before a court or administrative agency a claim for relief or cause of action, or to seek an injunction, specific performance, or other relief.
68. To act for me with respect to any bankruptcy or insolvency concerning me or some other person, or with respect to a reorganization or receivership which affects my interest in any property.

PERSONAL AND FAMILY MATTERS

69. To demand, obtain, review, and release to others medical records, documents, or communications protected by the patient-physician privilege, attorney-client privilege, or any similar privilege, including all records subject to, and protected by, the Health Insurance Portability and Accountability Act of 1996, as amended ("HIPAA"). I designate my Agent as my personal representative under HIPAA. My Agent may also enforce any or all of the privileges listed above.
70. To nominate on my behalf a person (including my Agent) or entity to be appointed by a court of appropriate jurisdiction as guardian of my person or property, or both, or as custodian for my property during the pendency of any proceedings to determine my legal

DURABLE POWER OF ATTORNEY

capacity.

71. To receive and open my mail, change my mailing address, and otherwise represent me in any matter concerning the U.S. Postal Service.
72. To access communications intended for me, and communicate on my behalf, whether by mail, electronic transmission, telephone, or other means.
73. To access my accounts involving web-based communications, such as email, memberships in organizations or commercial enterprises, and social media, all of which require a user name and password for access, even to the extent of compelling the provider to reset my information to data of my Agent's choosing.
74. To the extent not limited in the Special Transactions section, to continue or discontinue my membership in any club, religious institution, society, order, or other organization (whether individual or family) and to continue or discontinue payment of dues, fees, or contributions to those organizations.
75. Accept or resign on my behalf from any offices or positions which I may hold, including any fiduciary positions.
76. To hire and compensate attorneys, accountants, advisors, financial consultants, managers, agents, and assistants (including any individual or entity who provides investment advisory or management services, or who furnishes professional assistance in making investments) without liability for any act of those persons, if they are selected and retained with reasonable care. An Agent may serve in one or more of these capacities and be compensated separately for the services in each.
77. To discharge (with or without cause) any person hired by me (or on my behalf), by the Agent, or by any prior Agent, including but not limited to, the categories of persons named above, and physicians, nurses, care-givers, and domestics.
78. To make periodic payments of child support and other family maintenance required by a court or governmental agency or an agreement to which I am a party.

GOVERNMENT BENEFITS AND ACTIONS

This section deals with benefits or actions from or relating to any branch or department of the United States government, any state government, or any foreign government, whether or not recognized by the United States, including without limitation, the Social Security Administration, the Department of Veterans Affairs, the Internal Revenue Service, Medicare or Medicaid, and any government department providing payments or grants. I give my Agent the following powers:

79. To file or process claims, and receive payment for any amounts due me under Social Security, or as payments for retirement under the Civil Service Administration, the Railroad Retirement Act, any plan sponsored by a state (or a subdivision of a state) of the United States, or any branch of the military.

DURABLE POWER OF ATTORNEY

80. To enroll in, apply for, select, reject, change, amend, or discontinue, on my behalf, a benefit or program, and to receive and endorse for deposit in any account any payments that I receive from a governmental source.
81. To file or process claims, and receive payment for medical bills with all insurance companies through which I have coverage, including but not limited to Medicare and Medicaid, and to receive from Blue Cross/Blue Shield, Humana, United Health Care, CHAMPUS, or any other insurer information obtained in the adjudication of any claim in regard to services furnished to me under Title 18 of the Social Security Act.
82. To prepare, execute, and file a record, report, or other document to safeguard or promote my interest under a federal or state statute or regulation; to communicate with any representative or employee of a government or governmental subdivision, agency, or instrumentality, on my behalf.
83. To create, fund, and maintain an Income Trust pursuant to 42 USC §1396(d)(4)(B) in order to qualify me or retain my eligibility for Medicaid or any other public assistance benefits.

TAXES

84. To represent me before any office of the Internal Revenue Service or any state agency, to receive confidential information regarding all tax matters for all periods, whether before or after the execution of this instrument, and to make any tax elections on my behalf.
85. To prepare, sign and file any tax return on my behalf including income, gift, payroll, property, Federal Insurance Contributions Act, claims for refund and other tax returns or other tax-related documents, including receipts, offers, waivers, consents, and agreements.
86. To pay taxes due, collect refunds, post bonds, receive confidential information, and contest assessments, deficiencies, fines, or penalties determined by the Internal Revenue Service or any other taxing authority.
87. To execute on my behalf any power of attorney required by the Internal Revenue Service or other taxing authority with respect to a tax year upon which the statute of limitations has not run and the following 25 tax years.

SPECIAL TRANSACTIONS

Certain transactions under this power of attorney may profoundly affect my existing estate plan and therefore require a separate authorization for my Agent to engage in them. By initialing next to any items within the respective numbered paragraphs in this Special Transactions section, I grant my Agent the authority stated in that paragraph with respect to the item initialed. If I have not initialed an item, my Agent is not authorized to take that action.

88. Gifts. I authorize my Agent to make gifts of my property outright to, or for the benefit of, the persons specified below, including by the exercise of any presently exercisable

DURABLE POWER OF ATTORNEY

general power of appointment which I hold or acquire. For these purposes, a gift "for the benefit of" a person includes a gift to a trust in which that person is a beneficiary, to a custodial account under a state version of the Uniform Transfers (or Gifts) to Minors Act, and to a tuition savings account or prepaid tuition plan as defined under Internal Revenue Code §529. Unless I have provided otherwise in this instrument, gifts made to different donees need not be equal in amount, character or timing. Gifts may be made only to:

yes _____ my children and other descendants

_____ other members of my family, other than those listed above

yes _____ my Agent, despite any limitation under Fla. Stat. §709.2202(2)

_____ any organization qualifying for a gift tax charitable deduction which I have supported or which my Agent, in said Agent's discretion, believes I would support

_____ all of the above in this paragraph.

The gifts to the persons I have specified above, if any, may be made in the following amounts:

_____ in an amount not to exceed \$0- per donee, subject to my Agent's sole and absolute discretion.

_____ in an amount per donee not to exceed the annual dollar limits of the federal gift tax exclusion under Internal Revenue Code §2503(b) (annual exclusion)

_____ any amounts qualifying for federal gift tax exclusion under Internal Revenue Code §2503(e) (medical and educational exclusions)

_____ in an aggregate amount not to exceed my Applicable Exclusion Amount as provided in Internal Revenue Code §2010(c)

yes _____ for estate planning purposes, in unlimited amounts

_____ my Agent may **NOT** make any gifts of my property or exercise any powers of appointment I may hold. (I understand this limitation may have unintended or undesirable effects, but I choose it anyway.)

89. Trusts. I authorize my Agent to deal with trusts created by me, for me, on my behalf, or in connection with gifts from me to others as provided in the paragraph above authorizing gifts, as follows:

_____ To create an inter vivos trust, whether revocable or irrevocable, in which I am a beneficiary

_____ To the extent permitted in the trust agreement, to amend, revoke, or terminate a

DURABLE POWER OF ATTORNEY

trust of which I am a beneficiary, or transfer the assets of such a trust into another trust under which I am a beneficiary

_____ To create, amend, or revoke trusts for the benefit of others

_____ To participate in either judicial or nonjudicial modification of a trust as permitted in Fla. Stat, Chapter 736

Yak _____ all of the above in this paragraph.

90. Survivorship and Other Designations. My Agent may create or alter the nature of accounts in which I have an interest, as follows:

Yak _____ To create or change rights of survivorship in accounts or other assets in which I have an interest.

Yak _____ To change a beneficiary designation for any accounts or financial instruments, including life insurance policies, annuities, or retirement accounts of any nature

Yak _____ To waive my right to be a beneficiary of a joint and survivor annuity, including a survivor benefit under a retirement plan of any nature

91. Disclaimers. My Agent may disclaim interests in property on my behalf as follows:

_____ Disclaim any interest in property I might otherwise receive, either outright or in trust

_____ Disclaim any powers I have over property or as a beneficiary of any trusts (excluding any powers I possess in a fiduciary capacity)

_____ Disclaim any powers of appointment I have or may acquire, excluding any testamentary power of appointment that I currently exercise in my Last Will and Testament

ADDITIONAL PROVISIONS

Protection for Agent. I understand, acknowledge and anticipate that many of my Agent's actions taken pursuant to specific grants of authority in this instrument could involve said Agent in conflicts of interest (created either by me or by my Agent), or call into question my Agent's apparent loyalty to me, or both. This might result from the totality of the circumstances facing the Agent at that time, or by virtue of the Agent's specific actions that might create the conflict of interest. I want my Agent to be free to act in my interest without concern over questionable lawsuits. Therefore, so long as my Agent acts in good faith, said Agent will be protected as follows:

a. My Agent does not have an affirmative duty to act under this power of attorney and will

DURABLE POWER OF ATTORNEY

not be liable for any claim or demand arising out of said Agent's good faith acts or omissions, except for actions or omissions resulting from my Agent's dishonesty, improper motive, or reckless indifference to the purposes of this power of attorney.

- b. My Agent may have competing interests for said Agent or the Agent's affiliates, and I waive any express duty of loyalty imposed under Fla. Stat. §709.2114(2).
- c. My Agent may have a conflict of interest as provided in Fla. Stat. §709.2116. Despite that section, my Agent may undertake a transaction on my behalf even if another party to that transaction is: (i) a business or trust controlled by my Agent, or of which an Agent, or any director, officer, or employee of a Corporate Agent, is also a director, officer, or employee; (ii) an affiliate or business associate of my Agent; or (iii) an Agent acting individually. This exception also extends to any relative of such a party.
- d. I fully indemnify my Agent out of my assets and my estate for any actions brought against said Agent, and damages said Agent sustains, including attorneys' fees and costs, that have as a basis my Agent's actions or inactions resulting in both a claim for breach of fiduciary duty and actual damages to me or my estate, but this protection does not extend to actions or omissions resulting from my Agent's dishonesty, improper motive, or reckless indifference to the purposes of this power of attorney.
- e. My Agent will not be liable for any actions by a predecessor agent if the Agent does not participate in or conceal the action. An Agent is not required to review the actions of a predecessor agent, absent actual knowledge by the Agent of wrongdoing.

Compensation and Expenses. My Agent will be entitled to reasonable compensation and reimbursement for all expenses reasonably incurred by said Agent on my behalf.

Foreign Accounts. Despite any power granted to the Agent in this instrument or under law, my Agent may not exercise any power over, or transact any business with respect to, an account in a foreign country, as defined in 31 CFR 1010.350(c) and 1010.350(d), unless the Agent expressly and specifically accepts such authority in writing.

Delegation of Powers. My Agent may not delegate the powers given as my attorney-in-fact, except as follows:

- a. To grant a transfer agent or similar person the authority to register securities in my name or the name of a nominee.
- b. For investment management purposes as provided in Fla. Stat. §518.112.

DURABLE POWER OF ATTORNEY

- c. To any other person, as may be permitted under the law of another jurisdiction in which this instrument is presented.

Suspension of Rights and Duties. All powers granted to an Agent will be suspended immediately if he or she becomes disabled. For these purposes, an Agent's disability is determined as follows:

- a. If an Agent is determined to be incapacitated by a court having jurisdiction.
- b. In the absence of a judicial determination, and if the majority of my children reasonably believe that an Agent is suffering from any mental or physical incapacity that would affect his or her ability to manage my affairs, and if they obtain written confirmation of that opinion from that Agent's physician, those persons shall give that Agent written notice to that effect. Upon delivery to the Agent of that written notice, all powers of that Agent as my attorney-in-fact will be suspended until his or her legal capacity is determined by a court, until his or her physician determines the Agent is no longer disabled, or until the persons entitled to give such written notice rescind it.
- c. If an Agent fails to sign a release of relevant medical information necessary to determine his or her capacity, that Agent will be suspended for 30 days after the request for such a release is delivered to him or her by the persons described above. If the Agent consents to the release of relevant medical information, and is determined not to be disabled, he or she may elect to resume service as Agent by giving written notice to me and to the persons named above.

Use of Copies. As provided in Fla. Stat. §709.2106, a photocopy or electronic copy of this power is sufficient for its exercise.

Partial Invalidity. If any part of this power of attorney is declared invalid or unenforceable, that decision will not affect the validity of the remaining parts.

Limitation on actions of Agent. No Agent may participate in an action to the extent that a payment or distribution pursuant to that action would discharge a legal support obligation of that Agent. No Agent who is the insured of any insurance policy that I own may exercise any rights or have any incidents of ownership with respect to the policy, including the power to change the beneficiary, to surrender or cancel the policy, to assign the policy, to revoke any assignment, to pledge the policy for a loan, or to obtain from the insurer a loan against the surrender value of the policy. All such power is to be exercised solely by another Agent, if any.

DURABLE POWER OF ATTORNEY

In witness whereof, I have executed this durable power of attorney as of the date first written above.

John A. Smith
JOHN A. SMITH

[Signature]
Witness

Address: Christian Molina
6040 NW 179 Street, Apt. 402
Miami, FL 33016

Marlene Krantz
Witness
Marlene Krantz

Address: Marlene Krantz
7314 Big Cypress Ct.
Miami Lakes, FL 33014

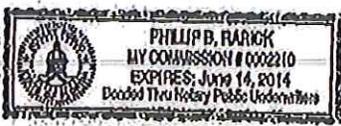
STATE OF FLORIDA)
)
COUNTY OF MIAMI-DADE)

The foregoing Durable Power of Attorney was acknowledged and subscribed before me on June 13, 2013 by JOHN A. SMITH, Principal, who personally appeared before me, is personally known to me or presented a driver's license as identification.

Witness my hand and official seal.

[SEAL]

[Signature]
NOTARY PUBLIC



AFFIDAVIT BY ATTORNEY-IN-FACT

Before me, the undersigned authority, personally appeared JENNIFER MARIE SMITH, ("Affiants"), who swore or affirmed that:

1. Affiant is the attorney-in-fact named in the Durable Power of Attorney executed by JOHN A. SMITH (the "Principal") on June 13, 2013.
2. This Durable Power of Attorney is currently exercisable by Affiant. The Principal is domiciled in Florida.
3. To the best of Affiant's knowledge after diligent search and inquiry:
 - a. The Principal is not deceased; and
 - b. The Durable Power of Attorney has not been revoked; partially or completely terminated by adjudication of incapacity of the Principal or by the occurrence of an event referred to in the Durable Power of Attorney; or suspended by initiation of proceedings to determine the incapacity of the Principal,
4. Affiant is acting within the scope of authority granted in the Power of Attorney.
5. Affiant agrees not to exercise any powers granted by the Durable Power of Attorney if Affiant learns that any averment in Section 3a or 3b is no longer accurate.

Jennifer Marie Smith
JENNIFER MARIE SMITH 8/2/13

STATE OF FLORIDA)
COUNTY OF MIAMI-DADE)

The foregoing instrument was acknowledged before me on June 13, 2013, by JENNIFER MARIE SMITH who personally appeared before me, is personally known to me or presented a driver's license as identification and did take an oath.

[SEAL]



Johnathon Franco
State of Florida
MY COMMISSION # EE 065060
Expires: January 14, 2017

Johnathon Franco
Notary Public - State of Florida

PROPOSED SKETCH & DESCRIPTION LOT 2

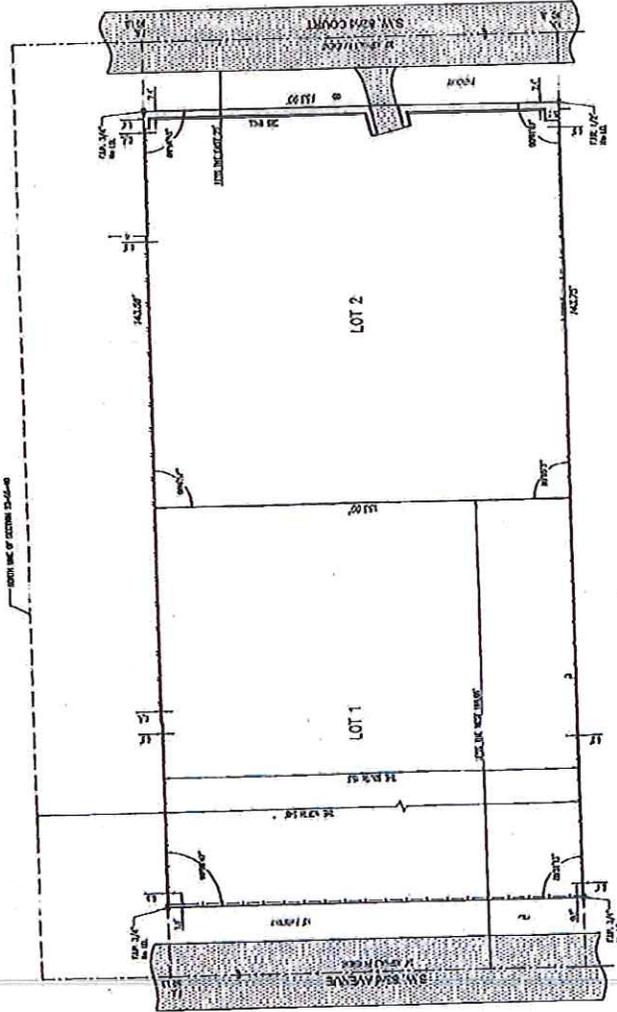
- LEGEND**
- CONC. = CONCRETE
 - CONC. WALL = CONCRETE BLOCK STRUCTURE
 - C = CENTER LINE
 - E = EASEMENT
 - A = AREA
 - F.I.R. = FOUND IRON ROD
 - F.I.P. = FOUND IRON PIPE
 - F.M. = FOUND MAIL
 - F.D.H. = FOUND DIRT HOLE
 - U.S. = UTILITY
 - L.A.E. = LAKE MAINTENANCE EASEMENT
 - N.O. = NO OBJECT
 - N/A = NOT APPLICABLE
 - N.C.V.D. = NATIONAL GEODETIC VERTICAL DATUM
 - N.A.V.D. = NORTH AMERICAN VERTICAL DATUM
 - O/L = ON LINE
 - P.L. = PLAT BOOK
 - P = PLAT
 - U.L. = UTILITY EASEMENT
 - P.S.M. = PROFESSIONAL SURVEYOR AND MAPPER
 - P.C.P. = PERMANENT CONTROL POINT
 - R/W = RIGHT OF WAY
 - R = RADIUS
 - IS/SA = ITS SUCCESSORS AND/OR ASSIGNS
 - AS/MA = AS THEIR INTEREST MAY APPEAR

- SYMBOLS**
- ☐ AIR CONDITIONER
 - ☐ COOK HOOK
 - ☐ WATER METER
 - ☐ POLE POLE
 - ☐ WATER HEATER
 - ☐ FIRE HYDRANT
 - ☐ CEMENT BLOCK
 - ☐ CEMENT BLOCK
 - ☐ ELECTRICAL
 - ☐ TELEPHONE BOX
 - ☐ MAILBOX
 - ☐ UTILITY POLE
 - ☐ UTILITY POLE
 - ☐ CONCRETE POLE
 - ☐ WOOD POLE
 - ☐ CEMENT ELEVATION
 - ☐ CONCRETE AREA
 - ☐ CONC. WALL
 - ☐ IRON ROD (R.I.R.)
 - ☐ CHAIN LINK FENCE (C.L.F.)
 - ☐ WOOD FENCE (W.F.)
 - ☐ METAL FENCE (M.F.)
 - ☐ PAPER FENCE (P.F.)
 - ☐ MET. FENCE (M.F.)

CERTIFIED TO:

LEGAL DESCRIPTION:
 LOT 2 DESCRIBED AS:
 THE SOUTH 100 FEET OF THE NORTH 200 FEET OF THE W-1/2 OF
 SECTION 22, TOWNSHIP 33 SOUTH, RANGE 40 EAST, T-10N, R-40E, IN
 DADE COUNTY, FLORIDA

SURVEY NOTES:
 LIMITED TO LABEL IMPROVEMENTS ONLY AS SHOWN
 HEREON. LANDS SHOWN HEREON WERE NOT ACQUIRED BY DISCRETE
 PURCHASE OR AS PART OF A FEDERAL ACQUISITION UNDER THE PROVISIONS OF THE REVENUE ACT OF 1926.



TITLE: PHOTOSHOP SKETCH & DESCRIPTION LOT 2	DATE: 10/01/2023	SCALE: 1" = 20'	NOTES: REVISIONS	PROJECT: LOT 2	SHEET: 1 OF 1
COMMUNITY PANEL / FLOOD ZONE	BASE FLOOD EL.: 10.00'	DESIGN ST. ELEV.: 10.00'	DESIGNED BY: L.L.C.	THIS SURVEY WERE THE STANDARDS OF PRACTICE AS SET FORTH BY THE FLORIDA BOARD OF PROFESSIONAL SURVEYORS AND MAPPERS IN CHAPTER 5A-17, FLORIDA ADMINISTRATIVE CODE	DESIGNED BY: L.L.C.

PROPOSED
ORDINANCE

1
2 FINAL VOTE AT ADOPTION:
3
4 Council Member Karyn Cunningham _____
5
6 Council Member Tim Schaffer _____
7
8 Council Member Larissa Siegel Lara _____
9
10 Vice-Mayor John DuBois _____
11
12 Mayor Eugene Flinn _____
13
14



To: Honorable Mayor and Village Council

Date: March 7, 2016

From: Edward Silva, Village Manager

Re: Third Supplemental Report
Parking Waiver Procedure
Ordinance for 1st Reading

**AN ORDINANCE OF THE MAYOR AND VILLAGE COUNCIL OF
THE VILLAGE OF PALMETTO BAY, FLORIDA, RELATING TO
ZONING; CREATING SECTION 30-70 OF THE LAND
DEVELOPMENT CODE RELATING TO REQUIRED PARKING
EXEMPTIONS; PROVIDING FOR ORDINANCES IN CONFLICT,
CODIFICATION, SEVERABILITY AND AN EFFECTIVE DATE.**

UPDATE SINCE PREVIOUS HEARING:

This item was originally presented on March 2, 2015 but, was continued so that staff could provide the Village Council a greater explanation regarding various parking remedies for commercial properties. The item was rescheduled for a hearing that occurred on April 6, 2015 and included the requested supplemental report exploring the pros and cons of various parking relief remedies.

To allow time to digest, that report was released three weeks prior to the April Council hearing. As a result of the issuance of that report, it was desired to again continue the item from the April hearing to June 1, 2015, so that other parking remedies could be incorporated into the proposed ordinance. The item that was presented on June 1, 2015 reflected those additional parking remedies. During discussion of the item during the June 1st hearing, it was expressed that bicycle parking facilities should also be contemplated as a potential remedy to alleviate automobile parking requirements.

The proposed ordinance is reflective of the efforts described above and is the specific item being offered for First Reading consideration. The previous reports and corresponding proposed ordinances are attached by way of history, background and reference (Attachment A). Analysis of this most current request shall be as reflected in this report.

PROPOSED CHANGES:

The following reflects a menu of remedy options available to commercial developments so that they may fully comply with parking requirements as they seek to lease their tenant spaces. Multiple options are offered as no one remedy is necessarily appropriate to each situation.

Parking Reduction Waiver Request. The original proposal recognized that not all businesses share identical operational demands. This methodology offers a remedy that may be more nimble

than a variance request or change of law, and one that would be considerably less timely or expensive to pursue. Where it is determined that a parking deficiency exists, the prospective business owner may complete a parking study to determine if the operational demands of the use does not over burden the property where it is to be located. The review, approval, denial or approval with conditions, of that plan would be completed administratively. If the applicant and staff do not agree, the owner may elect to pursue the variance option. The fee for parking analysis review shall be half of that for a non-use variance application. Appeal of the administrative final decision shall be by way of non-use variance upon which the application shall pay other half of the variance application fee plus any other costs (public hearing and advertising) associated with the application and hearing as provided by ordinance. The relief procedure shall only be available to existing development. Parking facilities for new developments shall be built according to the standards provided by each use category as applicable.

Shared Usage Agreements. Just as was described in the methodology above, not all business share the same operational models. In this case, some only have morning operations, other afternoons, some only evenings, and others still with some combination thereto. The principal here is that parking is calculated as though all business operate at the same time and at full capacity. This of course is not the case. For example, a breakfast establishment may open at 5:00 am and close by 3:00 pm, whereas a karate studio may not open until 3:00 pm but close by 9:00 pm. Shared usage agreements allow for those spaces to be counted when they are needed. Such agreements shall be completed through a covenant running with the land. Should the uses covered by the agreement change or the hours of operation change, all zoning approvals become null.

On-Street Parking. Another option provided by current code involves shifting a portion of the required parking to the curb. This remedy is currently only available in the Franjo Triangle and Island (FT&I) District. The proposed change makes the option available to other commercially zoned areas of the Village. A key difference, however, is the prohibition to locate on-street parking on right-of-ways adjacent to single family residential uses. Otherwise, the ordinance operates in much the fashion as it does for the FT&I District.

Valet Parking. The valet parking code was modified to provide a procedure for existing development to meet parking requirements. Parking can be on site or at a shared site and tandem spaces are permitted. The code does not permit the alteration of parking facilities or landscaped areas.

Nonconforming Development. This section was amended to provide greater clarification regarding nonconforming uses. Although this is broadly covered by the Village's nonconforming code provisions at Section 30-10.4, and was the standard practice of staff, the inserted language provides greater specificity. The amended provision allows existing development to continue to enjoy the parking standard required at the time of their original development.

Bicycle Parking in Lieu of Automobile Parking. This option permits the inclusion of four (4) bicycle parking spaces to replace one required automobile parking space. This method may reduce

require automobile parking by up to 5% or ten (10) spaces, whichever is less. Only those bicycle parking spaces in excess of those required by code may be eligible to replace automobile parking spaces.

Calculation of Required Parking. This new provision is reflective of procedures already exercised by staff and provides clearer authority thereto. It allows spaces to be calculated based on their actual usage such as storage area versus retail area of a grocery. It also excludes from calculation such areas as bathrooms, storage closets, hallway corridors, and lobbies that are not used as waiting areas.

ANALYSIS:

The proposed ordinance was reviewed for consistency with the criteria established in Section 30-30.7(b). All previous reports, and the Update, and Proposed Changes sections of this report fully incorporated into all portions of this analysis and is incorporated into each criterion delineated below. The following is a review of those criteria:

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

Analysis: The Village's Comprehensive Plan or Concurrency Management Plan does not directly address parking requirements. However, Goal 1 of the Comprehensive Plan has a stated intent to protect residential areas. As such, a portion of this amendment was tailored to limit the impact to adjacent single family uses by prohibiting adjacent on-street parking.

Finding: Consistent.

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

Analysis: The proposed ordinance is internally consistent with the remaining portions of Section 30-70 in that it seeks the (unstated) intent to ensure adequate parking is provided on site for those uses approved thereon. The menu of remedies offers options to commercial developments to meet parking requirements as they seek to lease their tenant spaces.

Findings: Consistent.

Criteria (3) Whether, and the extent to which, land use and development conditions have changed since the effective date of the existing regulations, and whether the changes support or work against the proposed change in land use policy.

Analysis: As reflected in the Background section of the prior reports and the Proposed Changes sections of this report (and prior reports), considerable time has passed since the adoption of the first parking code and the development of the commercial portions of the Village. The proposed amendment offers multiple avenues for relief when such standards fall out of sync with the proposed use; and it does so in a manner that does not compromise the conforming status of the receiving property.

Findings: Consistent.

Criteria (4) Whether, and the extent to which, the proposal would result in any incompatible land uses, considering the type and locations of uses involved, the impact on the adjacent or neighboring properties, consistency with existing development, as well as compatibility with existing and proposed land uses.

Analysis: The proposed ordinance does not change permitted uses. It merely provides a level of flexibility when siting business within the Village. The intent is to determine if approving the new use would create such an impact. If one exists, the request is denied, if it does not, then it is approved.

Finding: Consistent.

Criteria (5) Whether, and the extent to which, the proposal would result in demands on transportation systems, public facilities and service; would exceed the capacity of the facilities and services, existing or programmed, including: transportation, water and wastewater services, solid waste disposal, drainage, recreation, education, emergency services, and similar necessary facilities and services.

Analysis: The proposed ordinance does not alter permitted use, intensities or densities. As such, it does not impact the above systems.

Finding: Consistent.

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

Analysis: The proposed ordinance may only affect existing parking facilities and does not impact the above systems.

Finding: Consistent.

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

Analysis It is anticipated, though not quantified, that the ordinance will likely have a positive effect on property values. The logic is as follows; a fully rented commercial facility is worth more than one partially or fully unleased.

Findings: Consistent.

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

Analysis The proposed ordinance does not change permitted uses or change any provisions which affect the development of land.

Findings: Consistent.

Criteria (9) Whether the proposal would be in conflict with the public interest, and whether it is in harmony with the purpose of Chapter 30.

Analysis: See Analysis under Criteria 2, 3 and 4.

Finding: Consistent.

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

Analysis: As per the direction of the Village Council.

Finding: As determined by the Village Council.

FISCAL/BUDGETARY IMPACT:

It is anticipated that the cost to process requests contemplated by the proposed ordinance be fiscally neutral.

RECOMMENDATION:

Approval is recommended.

Attachments:
(A) Report



Darby Delsalle, AICP
Planning & Zoning Director

Manager's Report
for
Third Supplemental Report
Parking Waiver Procedure Ordinance

ATTACHMENT A



To: Honorable Mayor and Village Council

Date: May 22, 2015

From: Edward Silva, Village Manager

Re: Second Supplemental Report
Parking Waiver Procedure -
Ordinance for 1st Reading

AN ORDINANCE OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, RELATING TO ZONING; CREATING SECTION 30-70 OF THE LAND DEVELOPMENT CODE RELATING TO REQUIRED PARKING EXEMPTIONS; PROVIDING FOR ORDINANCES IN CONFLICT, CODIFICATION, SEVERABILITY AND AN EFFECTIVE DATE.

BACKGROUND:

On March 2, 2015, a proposed parking waiver procedure was read into the public record for consideration of a potential administrative process that would offer an avenue of relief from current parking codes for businesses seeking to locate within the Village. No vote was taken on the item for first reading and instead it was deferred so that the Mayor and Village Council could review additional information regarding the nature of the proposal.

The initiative was driven by a need to find a remedy for commercial properties that were experiencing challenges in leasing tenant spaces that would comply with the parking codes of the Village. Put into context, these properties are attempting to lease to 21st century uses and business models at locations built to pre-1970's development standards¹.

A supplemental report was issued on March 17, 2015 which identified other methodologies that may be utilized to seek a remedy to a parking deficiency. That report was issued three (3) weeks prior to the April 6, 2015, Mayor and Village Council hearing to provide additional time for the consideration of other methodologies. Some of the options presented in the supplemental report are currently provided for by the Village's code whereas others are not. As a result of that supplemental report, staff requested a continuance of the item so that the proposed ordinance may be revised to reflect a fuller menu of options available to remedy a parking deficiency. That continuance was granted without a date certain. The proposed ordinance from the March 2, 2015 hearing, its report, and the subsequent supplemental report are attached hereto as Exhibit A.

Attached to this second supplemental report is a newly proposed ordinance which seeks to provide viable parking relief procedures that avoid the challenges presented in the prior supplemental report.

¹ Please see the original staff report dated February 23rd, 2015, as provided at Exhibit A, for a fuller explanation of this paragraph.

Those approaches include a waiver request process, shared usage parking, on-street parking, modification of existing valet parking rules, a clarification of nonconformity for existing developments, and a clarification regarding parking amount calculations. All proposed changes are presented in the Proposed Changes section of this report.

The newly proposed ordinance is separately advertised for first reading to reflect the expanded nature of the item. Because the prior request never received an approval at first reading, it is considered dead. The two prior reports are incorporated into this second supplemental report by reference. The Analysis section of this report shall replace that provided by the initial staff report issued on February 23, 2015.

PROPOSED CHANGES

The following reflects a menu of remedy options available to commercial developments so that they may fully comply with parking requirements as they seek to lease their tenant spaces. Multiple options are offered as no one remedy is necessarily appropriate to each situation.

Parking Reduction Waiver Request. The original proposal recognized that not all businesses share identical operational demands. This methodology offers a remedy that may be more nimble than a variance request or change of law, and one that would be considerably less timely or expensive to pursue. Where it is determined that a parking deficiency exists, the prospective business owner may complete a parking study to determine if the operational demands of the use does not over burden the property where it is to be located. The review, approval, denial or approval with conditions, of that plan would be completed administratively. If the applicant and staff do not agree, the owner may elect to pursue the variance option. The fee for parking analysis review shall be half of that for a non-use variance application. Appeal of the administrative final decision shall be by way of non-use variance upon which the application shall pay other half of the variance application fee plus any other costs (public hearing and advertising) associated with the application and hearing as provided by ordinance. The relief procedure shall only be available to existing development. Parking facilities for new developments shall be built according to the standards provided by each use category as applicable.

Shared Usage Agreements. Just as was described in the methodology above, not all business share the same operational models. In this case, some only have morning operations, other afternoons, some only evenings, and others still with some combination thereto. The principal here is that parking is calculated as though all business operate at the same time and at full capacity. This of course is not the case. For example, a breakfast establishment may open at 5:00 am and close by 3:00 pm, whereas a karate studio may not open until 3:00 pm but close by 9:00 pm. Shared usage agreements allow for those spaces to be counted when they are needed. Such agreements shall be completed through a covenant running with the land. Should the uses covered by the agreement change or the hours of operation change, all zoning approvals become null.

On-Street Parking. Another option provided by current code involves shifting a portion of the required parking to the curb. This remedy is currently only available in the Franjo Triangle and Island (FT&I) District. The proposed change makes the option available to other commercially zoned areas of the Village. A key difference, however, is the prohibition to locate on-street parking on right-of-ways adjacent to single family residential uses. Otherwise, the ordinance operates in much the fashion as it does for the FT&I District.

Valet Parking. The valet parking code was modified to provide a procedure for existing development to meet parking requirements. Parking can be on site or at a shared site and tandem spaces are permitted. The code does not permit the alteration of parking facilities or landscaped areas.

Nonconforming Development. This section was amended to provide greater clarification regarding nonconforming uses. Although this is broadly covered by the Village's nonconforming code provisions at Section 30-10.4, and was the standard practice of staff, the inserted language provides greater specificity. The amended provision allows existing development to continue to enjoy the parking standard required at the time of their original development.

Calculation of Required Parking. This new provision is reflective of procedures already exercised by staff and provides clearer authority thereto. It allows spaces to be calculated based on their actual usage such as storage area versus retail area of a grocery. It also excludes from calculation such areas as bathrooms, storage closets, hallway corridors, and lobbies that are not used as waiting areas.

ANALYSIS:

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

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

Analysis: The Village's Comprehensive Plan or Concurrency Management Plan does not directly address parking requirements. However, Goal 1 of the Comprehensive Plan has a stated intent to protect residential areas. As such, a portion of this amendment was tailored to limit the impact to adjacent single family uses by prohibiting adjacent on-street parking.

Finding: Consistent.

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

Analysis: Please see Background and Proposed Changes sections of this report. The proposed ordinance is internally consistent with the remaining portions of Section 30-70 in that it seeks the (unstated) intent to ensure adequate parking is provided on site for those uses approved thereon. The menu of remedies offers options to commercial developments to meet parking requirements as they seek to lease their tenant spaces.

Findings: Consistent.

Criteria (3) Whether, and the extent to which, land use and development conditions have changed since the effective date of the existing regulations, and whether the changes support or work against the proposed change in land use policy.

Analysis: Please see Background and Proposed Changes sections of this report. As reflected in the Background and Proposed Changes sections of this report (and prior reports), considerable time has passed since the adoption of the first parking code and the development of the commercial portions of the Village. The proposed amendment offers multiple avenues for relief when such standards fall out of sync with the proposed use; and it does so in a manner that does not compromise the conforming status of the receiving property.

Findings: Consistent.

Criteria (4) Whether, and the extent to which, the proposal would result in any incompatible land uses, considering the type and locations of uses involved, the impact on the adjacent or neighboring properties, consistency with existing development, as well as compatibility with existing and proposed land uses.

Analysis: Please see Background and Proposed Changes sections of this report. The proposed ordinance does not change permitted uses. It merely provides a level of flexibility when siting business within the Village. The intent is to determine if approving the new use would create such an impact. If one exists, the request is denied, if it does not, then it is approved.

Finding: Consistent.

Criteria (5) Whether, and the extent to which, the proposal would result in demands on transportation systems, public facilities and service; would exceed the capacity of the facilities and services, existing or programmed, including: transportation, water and

wastewater services, solid waste disposal, drainage, recreation, education, emergency services, and similar necessary facilities and services.

Analysis: The proposed ordinance does not alter permitted use, intensities or densities. As such, it does not impact the above systems.

Finding: Consistent.

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

Analysis: The proposed ordinance may only affect existing parking facilities and does not impact the above systems.

Finding: Consistent.

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

Analysis: It is anticipated, though not quantified, that the ordinance will likely have a positive effect on property values. The logic is as follows; a fully rented commercial facility is worth more than one partially or fully unleased.

Findings: Consistent.

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

Analysis: The proposed ordinance does not change permitted uses or change any provisions which affect the development of land.

Findings: Consistent.

Criteria (9) Whether the proposal would be in conflict with the public interest, and whether it is in harmony with the purpose of Chapter 30.

Analysis: See Analysis under Criteria 2, 3 and 4.

Finding: Consistent.

Second Supplemental Report
Parking Waiver Procedure
1st Reading
May 22, 2015
Page 6 of 6

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

Analysis: As per the direction of the Village Council.

Finding: As determined by the Village Council.

FISCAL/BUDGETARY IMPACT:

It is anticipated that the cost to process requests contemplated by the proposed ordinance be fiscally neutral.

RECOMMENDATION:

Approval is recommended.

Darby Delsalle, AICP
Planning & Zoning Director

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

2
3 * * *

4
5 (b) Exemptions.

6
7 * * *

8
9 (4) Parking Reduction Waiver Request. It is acknowledged that for parking
10 calculation purposes, parking requirements and demand may shift for
11 existing developments over time as the use or mix of uses change. In cases
12 where the required parking, as provided for in this Division, for a proposed
13 use exceeds the amount of spaces available on the receiving property, the
14 applicant may request a Parking Reduction Waiver in lieu of pursuing a
15 public hearing variance.

16
17 a. Eligibility. These provisions shall only apply to existing
18 developments.

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

21
22 1. The applicant shall file an application and pay a filing fee
23 equal to half the cost of a non-use variance modification,

24
25 2. The application shall include a parking study confirming
26 whether or not the existing parking facilities of the
27 development adequately accommodate the proposed use.
28 The parking study shall be prepared by an engineer, architect,
29 or city planner, with expertise in parking, and shall be paid for
30 by the applicant. The Village may hire its own engineer,
31 architect, or city planner, at the applicant's expense, to
32 evaluate applicant's parking study.

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

35
36 c. The Director of Planning and Zoning, or his/her designee, shall
37 either approve, approve with conditions, or deny the request based
38 on the parking study's finding of adequacy to accommodate of the
39 proposed use. Any approval shall be specific to the applicant's
40 requested use and will be deemed null should the operations cease
41 for a period of six (6) months or longer. Any expansion of the
42 approved use shall require full compliance with required parking or
43 resubmission of a waiver request as provided by this section. Denial
44 of a waiver request may be appealed to the Mayor and Village
45 Council pursuant to public hearing variance procedures as provided
46 at Division 30-30 of the Village's Land Development Code. All

1 applicable public hearing fees shall apply, and an application fee of
2 the appeal shall be half the cost of a non-use variance modification.
3

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

- 14 a. The use or portion of a use, that requires the shared parking in order
15 to obtain the necessary permits or licenses, shall cease and terminate
16 upon any change in their respective schedules of operation that
17 results in conflicting or overlapping usage of the parking facilities;
18 b. and/or no nonresidential use may be made of that portion of the
19 property until the required parking facilities are available and
20 provided.

21 The covenant shall also provide that the Village may collect attorneys' fees if
22 litigation is necessary to enforce the requirements of this section.
23

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

29
30 a. All allocation of on-street parking spaces counted towards on-site
31 parking requirements shall be by written agreement between the
32 village and property owner, as reviewed by the Village Attorney for
33 legal sufficiency, and approved by the village manager. The
34 agreement shall clearly delineate the terms and conditions. The
35 village manager upon the advice of the village council, will
36 determine if the installation of parking meters is warranted and
37 appropriate for the area.

38
39 b. On-street parking shall be prohibited from those portions of right-
40 of-way adjacent to single family residential uses, and shall fully
41 comply with Division 30-100.1, Landscaping Regulations.

42
43 c. On-street parking constructed by property owner as part of their
44 development in question shall receive a credit with the village for
45 said spaces for a term five (5) years. Thereafter, an annual fee of
46 \$1,000.00, per space, which shall increase five percent annually,
47 shall be paid to the village for all on-street parking spaces which

1 are credited or counted toward minimum parking requirements for
2 new structures. Unallocated on-street parking spaces may be
3 allocated to a development. The development seeking to use the
4 unallocated on-street spaces shall pay a fee of \$1,000 per space
5 which shall increase five percent annually.
6

7 d. Failure to comply with the provisions of this subsection, shall
8 result in the loss or revocation of the certificate of use and/or
9 occupancy for the property failing to meet minimum parking
10 requirements for the project, and subject the property to a daily
11 penalty of \$250.00, per day.
12

13 e. Funds received under subsection 30-70.2(b)(6)d. shall be paid into
14 the Parking District Improvement Trust Fund, which shall be a
15 trust account separated from the village's general fund accounts.
16 The funds from the Parking District Improvement trust account
17 shall be used at the village council's discretion for the specific
18 purpose of developing or reimbursing the village for construction
19 and improvement to public parking facilities, infrastructure with
20 the intent to increase parking capacity, and the installation of
21 metering devices. Funds collected in this account may also be used
22 towards items that improve the pedestrian environment and may
23 include, but not be limited to bicycle parking and racks, sidewalk
24 improvements and maintenance, bench installation, water
25 fountains, outdoor recycle bins, signage for parking and bicycle
26 racks, tree planting and maintenance.
27

28 * * *

29
30 Sec. 30-70.5 Size and character of parking spaces.

31
32 The following requirements shall be observed for parking:

33 * * *

- 34
35 (i) Valet parking. Valet parking may shall be permitted, on-site or off-site, to provide
36 contribute towards meeting parking in excess of minimum parking requirements for
37 existing developments. For the village to consider approval of valet parking, a plan
38 must be submitted and shall include the location of valet spaces, insurance
39 requirements, staffing hours of operation, and the traffic circulations pattern
40 indicating all aspect of the valet operation to include drop-off and stacking areas and
41 may be used together with a shared parking agreement to ensute full compliance
42 with minimum required parking standards. The plan cannot alter previously
43 approved landscaping requirement, setbacks or buffers. Tandem parking shall be
44 permitted under valet parking plan. Robotic parking in an internally enclosed parking
45 garage shall be permitted.
46

47 * * *

1
2 Sec. 30-70.8 Amount of parking.

3 The minimum number of parking spaces to be provided and maintained for each use or occupancy
4 shall be as ~~follow~~ provided in this section. Developments built prior to this provision shall be
5 considered nonconforming and continue to rely upon the amount of parking standard required at
6 the time of their original development.

7
8 * * *

9
10 Sec. 30-70.12 Calculating required parking spaces.

11
12 * * *

13
14 (d) Unless otherwise specified in Section 30-70.8, parking amount shall be calculated
15 based on actual use of space, (e.g. grocery stores shall have separate calculations for
16 actual retail customer service area and storage areas). Bathrooms, storage closets,
17 hallway corridors, and lobbies not used as waiting areas shall be excluded from
18 parking calculations.

19
20
21 **Section 2. Conflicting Provisions.** The provisions of the Code of Ordinances of the
22 Village of Palmetto Bay, Florida and all ordinances or parts of ordinances in conflict with the
23 provisions of this ordinance are hereby repealed.

24
25 **Section 3. Severability.** The provisions of this Ordinance are declared to be severable,
26 and if any sentence, section, clause or phrase of this Ordinance shall, for any reason, be held to be
27 invalid or unconstitutional, such decision shall not affect the validity of the remaining sentences,
28 sections, clauses or phrases of the Ordinance, but they shall remain in effect it being the legislative
29 intent that this Ordinance shall stand notwithstanding the invalidity of any part.

30
31 **Section 4. Codification.** It is the intention of the Village Council and it is hereby
32 ordained the provisions of this Ordinance shall become and be made part of the Code of
33 Ordinances of the Village of Palmetto Bay, Florida, that sections of this Ordinance may be
34 renumbered or re-lettered to accomplish such intentions, and that the word "Ordinance" shall be
35 changed to "Section" or other appropriate word.

36
37 **Section 5. Effective Date.** This ordinance shall take effect immediately upon
38 enactment.

39
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41
42 PASSED and ENACTED this ____ day of _____, 2015.

43
44
45 First Reading: _____
46 Second Reading: _____

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Attest: _____
Meighan Alexander
Village Clerk

Eugene Flinn
Mayor

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

Dexter W. Lehtinen
Village Attorney

FINAL VOTE AT ADOPTION:

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

EXHIBIT A



To: Honorable Mayor and Village Council

Date: March 17, 2015

From: Ron E. Williams, Village Manager

Re: Pre-release of Council
Requested Items

The attached items are provided to you in advance of the regular agenda release for the April 6, 2015, Mayor and Village Council hearing. These items are provided as per your direction on March 2, 2015. Village staff looks forward to sitting with you to discuss each item.



To: Honorable Mayor and Village Council

Date: March 17, 2015

From: Ron E. Williams, Village Manager

Re: Supplemental Report
Parking Waiver Procedure
Ordinance for 1st Reading

BACKGROUND:

On March 2, 2015, a proposed parking waiver procedure was read into the public record for consideration of a potential administrative process that would offer an avenue of relief from current parking Codes for businesses seeking to locate within the Village. No vote was taken on the item for first reading and instead it was deferred so that the Mayor and Village Council could review additional information regarding the nature of the proposal. This supplemental report is offered for that purpose.

This report describes the Certificate of Use process and provides a presentation on the challenges faced by a few commercial property owners and businesses seeking to locate within the Village. The final section will provide a discussion as to potential remedies. That portion of the report highlights some of the strengths and weaknesses of those approaches.

CERTIFICATES OF USE

The Certificate of Use program is a review process utilized by many jurisdictions to ensure that any given use, whether new, relocating or expanding, complies with those development standards appropriate thereto. It is the first application a prospective business makes when seeking to locate or expand within the Village. A certificate of use (CU) is the primary permitting tool utilized by the Village to ensure that the operational nature of any given business is appropriately suited to the zoning district within which it is located. Although a CU is principally a zoning instrument, its issuance is not rendered until conformance to the appropriate codes are properly reviewed and approved. The review process often involves the Village's Building Department as well as agencies from the Miami-Dade County such as the Department of Environmental and Resource Management (DERM), Water and Sewer Department (WASD), and the Fire Department.

Before any of the above reviews are performed and any application is accepted or fee paid, Village staff first checks to see if the requested use (ie. business) is permitted within the receiving zoning district. If it is determined that the use is permitted, the next step is to check if there is sufficient parking per code requirements to support the use at the requested location. The zoning code provides a matrix which delineates how many parking spaces a particular use must provide. Typically it is a function of the total floor of the business in question (ie. 1 space per 300 square feet). For multi-tenant centers, all leasable space, whether occupied or not must be included in the calculation. The principal reason for ensuring compliance is to prevent parking demand from

spilling out onto adjacent properties or the right-of-way. Another intent involves ensuring adequate and safe parking is available at any given property for the proper operation of the facility. If the proposed use requires more parking than is available for allocation at the site, the Village is prohibited by ordinance from approving the CU request. It is worth noting that it has been Village practice to perform a preliminary parking review prior to taking in a CU application and corresponding fee. This is done to save the customer from the expense of paying for an application that would likely result in a denial due to parking requirements.

THE PARKING CHALLENGE

The previous report spoke of older developments built under older parking standards as applied to new uses and new business models. Some businesses and their operation may change overtime and new businesses ideas and models may come into being. Changes in the market place may also affect the lease-ability of a commercial property. The essence of the issues addressed in this section were initially presented in the original staff report dated February 23, 2015. The following are excerpts of that report.

“Most of the new businesses that (re)locate [or expand] within the Village typically have business models that neatly comport to the Village’s parking standards and that of the parking facilities available at their new location. There are however times when the business model and the receiving locale do not sync well with the Village’s established parking standards.”

To understand why the above scenario exists, the following was offered.

“The Village’s parking code was modeled after Miami-Dade County which originally adopted theirs in 1957. Approximately 78% of the Village’s commercial development was constructed prior to 1970¹, and built to the standards of that Code. Since that time, new uses have come into being, others have adjusted their operational models, while others still have ceased to operate or even exist. Put into context, the occasion arises that 21st century uses and business models are trying to fit themselves into pre 1970’s development standards.”

As stated above, the majority of businesses that seek to locate within the Village are able to comply with the parking code. This is typically the case because the proposed business fits neatly into a parking category originally assigned to the building or property. Hence, parking functionality is presumed to exist per original code approvals, and the use thusly clears that portion of the CU review². This is of course not always the case. There are from time to time requests that do not

¹ This data was culled by CoStar, a real estate data service provider, and was provided to the Village as part of Lambert Advisory’s, Downtown Redevelopment Task Force market report.

² Compliance at this level of review should not be presumed to mean full conformance with the amount of parking as so identified within the current parking matrices. It is possible that a given property may enjoy a protected nonconforming status as it pertains to the permitted amount of parking as applied at the time of its original development. It is also

comply with the parking code. This report is not suggesting that every business which does not comply with the parking code be entitled to or should receive a waiver. Not all commercial properties have the facilities to support the parking demands of a business. Some uses have operational demands that may inevitable overwhelm the receiving site. The consequence of authorizing such a use could be parking spillage into the right-of-way or the adjacent neighborhood. Overall, the existing parking code does a good job of capturing and controlling for that issue. However, there are other uses, which despite the parking prescribed by code, may have operational demands that can be accommodated by the receiving property's parking facilities.

Hard data is not kept on those businesses which don't meet the parking requirement since as a courtesy to the requestor, no application or fee is collected if the first two review steps identified above are not met. Regardless, attached to this supplemental report are tables that reflect current vacancies at Village area shopping centers³. Some, but not all, have experienced difficulty from time to time locating business at their respective properties. What the tables do not reflect are those commercial properties that are smaller or may be single tenant facilities. Those properties are provided on a separate list with aerials to demonstrate their configurations. What should not be gleaned from this data is a vacancy rate driven solely by parking concerns, as there are many factors that may contribute to such a condition. What is of note, frontline zoning personnel have encountered on occasion a CU request for a business whose parking operational demands do not comport to that of the standard established by Code, and that some commercial properties tend to be prone to higher vacancies rates than the rest of the Village. The reasons for which those properties are challenged vary.

One example cited in the February 23, 2015 report described an MRI facility moving into a flex warehouse space. MRI facilities are classified as medical with a parking calculation of one space per 200 square feet. Yet, MRI facilities devote more space to equipment, the tests take longer, and thus fewer patients can be seen on any given day when compared with a traditional general practitioner's office. Another challenge presented to prospective businesses that don't comply with the parking code relates to the times of their operations. Not all businesses are open at the same time, yet the code requires their calculation as if they were. The prior report provided the example of a karate studio versus a breakfast/lunch diner establishment. The former operates primarily in the evening and weekend, the other in the morning and early afternoon. Another scenario involves buildings originally developed to one standard, say office or light warehouse, but are now more marketable to uses with different parking calculations, say yoga studio, or an MRI facility (respectively). Each of the two examples requires a parking calculation of greater intensity. The tables on the next page, offered by the Village's traffic engineering consultant, Marlin Engineering, reflects the peak hours of different uses within broad commercial categories.

possible that a given property may benefit from a prior variance approval which waived all or a portion of required parking.

³ The information provided in these tables and list are reflective of those businesses that have a business tax receipt or CU on file with the Village's Planning and Zoning Department.

Weekday Peaks	Evening Peaks	Weekend Peaks
Banks Schools Medical clinics Offices Professional services	Auditoriums Bars and dance halls Meeting halls Restaurants Theaters Personal Services	Religious institutions Parks Shops and malls Personal Services

Uses	M-F	M-F	M-F	Sat. & Sun.	Sat. & Sun.	Sat. & Sun.
	8am-5pm	6pm-12am	12am-6am	8am-5pm	6pm-12am	12am-6am
Office/ Warehouse /Industrial	100%	20%	5%	5%	5%	5%
Commercial	90%	80%	5%	100%	70%	5%
Hotel	70%	100%	100%	70%	100%	100%
Restaurant	70%	100%	10%	70%	100%	20%
Movie Theater	40%	80%	10%	80%	100%	10%
Entertainment	40%	100%	10%	80%	100%	50%
Conference/Convention	100%	100%	5%	100%	100%	5%

These tables are offered as a guide and not a hard fast rule. One of the experiences that make frontline zoning work interesting is learning about the unique operational demands of the many businesses out there. So, while the above tables may serve as a guide, it, as well as the zoning code with its rigid structure of uses and culled parking rate averages, cannot anticipate every business operational model.

THE PARKING REMEDY

Current Code offers multiple paths for relief from the parking requirement. Presented here, they include shared parking agreements, on-street parking facilities, variances, or a modification of Code. Also presented is multi tenet parking option as well as additional discussion of the proposed option.

Shared Parking Agreements. One alternative available to remedy a technical (as opposed to actual) parking imbalance is through the use of shared parking. Our Code currently provides for this option. Shared parking provisions work by allowing required parking to be located on a separate property. For the program to work, the adjacent property must be within 300⁴ feet of the principal property where the use is located, and have surplus spaces available that are not already allocated to

⁴ Section 30-70.2(b)(2) only applies to governmental and commercial lots. The approval process is administrative and requires the property owners to record a covenant to reflect the shared parking agreement. That covenant, together with a long term lease would be submitted to the Village's Planning Department and include a review by the Village Attorney for legal sufficiency.

existing building square footage at that donating site. This option is not available to most properties as much of the existing development is at or near capacity for their respective parking requirements.

On-Street Parking. Another option provided by current code involves shifting a portion of the required parking to the curb. This remedy is currently only available in the Franjo Triangle and Island (FT&I) District. Although it is a preferred option (at least as it pertains to the Village's downtown area), the associated cost to construct the on-street parking areas may serve as a deterrent when the offsetting benefit is the capture of just a single business. This approach makes greater sense with redevelopment or new development.

A Multi-Tenant Parking Standard. An alternative akin to the shared parking concept above is an approach suggested in the tables above. The idea would be to adjust required parking for multi-tenant centers reflective of the averages of typical commercial mixes. Typically what would happen is again, an average or standard would be established. So instead of calculating each individual use, the center would be assigned one parking calculation which would be presumed to represent all the possible use combinations (or at least the likely average thereto). From a staff implementation side and business side, the solution is simple; users no longer need to justify parking compliance. However, the challenge with this approach is that there is no certainty as to whether the available parking facilities may in fact be sufficient to manage the actual mix of uses at the center. The impact could likely be parking spillover into the neighborhoods, hence sending parking into swales and landscaped areas. This solution also does not address single use facilities which would still rely upon a specific parking standard as provided in the existing parking matrix.

Variances. A variance is a form of development order which if granted allows for a total or partial waiver from a zoning standard(s). The approvals run with land, but may be written in a manner specific to the nature of the request. They can be reviewed and authorized administratively or at a public hearing by the Mayor and Village Council. The Village's Code provides for both varieties.

Administrative Variance. Current Code does not permit administrative parking variances. This subsection is submitted for your consideration so that the other options presented may be put into context. The Villages' administrative variance procedure is drafted in a manner that largely relies upon the existence of certain conditions within a narrow purview. Requests of this nature are limited in scope and number as may be applied to any given property. Decisions are rendered based on the fulfillment of certain criteria, such as location of request, scope of request (size), non-objection of adjacent neighbors, preservation of trees, etc. Actual technical review is limited because such requests are considered de minimus. The strength of an administrative variance is that it can typically be completed in half the time of a public hearing variance and is less expensive to process.

Public Hearing Variance. Public hearing variance requests go to the Mayor and Village Council as the final decision making body. These requests can be without limitation⁵. Applicants are not limited in

⁵ With the exception of the FT&I District, Village Code does not permit variances that request unpermitted uses within a zoning district.

the number of requests or the nature of the requests. The request(s) could be for a partial waiver or the complete elimination of the rule as applied to the proposed development. The standard of review for the Village's public hearing variance is that of a "Strict Hardship". Strict hardships generally apply when there is a determination that development would be severely restricted or outright blocked unless a variance is granted. Strict hardship criteria are generally viewed through the prism that the rule is clearly delineated. An example of a property that may qualify for a strict hardship variance would be a pie shaped lot. As the lot narrows, compliance with required setbacks becomes increasingly prohibitive. When placed in the rubric of a business requesting a parking adjustment, it becomes difficult to justify a variance using such standards. Simply wanting a business at a particular location where parking becomes the challenge would not qualify as a strict hardship. Further, public hearing variances take more time than an administrative process and are more expensive to process do to the additional steps involved.

Text Amendment. Another solution to remedy a business model/parking incongruence is to amend provisions of the parking code which respond to the new reality. New uses could be added to the parking matrix to represent that unique operation. And there are times when such an approach may be necessary. For example, many early parking codes did not contemplate drive through facilities. As these became common, codes were amended to reflect the safe and efficient operation of this model. The same can be done for individual uses as their unique needs are identified. This approach has many challenges. First, how often must a particular type of business be turned down before a code change is initiated? The imposition upon a single business model may not be justification enough to amend a code provision. But without the amendment, the use cannot open for business. Second, is it just the nature of a particular use or is it the operator's unique way of managing a business model that does not sync well with code? As in the first question, it may not be appropriate to amend the code every time a business has a novel approach to their operations. Amendments to code should only be pursued when a clear pattern is established. Third, if an amendment is pursued, can the prospective business tolerate the wait needed to accommodate a change of law? Changes in code take time. Florida Statutes requires two hearings. This makes the process longer than a variance which only requires one hearing. Forth, does the cost to pursue such a change exceed the owner's tolerance as part of their start-up costs? The cost of an amendment is reflective of the time and effort involved to enact the legislation.

Administrative Parking Waiver. The information provided by this supplemental report may not reflect all considerations, but it does represent a fair range of issues that may arise and the options that are available to remedy. No parking code will ever be fully complete. New uses may be added from time to time, but at what point does the matrix of parking standards become overly long? It would be seemingly difficult to list every single conceivable business type within the zoning parking code. Amendments to code should not be reactive to a singular situation. They should only be done when a clear pattern is established. In this particular case a pattern has appeared, but not one reflective of any particular business model. The pattern that has evolved is broader. At times, there has come a new business and/or new business model, which may foreseeable be able to operate within acceptable parameters on a particular property. When applied to the existing parking matrix,

the use does not comply with the established parking standard. This is the matter staff is attempting to resolve with a methodology that is based on a technical review of parking operations. The analysis and peer review is performed by professionals in the field of parking. If the two reviews agree with each other, the waiver is granted to that business and its operation as identified within the CU. Where there is disagreement, the matter may be brought before the Mayor and Village Council for final resolution.

CONCLUSION

Any of the above solutions may be implemented to remedy what has become a challenge for a few commercial property owners and prospective businesses. None of them, including the amendment proposed by staff, are perfect in resolving all potential issues. It may very well be possible that a tool box of approaches is needed to ensure businesses which experience the challenges discussed in this report are able to open up shop within the Village in a manner that will allow for proper parking operation functionality.

Darby Delsalle, AICP
Planning & Zoning Director



To: Honorable Mayor and Village Council

Date: February 23, 2015

From: Ron E. Williams, Village Manager

Re: Parking Waiver Procedure
Ordinance for 1st Reading

**AN ORDINANCE OF THE MAYOR AND VILLAGE COUNCIL OF THE
VILLAGE OF PALMETTO BAY, FLORIDA, RELATING TO ZONING;
CREATING SECTION 30-70.2(b)(4) OF THE LAND DEVELOPMENT
CODE RELATING TO REQUIRED PARKING EXEMPTIONS;
PROVIDING FOR ORDINANCES IN CONFLICT, CODIFICATION,
SEVERABILITY AND AN EFFECTIVE DATE.**

BACKGROUND:

The Village of Palmetto Bay has approximately 1,000 active businesses within its jurisdictional boundaries. The turnover rate averages approximately 10% of that total every year. Most of the new businesses that (re)locate within the Village typically have business models that neatly comport to the Village's parking standards, and that of the parking facilities available, at their new location. There are however times when the business model and the receiving locale do not sync well with the Village's established parking standards. Under current Code the available remedy is a variance; a process that may prove to be both timely and expensive. The proposed ordinance offers an alternative path which relies upon the actual demands of the proposed business relative to the facilities available at the site. To understand the nature of the proposal, the following is offered for your consideration:

On October 20, 2008, the Mayor and Village Council adopted Ordinance 08-20, which established Division 30-70, Required Parking, of the Village's Land Development Code, which provided parking standards for uses within the Village. The Village's parking code was modeled after Miami-Dade County which originally adopted theirs in 1957. Approximately 78% of the Village's commercial development was constructed prior to 1970¹, and built to the standards of that Code. Since that time, new uses have come into being, others have adjusted their operational models, while others still have ceased to operate or even exist. Put into context, the occasion arises that 21st century uses and business models are trying to fit themselves into pre-1970's development standards.

Parking categories are broken down into categories such as retail, office, medical, assembly, etc. As stated above, the majority of new business requests do in fact conform to current Code, but not all do. The challenge presented to Village staff and to a prospective business looking to set up shop in

¹ This data was culled by CoStar, a real estate data service provided, and was provided to the Village as part of Lambert Advisory's, Downtown Redevelopment Task Force market report.

the Village is when the operational demands of the use relative to the receiving property does not comply with the parking code.

One solution would be to completely rewrite that portion of Code that sets the parking amount standard. However, this exercise is not without its own problem. First, changing the parking standards cart blanc runs the risk of creating parking nonconformities across the vast majority of existing development within the Village. This could result in greater challenges in located new business than exists today. Further, given most requests for new businesses do comply with Code, such an amendment could be deemed unnecessary.

A second alternative would be to create a unique parking standard for new or altered uses not fully contemplated by current Code. Such an example would be an MRI facility. Classified as diagnostic, its parking standard is significantly higher than its actual operational demand. MRI facilities need more space due to equipment, yet see fewer patients than say a facility that merely draws blood. Current parking standards would prevent such a facility from locating in an industrial flex space that is typically built with fewer parking stalls. This despite the fact that it may be demonstrated, by way of a parking study, that the property is capable of managing the demands of the use. The deficiency with the individualized parking standards approach is first, it makes the Code reactive and adds unnecessary delay to the prospective business as they await an ordinance change. Second, should such an approach be followed, the Village could end up with an endless list of uses with unique parking standards.

Another potential challenge presented to a prospective business occurs when locating within a multi-tenant center. The Code requires all parking to be calculated as if the center were fully leased with all businesses operating at the same time. However, not all businesses share the same operational hours. Some close by mid-day, others only open in the evening. Some may be open all day but have customer volumes that occur at predictable times (i.e. karate studio or breakfast/lunch diner). There are jurisdictions that remedy this conflict with provisions that contemplate the hours of operation of a particular business. The Village could pursue such a Code; however the attached proposed ordinance is capable of achieving the same result while addressing a broader issue discussed above.

The proposed ordinance recognizes that not all businesses share the identical operational demands. It offers a remedy that is more nimble than a variance request or change of law, and one that would be considerably less timely or expensive to pursue. Where it is determined that a parking deficiency exists, the prospective business owner may complete a parking study to determine if the operational demands of the use does not over burden the property where it is to be located. The review and approval, denial or approval with conditions, of that plan would be completed administratively. If the applicant and staff do not agree, the owner may elect to purse the variance option. The fee for parking analysis review shall be half of that for a non-use variance. Appeal of the administrative final decision shall be by way of non-use variance upon which the application shall pay other half of the variance fee plus any other costs associated with the application and hearing as provided by ordinance. The relief procedure shall only be available to existing development. Parking facilities for

new developments shall be built according to the standards provided by each use category as applicable.

ANALYSIS:

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

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

Analysis: The Village's Comprehensive Plan or Concurrency Management Plan do not address parking requirement.

Finding: Not applicable.

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

Analysis: Please see Background section of this report. The proposed ordinance is internally consistent with the remaining portions of Section 30-70 in that it that is seeks the (unstated) intent to ensure adequate parking is provided on site for those uses approved thereon. No parking study shall be approved that fails to demonstrate adequate parking exists to accommodate a use(s) at a particular property.

Findings: Consistent.

Criteria (3) Whether, and the extent to which, land use and development conditions have changed since the effective date of the existing regulations, and whether the changes support or work against the proposed change in land use policy.

Analysis: Please see Background section of this report. As reflected in the Background Section of this report, considerable time has passed since the adoption of the first parking code and the development commercial portions of the Village. The proposed amendment offers an avenue for relief when such standards fall out of sync with the proposed use; and it does so in a manner that does not compromise the legal conforming status of the receiving property.

Findings: Consistent.

Criteria (4) Whether, and the extent to which, the proposal would result in any incompatible land uses, considering the type and locations of uses involved, the impact on the adjacent or neighboring properties, consistency with existing development, as well as compatibility with existing and proposed land uses.

Analysis: Please see Background section of this report. The proposed ordinance does not change permitted uses. It merely provides a level of flexibility when siting business within the Village. The intent of the parking study is to determine if approving the new use would create such an impact. If one exists, the application is denied, if it does not, then it is approved.

Finding: Consistent.

Criteria (5) Whether, and the extent to which, the proposal would result in demands on transportation systems, public facilities and service; would exceed the capacity of the facilities and services, existing or programmed, including: transportation, water and wastewater services, solid waste disposal, drainage, recreation, education, emergency services, and similar necessary facilities and services.

Analysis: The proposed ordinance does not alter permitted use, intensities or densities. As such, it does not impact the above systems.

Finding: Consistent.

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

Analysis: The proposed ordinance may only affect existing parking facilities and does not impact the above systems.

Finding: Consistent.

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

Analysis: It is anticipated, though not quantified, that the ordinance will likely have a positive effect on property values. The logic is as follows; a fully rented commercial facility is worth more than one partially or fully unleased.

Findings: Consistent.

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

Analysis The proposed ordinance does not change permitted uses or change any provisions which affect the development of land. It only applies to existing developments.

Findings: Consistent.

Criteria (9) Whether the proposal would be in conflict with the public interest, and whether it is in harmony with the purpose of Chapter 30.

Analysis: See Analysis under Criteria 2, 3 4 and 7.

Finding: Consistent.

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

Analysis: As per the direction of the Village Council.

Finding: As determined by the Village Council.

FISCAL/BUDGETARY IMPACT:

It is anticipated that the cost to process requests contemplated by the proposed ordinance, be fiscally neutral.

RECOMMENDATION:

Decision for the Village Council.

Darby Delsalle, AICP
Planning & Zoning Director

ORDINANCE NO. _____

AN ORDINANCE OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, RELATING TO ZONING; CREATING SECTION 30-70.2(b)(4) OF THE LAND DEVELOPMENT CODE RELATING TO REQUIRED PARKING EXEMPTIONS; PROVIDING FOR ORDINANCES IN CONFLICT, CODIFICATION, SEVERABILITY AND AN EFFECTIVE DATE.

WHEREAS, on October 20, 2008, the Mayor and Village Council adopted Ordinance 08-20, which established Division 30-70, Required Parking, of the Village's Land Development Code, which included Section 30-70.2(b), establishing the conditions under which a property may be exempt from parking requirements; and

WHEREAS, it is in the public interest for the Village to provide regulations for parking consistent with industry standards and practices, available technologies, available land resources, and traffic engineering in an effort to protect public security, privacy, and welfare, and

WHEREAS, it is further in the public interest for the Village to provide under proper circumstances for a waiver of the applicable requirements for parking facilities for existing developments, so that the issuance of a parking reduction waiver is in the public interest under such circumstances; and

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

WHEREAS, on April 6, 2015, the Local Planning Agency approved the proposed amendment; and

WHEREAS, the Mayor and Village Council, now desire to establish a procedure through which the citizens and/or property owner of the Village may request a parking reduction waiver, and through which the Village may approve, deny or approve with conditions such requests.

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

Section 1. Section 30-70.2(b)(4) of the Village's Code of Ordinances shall be created to read as follows:

DIVISION 30-70. - PARKING AND LOADING STANDARDS

* * *

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

* * *

1
2 (b) Exemptions.
3

4 * * *

5
6 (4) Parking Reduction Waiver Request. It is acknowledge that for parking
7 calculation purposes, parking requirements and demand may shift for
8 existing developments over time as the use or mix of uses change. In cases
9 where the required parking, as provided for in this Division, for a proposed
10 use exceeds the amount of spaces available on the receiving property, the
11 applicant may request a Parking Reduction Waiver in lieu of pursuing a
12 public hearing variance.

13
14 (1) Eligibility. These provisions shall only apply to existing
15 developments.

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

18
19 a. The applicant shall file an application and pay a filing fee
20 equal to half the cost of a non-use variance modification.

21
22 b. The application shall include a parking study confirming
23 whether or not the existing facilities can accommodate the
24 proposed use. The parking study shall be prepared by a
25 certified engineer, licensed in the State of Florida with
26 expertise in parking, and shall be paid for by the applicant.
27 The Village may hire its own engineer, at the applicant's
28 expense, to evaluate applicant's parking study.

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

31
32 (3) The Director of Planning and Zoning, or his/her designee, shall
33 either approve, approve with conditions, or deny the request. Any
34 approval shall be specific to the applicant's requested use and will be
35 deemed null should the operations cease for a period of six (6)
36 months or longer. Any expansion of the approved use shall require
37 full compliance with required parking or resubmission of a waiver
38 request as provided by this section. Denial of a waiver request may
39 be appealed to the Mayor and Village Council pursuant to public
40 hearing variance procedures as provided at Division 30-30 of the
41 Village's Land Development Code. All applicable public hearing fees
42 shall apply however the application fee shall be half the cost of a
43 non-use variance modification.

44
45 **Section 2. Conflicting Provisions.** The provisions of the Code of Ordinances of the
46 Village of Palmetto Bay, Florida and all ordinances or parts of ordinances in conflict with the
47 provisions of this ordinance are hereby repealed.
48

PROPOSED
ORDINANCE

ORDINANCE NO. _____

AN ORDINANCE OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, RELATING TO ZONING; AMENDING PORTIONS OF SECTION 30-70 OF THE LAND DEVELOPMENT CODE RELATING TO REQUIRED PARKING, EXEMPTIONS, VALET PARKING, AMOUNT OF PARKING, AND CALCULATION OF REQUIRED PARKING, TO PROVIDE FOR PARKING RELIEF REMEDIES; PROVIDING FOR ORDINANCES IN CONFLICT, CODIFICATION, SEVERABILITY AND AN EFFECTIVE DATE.

WHEREAS, on October 20, 2008, the Mayor and Village Council adopted Ordinance 08-20, which established Division 30-70, Required Parking, of the Village's Land Development Code, which included conditions under which a property may be exempt from parking requirements; and

WHEREAS, it is in the public interest for the Village to provide regulations for parking consistent with industry standards and practices, available technologies, available land resources, and traffic engineering in an effort to protect public security, privacy, and welfare, and

WHEREAS, it is further in the public interest for the Village to provide under proper circumstances, a waiver of the applicable requirements for parking facilities for existing developments; and

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

WHEREAS, on September 14, 2015, the Local Planning Agency approved the proposed amendment; and

WHEREAS, the Mayor and Village Council, now desire to establish a procedure through which the citizens and/or property owner of the Village may request a parking reduction waiver, and through which the Village may approve, deny or approve with conditions such requests.

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

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

DIVISION 30-70. - PARKING AND LOADING STANDARDS

* * *

Sec.

1 30-70.2. - Location of required parking; exceptions.

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3 * * *

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5 (b) Exemptions.

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7 * * *

8
9 (4) Parking Reduction Waiver Request. It is acknowledged that for parking
10 calculation purposes, parking requirements and demand may shift for
11 existing developments over time as the use or mix of uses change. In cases
12 where the required parking, as provided for in this Division, for a proposed
13 use exceeds the amount of spaces available on the receiving property, the
14 applicant may request a Parking Reduction Waiver in lieu of pursuing a
15 public hearing variance.

16
17 a. Eligibility. These provisions shall only apply to existing
18 developments.

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

21
22 1. The applicant shall file an application and pay a filing fee
23 equal to half the cost of a non-use variance modification,

24
25 2. The application shall include a parking study confirming
26 whether or not the existing parking facilities of the
27 development adequately accommodate the proposed use.
28 The parking study shall be prepared by a engineer, architect,
29 or city planner, with expertise in parking, and shall be paid for
30 by the applicant. The Village may hire its own engineer,
31 architect, or city planner, at the applicant's expense, to
32 evaluate applicant's parking study.

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

35
36 c. The Director of Planning and Zoning, or his/her designee, shall
37 either approve, approve with conditions, or deny the request based
38 on the parking study's finding of adequacy to accommodate of the
39 proposed use. Any approval shall be specific to the applicant's
40 requested use and will be deemed null should the operations cease
41 for a period of six (6) months or longer. Any expansion of the
42 approved use shall require full compliance with required parking or
43 resubmission of a waiver request as provided by this section. Denial
44 of a waiver request may be appealed to the Mayor and Village
45 Council pursuant to public hearing variance procedures as provided
46 at Division 30-30 of the Village's Land Development Code. All

1 applicable public hearing fees shall apply, and an application fee of
2 the appeal shall be half the cost of a non-use variance modification.
3

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

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

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

21 The covenant shall also provide that the Village may collect attorneys' fees if
22 litigation is necessary to enforce the requirements of this section.
23

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

29
30 a. All allocation of on-street parking spaces counted towards on-site
31 parking requirements shall be by written agreement between the
32 village and property owner, as reviewed by the Village Attorney for
33 legal sufficiency, and approved by the village manager. The
34 agreement shall clearly delineate the terms and conditions. The
35 village manager upon the advice of the village council, will
36 determine if the installation of parking meters is warranted and
37 appropriate for the area.

38
39 b. On-street parking shall be prohibited from those portions of right-
40 of-way adjacent to single family residential uses, and shall fully
41 comply with Division 30-100.1, Landscaping Regulations.
42

43 c. On-street parking constructed by property owner as part of their
44 development in question shall receive a credit with the village for
45 said spaces for a term five (5) years. Thereafter, an annual fee of
46 \$1,000.00, per space, which shall increase five percent annually,
47 shall be paid to the village for all on-street parking spaces which

1 are credited or counted toward minimum parking requirements for
2 new structures. Unallocated on-street parking spaces may be
3 allocated to a development. The development seeking to use the
4 unallocated on-street spaces shall pay a fee of \$1,000 per space
5 which shall increase five percent annually.
6

7 d. Failure to comply with the provisions of this subsection, shall
8 result in the loss or revocation of the certificate of use and/or
9 occupancy for the property failing to meet minimum parking
10 requirements for the project, and subject the property to a daily
11 penalty of \$250.00, per day.
12

13 e. Funds received under subsection 30-70.2(b)(6)d. shall be paid into
14 the Parking District Improvement Trust Fund, which shall be a
15 trust account separated from the village's general fund accounts.
16 The funds from the Parking District Improvement trust account
17 shall be used at the village council's discretion for the specific
18 purpose of developing or reimbursing the village for construction
19 and improvement to public parking facilities, infrastructure with
20 the intent to increase parking capacity, and the installation of
21 metering devises. Funds collected in this account may also be used
22 towards items that improve the pedestrian environment and may
23 include, but not be limited to bicycle parking and racks, sidewalk
24 improvements and maintenance, bench installation, water
25 fountains, outdoor recycle bins, signage for parking and bicycle
26 racks, tree planting and maintenance.
27

28 * * *

29
30 30-70.5 Size and character of parking spaces.

31
32 The following requirements shall be observed for parking:

33 * * *

- 34
35 (j) *Valet parking.* Valet parking may shall be permitted, on-site or off-site, to provide
36 contribute towards meeting parking in excess of minimum parking requirements for
37 existing developments. For the village to consider approval of valet parking, a plan
38 must be submitted and shall include the location of valet spaces, insurance
39 requirements, staffing hours of operation, and the traffic circulations pattern
40 indicating all aspect of the valet operation to include drop-off and stacking areas and
41 may be used together with a shared parking agreement to ensure full compliance
42 with minimum required parking standards. The plan cannot alter previously
43 approved landscaping requirement, setbacks or buffers. Tandem parking shall be
44 permitted under valet parking plan. Robotic parking in an internally enclosed parking
45 garage shall be permitted.
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30-70.8 Amount of parking.

The minimum number of parking spaces to be provided and maintained for each use or occupancy shall be as follow: provided in this section. Developments built prior to this provision shall be considered nonconforming and continue to rely upon the amount of parking standard required at the time of their original development.

* * *

30-70.11 Bicycle Parking

* * *

(f) Every four (4) bicycle parking spaces provided over and above that required in section 30-70.11(b) may be counted as one required automobile parking space. The total number automobile parking spaces that can be replaced by bicycle parking spaces shall not exceed 5% of the requirement or ten (10) spaces, whichever is less.

30-70.12 Calculating required parking spaces.

* * *

(d) Unless otherwise specified in Section 30-70.8, parking amount shall be calculated based on actual use of space, (e.g. grocery stores shall have separate calculations for actual retail customer service area and storage areas). Bathrooms, storage closets, hallway corridors, and lobbies not used as waiting areas shall be excluded from parking calculations.

Section 2. Conflicting Provisions. The provisions of the Code of Ordinances of the Village of Palmetto Bay, Florida and all ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

Section 3. Severability. The provisions of this Ordinance are declared to be severable, and if any sentence, section, clause or phrase of this Ordinance shall, for any reason, be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sentences, sections, clauses or phrases of the Ordinance, but they shall remain in effect it being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part.

Section 4. Codification. It is the intention of the Village Council and it is hereby ordained the provisions of this Ordinance shall become and be made part of the Code of Ordinances of the Village of Palmetto Bay, Florida, that sections of this Ordinance may be renumbered or re-lettered to accomplish such intentions, and that the word "Ordinance" shall be changed to "Section" or other appropriate word.

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

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PASSED and ENACTED this ____ day of _____, 2015.

First Reading: _____

Second Reading: _____

Attest: _____

Meighan Alexander
Village Clerk

Eugene Flinn
Mayor

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

Dexter W. Lehtinen
Village Attorney

FINAL VOTE AT ADOPTION:

Council Member Karyn Cunningham _____

Council Member Tim Schaffer _____

Council Member Larissa Siegel Lara _____

Vice-Mayor John DuBois _____

Mayor Eugene Flinn _____



To: Honorable Mayor and Village Council

Date: March 7, 2016

From: Edward Silva, Village Manager

Re: Budget Amendment –
FY 2015-2016

AN ORDINANCE OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, RELATING TO THE FISCAL YEAR 2015-2016 BUDGET; AMENDING ORDINANCE NUMBER 2015-10; AMENDING THE VILLAGE'S BUDGET FOR THE 2015-2016 FISCAL YEAR; AUTHORIZING THE VILLAGE MANAGER TO TAKE ALL ACTIONS NECESSARY TO IMPLEMENT THE TERMS AND CONDITIONS OF THIS ORDINANCE; PROVIDING FOR ORDINANCES IN CONFLICT, CODIFICATION, SEVERABILITY AND AN EFFECTIVE DATE

BACKGROUND AND ANALYSIS:

The Adopted Budget for Fiscal Year 2015-2016 incorporates the Staffing Summary, summarizing all positions within the Village. At this mid-point of the budget year, administration finds that it is necessary to make certain personnel changes to better meet the needs of Village operations. The attached amended Staffing Summary reflects and details the proposed personnel changes and updates.

BUDGET AND FISCAL IMPACT:

None; the proposed changes will not have an impact on the approved funding levels.

RECOMMENDATION:

Approval is recommended.

Exhibit A
Amended Staffing Summary

VILLAGE POSITION DETAIL	FY 13-14 Adopted		FY 14-15 Amended Final		FY 15-16 Adopted		FY 15-16 Mid-Year Adj.	
	PT	FT	PT	FT	PT	FT	PT	FT
Mayor & Council								
Mayor	1.0	0.0	1.0	0.0	1.0	0.0	1.0	0.0
Vice Mayor	1.0	0.0	1.0	0.0	1.0	0.0	1.0	0.0
Councilmember	3.0	0.0	3.0	0.0	3.0	0.0	3.0	0.0
Total Positions	5.0	0.0	5.0	0.0	5.0	0.0	5.0	0.0
Office of the Village Manager								
Village Manager	0.0	1.0	0.0	1.0	0.0	1.0	0.0	1.0
Executive Assistant	0.0	1.0	0.0	1.0	0.0	1.0	0.0	1.0
Admin. Aide/Receptionist	0.0	1.0	0.0	1.0	0.0	1.0	0.0	1.0
Communications Mgr/PIO	0.0	1.0	0.0	1.0	0.0	0.0	0.0	0.0
TV & Camera Technician	0.0	0.0	1.0	0.0	0.0	0.0	0.0	0.0
Business Partner Liaison	0.0	0.0	0.0	0.0	0.0	1.0	0.0	0.0
Assistant to the Manager	0.0	0.0	0.0	0.0	0.0	0.0	0.0	1.0
Procurement Specialist	0.0	0.0	0.0	0.0	0.0	0.0	0.0	1.0
Architectural Renderer**	0.0	0.0	0.0	0.0	1.0	0.0	0.0	1.0
Total Positions	0.0	4.0	1.0	4.0	1.0	4.0	0.0	6.0
Office of the Village Clerk								
Village Clerk	0.0	1.0	0.0	1.0	0.0	1.0	0.0	1.0
Administrative Assistant	0.0	1.0	0.0	1.0	0.0	1.0	0.0	1.0
Total Positions	0.0	2.0	0.0	2.0	0.0	2.0	0.0	2.0
Finance Department								
Finance Director	0.0	1.0	0.0	1.0	0.0	1.0	0.0	1.0
Sr. Accountant	0.0	1.0	0.0	1.0	0.0	1.0	0.0	1.0
Procurement Specialist	0.0	1.0	0.0	1.0	0.0	1.0	0.0	0.0
IT Technician	0.0	0.0	0.0	0.0	0.0	0.0	0.0	1.0
Accountant	0.0	1.0	0.0	1.0	0.0	1.0	0.0	1.0
Cashier	0.0	1.0	0.0	1.0	0.0	1.0	0.0	1.0
Accounting & Alarm Clerk	0.0	1.0	0.0	1.0	0.0	1.0	0.0	1.0
Total Positions	0.0	6.0	0.0	6.0	0.0	6.0	0.0	6.0
Dept. of Community & Economic Dev								
Building & Permitting Community & Econ. Dev. Dir.**	0.0	1.0	0.0	1.0	0.0	1.0	0.0	1.0
Building Official**	0.0	0.0	0.0	0.0	0.0	1.0	0.0	1.0
Chief Building Inspector**	0.0	1.0	0.0	1.0	0.0	0.0	0.0	1.0
Office Manager**	0.0	1.0	0.0	1.0	0.0	1.0	0.0	1.0
Code Compliance Coordinator**	0.0	0.0	0.0	1.0	0.0	1.0	0.0	1.0
Code Compliance Inspector**	0.0	1.0	0.0	1.0	0.0	1.0	0.0	1.0
Code Compliance Officer**	0.0	0.0	0.0	2.0	0.0	2.0	0.0	2.0
Zoning Administrator**	0.0	0.0	0.0	1.0	0.0	1.0	0.0	1.0
Permit Clerk I**	0.0	1.0	0.0	1.0	0.0	1.0	0.0	2.0
Permit Clerk II**	0.0	1.0	0.0	1.0	0.0	1.0	0.0	0.0
Permit Clerk I/ Receptionist**	0.0	0.0	0.0	1.0	0.0	1.0	0.0	1.0
Plans Processing Clerk**	1.0	1.0	0.0	1.0	0.0	1.0	0.0	1.0
Receptionist**	1.0	1.0	0.0	0.0	0.0	0.0	0.0	0.0
Architectural Renderer**	0.0	0.0	1.0	0.0	0.0	0.0	0.0	0.0
Total Buiding & Permitting Positions	2.0	8.0	1.0	12.0	0.0	12.0	0.0	13.0

**Exhibit A
Amended Staffing Summary**

Planning & Zoning	Planning & Zoning Director	0.0	1.0	0.0	1.0	0.0	1.0	0.0	1.0
	Planning & Zoning Administrator	0.0	1.0	0.0	1.0	0.0	1.0	0.0	1.0
	Planning & Zoning Admin. Coord.	0.0	1.0	0.0	0.0	0.0	0.0	0.0	0.0
	Administrative Assistant	0.0	1.0	0.0	1.0	0.0	0.0	0.0	0.0
	Permit Zoning Technician	0.0	1.0	0.0	0.0	0.0	0.0	0.0	0.0
	Code Compliance Officer	0.0	2.0	0.0	0.0	0.0	0.0	0.0	0.0
	<i>Total Planning & Zoning Positions</i>	0.0	7.0	0.0	3.0	0.0	2.0	0.0	2.0
Total Positions		2.0	15.0	1.0	15.0	0.0	14.0	0.0	15.0
Human Resources & Communications		PT	FT	PT	FT	PT	FT	PT	FT
	Human Resources & Communications Dir.*	0.0	1.0	0.0	1.0	0.0	1.0	0.0	1.0
	HR Generalist	0.0	1.0	0.0	1.0	0.0	1.0	0.0	1.0
	Communications Manager*	0.0	0.0	0.0	0.0	0.0	1.0	0.0	1.0
	Videographer/ Video Editor*	0.0	0.0	0.0	0.0	1.0	0.0	1.0	0.0
	Public Information Officer*	0.0	0.0	0.0	0.0	0.0	1.0	0.0	1.0
	Grantwriter	0.0	0.0	1.0	0.0	1.0	0.0	1.0	0.0
Total Positions		0.0	2.0	1.0	2.0	2.0	4.0	2.0	4.0
Parks & Recreation		PT	FT	PT	FT	PT	FT	PT	FT
	Parks and Recreation Director	0.0	1.0	0.0	1.0	0.0	1.0	0.0	1.0
	Parks and Recreation Manager	0.0	1.0	0.0	1.0	0.0	1.0	0.0	0.0
	Parks & Recreation Supervisor	0.0	2.0	0.0	3.0	0.0	3.0	0.0	3.0
	Administrative Assistant	0.0	1.0	0.0	1.0	0.0	1.0	0.0	1.0
	Special Events Supervisor	0.0	1.0	0.0	0.0	0.0	0.0	0.0	0.0
	Special Events & Programs Coord.	0.0	1.0	0.0	2.0	0.0	2.0	0.0	2.0
	Park Reservations Specialist	0.0	0.0	0.0	1.0	0.0	1.0	0.0	1.0
	Grounds/ Facility Maint. Supervisor	0.0	1.0	0.0	0.0	0.0	0.0	0.0	0.0
	Parks Maintenance Worker	6.0	3.0	0.0	0.0	0.0	0.0	0.0	0.0
	Tennis Center Attendant	3.0	0.0	3.0	0.0	3.0	0.0	3.0	0.0
	Park Service Aide	19.0	0.0	18.0	0.0	20.0	0.0	20.0	0.0
Total Positions		28.0	11.0	21.0	9.0	23.0	9.0	23.0	8.0
Public Services		PT	FT	PT	FT	PT	FT	PT	FT
Public Works	Public Works Director**	0.0	1.0	0.0	1.0	0.0	1.0	0.0	1.0
	Administrative Assistant**	0.0	1.0	0.0	1.0	0.0	1.0	0.0	1.0
	Field Operations Supervisor**	0.0	1.0	0.0	1.0	0.0	1.0	0.0	1.0
	Grounds Maintenance Worker**	0.0	2.0	0.0	2.0	0.0	3.0	0.0	3.0
	Stormwater Engineering Technician**	0.0	1.0	0.0	1.0	0.0	1.0	0.0	1.0
	Bus Operator**	3.0	0.0	1.0	1.0	1.0	0.0	1.0	0.0
	Transit Operations Specialist**	0.0	0.0	0.0	0.0	0.0	1.0	0.0	1.0
<i>Total Public Works Positions</i>		3.0	6.0	1.0	7.0	1.0	8.0	1.0	8.0
Facilities Maint.	Facilities Maint. Superintendent	0.0	1.0	0.0	1.0	0.0	1.0	0.0	1.0
	Facilities Maint. Worker I	0.0	1.0	0.0	1.0	0.0	1.0	2.0	3.0
	Facilities Maint. Worker II	0.0	1.0	0.0	1.0	0.0	1.0	0.0	1.0
	Grounds/ Facility Maint. Supervisor	0.0	0.0	0.0	1.0	0.0	1.0	0.0	1.0
	Maintenance Technician	0.0	0.0	0.0	1.0	0.0	1.0	0.0	1.0
	Maintenance Worker	0.0	0.0	5.0	3.0	5.0	3.0	4.0	3.0
<i>Total Facilities Maint. Positions</i>		0.0	3.0	5.0	8.0	5.0	8.0	6.0	10.0
Total Public Services Positions		3.0	9.0	6.0	15.0	6.0	16.0	7.0	18.0

Exhibit A
Amended Staffing Summary

CONTRACTUAL POSITION DETAIL		FY 13-14 Adopted		FY 14-15 Amended Final		FY 15-16 Adopted		FY 15-16 Mid-Year Adj.	
		PT	FT	PT	FT	PT	FT	PT	FT
Police Services									
<i>Contractual</i>	Police Major	0.0	1.0	0.0	1.0	0.0	1.0	0.0	1.0
	Police Lieutenant	0.0	1.0	0.0	1.0	0.0	1.0	0.0	1.0
	Police Sergeant	0.0	5.0	0.0	5.0	0.0	5.0	0.0	5.0
	Police Officer	0.0	35.0	0.0	35.0	0.0	35.0	0.0	36.0
	Secretary	0.0	1.0	0.0	1.0	0.0	1.0	0.0	1.0
	Police Record Specialist	0.0	2.0	0.0	2.0	0.0	2.0	0.0	2.0
	Police Station Specialist	0.0	1.0	0.0	1.0	0.0	1.0	0.0	1.0
	Total (Contractual) Positions	0.0	46.0	0.0	46.0	0.0	46.0	0.0	47.0
Village Attorney									
<i>Contractual</i>	Village Attorney	1.0	0.0	1.0	0.0	1.0	0.0	1.0	0.0
	Total (Contractual) Positions	1.0	0.0	1.0	0.0	1.0	0.0	1.0	0.0
Dept. of Community & Economic Dev (Bldg. & Permitting)									
<i>Contractual</i>	Building Inspector	1.0	0.0	1.0	0.0	1.0	0.0	1.0	0.0
	Chief Mechanical Inspector	1.0	0.0	1.0	0.0	1.0	0.0	1.0	0.0
	Chief Electrical Inspector	1.0	0.0	1.0	0.0	1.0	0.0	1.0	0.0
	Chief Plumbing Inspector	1.0	0.0	1.0	0.0	1.0	0.0	1.0	0.0
	Structural Plans Reviewer	1.0	0.0	1.0	0.0	1.0	0.0	1.0	0.0
	Total (Contractual) Positions	5.0	0.0	5.0	0.0	5.0	0.0	5.0	0.0
TOTAL VILLAGE POSITIONS		33.0	49.0	30.0	53.0	32.0	55.0	32.0	59.0
TOTAL COUNCIL POSITIONS		5.0	0.0	5.0	0.0	5.0	0.0	5.0	0.0
TOTAL CONTRACTUAL POSITIONS		6.0	46.0	6.0	46.0	6.0	46.0	6.0	47.0

Proposed Adjustments:

Departmental Name: Human Resources & Communications Department

Staffing Updates:

Manager: Update Business Partner Liaison to Assistant to Manager
Update Architectural Rendered from PT to FT
Transfer (1) Procurement Specialist from Finance Dept.

Finance: Add (1) IT Technician-FT
Transfer (1) Procurement Specialist to Village Manager

Building & Permitting: Replace (1) Permit Clerk II with (1) Permit Clerk I
Add (1) Chief Building Inspector- FT

Parks & Recreation: Remove (1) Parks & Recreation Manager-FT

Public Works: Replace (1) FT Bus Operator with (1) FT Transit Operations Specialist

Facilities Maint.: Add (2) Facilities Maint. Worker I- PT
Add (2) Facilities Maint. Worker I- FT
Remove (1) Maintenance Worker- PT

Title Updates*:

Update Building & Capital Projects Director to Community & Economic Dev. Director
Update Human Resources Director to Human Resources & Communications Director
Update Communications Manager/ PIO to Communications Manager
Update Public Information Specialist to Public Information Officer
Update TV/ Camera Tech. to Videographer/ Video Editor

**Funded through Special Revenue



To: Honorable Mayor and Village Council

Date: March 7, 2016

From: Edward Silva, Village Manager

Re: Third Supplemental Report
Parking Waiver Procedure
Ordinance for 1st Reading

**AN ORDINANCE OF THE MAYOR AND VILLAGE COUNCIL OF
THE VILLAGE OF PALMETTO BAY, FLORIDA, RELATING TO
ZONING; CREATING SECTION 30-70 OF THE LAND
DEVELOPMENT CODE RELATING TO REQUIRED PARKING
EXEMPTIONS; PROVIDING FOR ORDINANCES IN CONFLICT,
CODIFICATION, SEVERABILITY AND AN EFFECTIVE DATE.**

UPDATE SINCE PREVIOUS HEARING:

This item was originally presented on March 2, 2015 but, was continued so that staff could provide the Village Council a greater explanation regarding various parking remedies for commercial properties. The item was rescheduled for a hearing that occurred on April 6, 2015 and included the requested supplemental report exploring the pros and cons of various parking relief remedies.

To allow time to digest, that report was released three weeks prior to the April Council hearing. As a result of the issuance of that report, it was desired to again continue the item from the April hearing to June 1, 2015, so that other parking remedies could be incorporated into the proposed ordinance. The item that was presented on June 1, 2015 reflected those additional parking remedies. During discussion of the item during the June 1st hearing, it was expressed that bicycle parking facilities should also be contemplated as a potential remedy to alleviate automobile parking requirements.

The proposed ordinance is reflective of the efforts described above and is the specific item being offered for First Reading consideration. The previous reports and corresponding proposed ordinances are attached by way of history, background and reference (Attachment A). Analysis of this most current request shall be as reflected in this report.

PROPOSED CHANGES:

The following reflects a menu of remedy options available to commercial developments so that they may fully comply with parking requirements as they seek to lease their tenant spaces. Multiple options are offered as no one remedy is necessarily appropriate to each situation.

Parking Reduction Waiver Request. The original proposal recognized that not all businesses share identical operational demands. This methodology offers a remedy that may be more nimble

than a variance request or change of law, and one that would be considerably less timely or expensive to pursue. Where it is determined that a parking deficiency exists, the prospective business owner may complete a parking study to determine if the operational demands of the use does not over burden the property where it is to be located. The review, approval, denial or approval with conditions, of that plan would be completed administratively. If the applicant and staff do not agree, the owner may elect to pursue the variance option. The fee for parking analysis review shall be half of that for a non-use variance application. Appeal of the administrative final decision shall be by way of non-use variance upon which the application shall pay other half of the variance application fee plus any other costs (public hearing and advertising) associated with the application and hearing as provided by ordinance. The relief procedure shall only be available to existing development. Parking facilities for new developments shall be built according to the standards provided by each use category as applicable.

Shared Usage Agreements. Just as was described in the methodology above, not all business share the same operational models. In this case, some only have morning operations, other afternoons, some only evenings, and others still with some combination thereto. The principal here is that parking is calculated as though all business operate at the same time and at full capacity. This of course is not the case. For example, a breakfast establishment may open at 5:00 am and close by 3:00 pm, whereas a karate studio may not open until 3:00 pm but close by 9:00 pm. Shared usage agreements allow for those spaces to be counted when they are needed. Such agreements shall be completed through a covenant running with the land. Should the uses covered by the agreement change or the hours of operation change, all zoning approvals become null.

On-Street Parking. Another option provided by current code involves shifting a portion of the required parking to the curb. This remedy is currently only available in the Franjo Triangle and Island (FT&I) District. The proposed change makes the option available to other commercially zoned areas of the Village. A key difference, however, is the prohibition to locate on-street parking on right-of-ways adjacent to single family residential uses. Otherwise, the ordinance operates in much the fashion as it does for the FT&I District.

Valet Parking. The valet parking code was modified to provide a procedure for existing development to meet parking requirements. Parking can be on site or at a shared site and tandem spaces are permitted. The code does not permit the alteration of parking facilities or landscaped areas.

Nonconforming Development. This section was amended to provide greater clarification regarding nonconforming uses. Although this is broadly covered by the Village's nonconforming code provisions at Section 30-10.4, and was the standard practice of staff, the inserted language provides greater specificity. The amended provision allows existing development to continue to enjoy the parking standard required at the time of their original development.

Bicycle Parking in Lieu of Automobile Parking. This option permits the inclusion of four (4) bicycle parking spaces to replace one required automobile parking space. This method may reduce

require automobile parking by up to 5% or ten (10) spaces, whichever is less. Only those bicycle parking spaces in excess of those required by code may be eligible to replace automobile parking spaces.

Calculation of Required Parking. This new provision is reflective of procedures already exercised by staff and provides clearer authority thereto. It allows spaces to be calculated based on their actual usage such as storage area versus retail area of a grocery. It also excludes from calculation such areas as bathrooms, storage closets, hallway corridors, and lobbies that are not used as waiting areas.

ANALYSIS:

The proposed ordinance was reviewed for consistency with the criteria established in Section 30-30.7(b). All previous reports, and the Update, and Proposed Changes sections of this report fully incorporated into all portions of this analysis and is incorporated into each criterion delineated below. The following is a review of those criteria:

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

Analysis: The Village's Comprehensive Plan or Concurrency Management Plan does not directly address parking requirements. However, Goal 1 of the Comprehensive Plan has a stated intent to protect residential areas. As such, a portion of this amendment was tailored to limit the impact to adjacent single family uses by prohibiting adjacent on-street parking.

Finding: Consistent.

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

Analysis: The proposed ordinance is internally consistent with the remaining portions of Section 30-70 in that it seeks the (unstated) intent to ensure adequate parking is provided on site for those uses approved thereon. The menu of remedies offers options to commercial developments to meet parking requirements as they seek to lease their tenant spaces.

Findings: Consistent.

Criteria (3) Whether, and the extent to which, land use and development conditions have changed since the effective date of the existing regulations, and whether the changes support or work against the proposed change in land use policy.

Analysis: As reflected in the Background section of the prior reports and the Proposed Changes sections of this report (and prior reports), considerable time has passed since the adoption of the first parking code and the development of the commercial portions of the Village. The proposed amendment offers multiple avenues for relief when such standards fall out of sync with the proposed use; and it does so in a manner that does not compromise the conforming status of the receiving property.

Findings: Consistent.

Criteria (4) Whether, and the extent to which, the proposal would result in any incompatible land uses, considering the type and locations of uses involved, the impact on the adjacent or neighboring properties, consistency with existing development, as well as compatibility with existing and proposed land uses.

Analysis: The proposed ordinance does not change permitted uses. It merely provides a level of flexibility when siting business within the Village. The intent is to determine if approving the new use would create such an impact. If one exists, the request is denied, if it does not, then it is approved.

Finding: Consistent.

Criteria (5) Whether, and the extent to which, the proposal would result in demands on transportation systems, public facilities and service; would exceed the capacity of the facilities and services, existing or programmed, including: transportation, water and wastewater services, solid waste disposal, drainage, recreation, education, emergency services, and similar necessary facilities and services.

Analysis: The proposed ordinance does not alter permitted use, intensities or densities. As such, it does not impact the above systems.

Finding: Consistent.

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

Analysis: The proposed ordinance may only affect existing parking facilities and does not impact the above systems.

Finding: Consistent.

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

Analysis It is anticipated, though not quantified, that the ordinance will likely have a positive effect on property values. The logic is as follows; a fully rented commercial facility is worth more than one partially or fully unleased.

Findings: Consistent.

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

Analysis The proposed ordinance does not change permitted uses or change any provisions which affect the development of land.

Findings: Consistent.

Criteria (9) Whether the proposal would be in conflict with the public interest, and whether it is in harmony with the purpose of Chapter 30.

Analysis: See Analysis under Criteria 2, 3 and 4.

Finding: Consistent.

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

Analysis: As per the direction of the Village Council.

Finding: As determined by the Village Council.

FISCAL/BUDGETARY IMPACT:

It is anticipated that the cost to process requests contemplated by the proposed ordinance be fiscally neutral.

RECOMMENDATION:

Approval is recommended.

Attachments:
(A) Report



Darby Delsalle, AICP
Planning & Zoning Director

Manager's Report
for
Third Supplemental Report
Parking Waiver Procedure Ordinance

ATTACHMENT A



To: Honorable Mayor and Village Council

Date: May 22, 2015

From: Edward Silva, Village Manager

Re: Second Supplemental Report
Parking Waiver Procedure -
Ordinance for 1st Reading

AN ORDINANCE OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, RELATING TO ZONING; CREATING SECTION 30-70 OF THE LAND DEVELOPMENT CODE RELATING TO REQUIRED PARKING EXEMPTIONS; PROVIDING FOR ORDINANCES IN CONFLICT, CODIFICATION, SEVERABILITY AND AN EFFECTIVE DATE.

BACKGROUND:

On March 2, 2015, a proposed parking waiver procedure was read into the public record for consideration of a potential administrative process that would offer an avenue of relief from current parking codes for businesses seeking to locate within the Village. No vote was taken on the item for first reading and instead it was deferred so that the Mayor and Village Council could review additional information regarding the nature of the proposal.

The initiative was driven by a need to find a remedy for commercial properties that were experiencing challenges in leasing tenant spaces that would comply with the parking codes of the Village. Put into context, these properties are attempting to lease to 21st century uses and business models at locations built to pre-1970's development standards¹.

A supplemental report was issued on March 17, 2015 which identified other methodologies that may be utilized to seek a remedy to a parking deficiency. That report was issued three (3) weeks prior to the April 6, 2015, Mayor and Village Council hearing to provide additional time for the consideration of other methodologies. Some of the options presented in the supplemental report are currently provided for by the Village's code whereas others are not. As a result of that supplemental report, staff requested a continuance of the item so that the proposed ordinance may be revised to reflect a fuller menu of options available to remedy a parking deficiency. That continuance was granted without a date certain. The proposed ordinance from the March 2, 2015 hearing, its report, and the subsequent supplemental report are attached hereto as Exhibit A.

Attached to this second supplemental report is a newly proposed ordinance which seeks to provide viable parking relief procedures that avoid the challenges presented in the prior supplemental report.

¹ Please see the original staff report dated February 23rd, 2015, as provided at Exhibit A, for a fuller explanation of this paragraph.

Those approaches include a waiver request process, shared usage parking, on-street parking, modification of existing valet parking rules, a clarification of nonconformity for existing developments, and a clarification regarding parking amount calculations. All proposed changes are presented in the Proposed Changes section of this report.

The newly proposed ordinance is separately advertised for first reading to reflect the expanded nature of the item. Because the prior request never received an approval at first reading, it is considered dead. The two prior reports are incorporated into this second supplemental report by reference. The Analysis section of this report shall replace that provided by the initial staff report issued on February 23, 2015.

PROPOSED CHANGES

The following reflects a menu of remedy options available to commercial developments so that they may fully comply with parking requirements as they seek to lease their tenant spaces. Multiple options are offered as no one remedy is necessarily appropriate to each situation.

Parking Reduction Waiver Request. The original proposal recognized that not all businesses share identical operational demands. This methodology offers a remedy that may be more nimble than a variance request or change of law, and one that would be considerably less timely or expensive to pursue. Where it is determined that a parking deficiency exists, the prospective business owner may complete a parking study to determine if the operational demands of the use does not over burden the property where it is to be located. The review, approval, denial or approval with conditions, of that plan would be completed administratively. If the applicant and staff do not agree, the owner may elect to pursue the variance option. The fee for parking analysis review shall be half of that for a non-use variance application. Appeal of the administrative final decision shall be by way of non-use variance upon which the application shall pay other half of the variance application fee plus any other costs (public hearing and advertising) associated with the application and hearing as provided by ordinance. The relief procedure shall only be available to existing development. Parking facilities for new developments shall be built according to the standards provided by each use category as applicable.

Shared Usage Agreements. Just as was described in the methodology above, not all business share the same operational models. In this case, some only have morning operations, other afternoons, some only evenings, and others still with some combination thereto. The principal here is that parking is calculated as though all business operate at the same time and at full capacity. This of course is not the case. For example, a breakfast establishment may open at 5:00 am and close by 3:00 pm, whereas a karate studio may not open until 3:00 pm but close by 9:00 pm. Shared usage agreements allow for those spaces to be counted when they are needed. Such agreements shall be completed through a covenant running with the land. Should the uses covered by the agreement change or the hours of operation change, all zoning approvals become null.

On-Street Parking. Another option provided by current code involves shifting a portion of the required parking to the curb. This remedy is currently only available in the Franjo Triangle and Island (FT&I) District. The proposed change makes the option available to other commercially zoned areas of the Village. A key difference, however, is the prohibition to locate on-street parking on right-of-ways adjacent to single family residential uses. Otherwise, the ordinance operates in much the fashion as it does for the FT&I District.

Valet Parking. The valet parking code was modified to provide a procedure for existing development to meet parking requirements. Parking can be on site or at a shared site and tandem spaces are permitted. The code does not permit the alteration of parking facilities or landscaped areas.

Nonconforming Development. This section was amended to provide greater clarification regarding nonconforming uses. Although this is broadly covered by the Village's nonconforming code provisions at Section 30-10.4, and was the standard practice of staff, the inserted language provides greater specificity. The amended provision allows existing development to continue to enjoy the parking standard required at the time of their original development.

Calculation of Required Parking. This new provision is reflective of procedures already exercised by staff and provides clearer authority thereto. It allows spaces to be calculated based on their actual usage such as storage area versus retail area of a grocery. It also excludes from calculation such areas as bathrooms, storage closets, hallway corridors, and lobbies that are not used as waiting areas.

ANALYSIS:

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

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

Analysis: The Village's Comprehensive Plan or Concurrency Management Plan does not directly address parking requirements. However, Goal 1 of the Comprehensive Plan has a stated intent to protect residential areas. As such, a portion of this amendment was tailored to limit the impact to adjacent single family uses by prohibiting adjacent on-street parking.

Finding: Consistent.

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

Analysis: Please see Background and Proposed Changes sections of this report. The proposed ordinance is internally consistent with the remaining portions of Section 30-70 in that it seeks the (unstated) intent to ensure adequate parking is provided on site for those uses approved thereon. The menu of remedies offers options to commercial developments to meet parking requirements as they seek to lease their tenant spaces.

Findings: Consistent.

Criteria (3) Whether, and the extent to which, land use and development conditions have changed since the effective date of the existing regulations, and whether the changes support or work against the proposed change in land use policy.

Analysis: Please see Background and Proposed Changes sections of this report. As reflected in the Background and Proposed Changes sections of this report (and prior reports), considerable time has passed since the adoption of the first parking code and the development of the commercial portions of the Village. The proposed amendment offers multiple avenues for relief when such standards fall out of sync with the proposed use; and it does so in a manner that does not compromise the conforming status of the receiving property.

Findings: Consistent.

Criteria (4) Whether, and the extent to which, the proposal would result in any incompatible land uses, considering the type and locations of uses involved, the impact on the adjacent or neighboring properties, consistency with existing development, as well as compatibility with existing and proposed land uses.

Analysis: Please see Background and Proposed Changes sections of this report. The proposed ordinance does not change permitted uses. It merely provides a level of flexibility when siting business within the Village. The intent is to determine if approving the new use would create such an impact. If one exists, the request is denied, if it does not, then it is approved.

Finding: Consistent.

Criteria (5) Whether, and the extent to which, the proposal would result in demands on transportation systems, public facilities and service; would exceed the capacity of the facilities and services, existing or programmed, including: transportation, water and

wastewater services, solid waste disposal, drainage, recreation, education, emergency services, and similar necessary facilities and services.

Analysis: The proposed ordinance does not alter permitted use, intensities or densities. As such, it does not impact the above systems.

Finding: Consistent.

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

Analysis: The proposed ordinance may only affect existing parking facilities and does not impact the above systems.

Finding: Consistent.

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

Analysis: It is anticipated, though not quantified, that the ordinance will likely have a positive effect on property values. The logic is as follows; a fully rented commercial facility is worth more than one partially or fully unleased.

Findings: Consistent.

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

Analysis: The proposed ordinance does not change permitted uses or change any provisions which affect the development of land.

Findings: Consistent.

Criteria (9) Whether the proposal would be in conflict with the public interest, and whether it is in harmony with the purpose of Chapter 30.

Analysis: See Analysis under Criteria 2, 3 and 4.

Finding: Consistent.

Second Supplemental Report
Parking Waiver Procedure
1st Reading
May 22, 2015
Page 6 of 6

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

Analysis: As per the direction of the Village Council.

Finding: As determined by the Village Council.

FISCAL/BUDGETARY IMPACT:

It is anticipated that the cost to process requests contemplated by the proposed ordinance be fiscally neutral.

RECOMMENDATION:

Approval is recommended.

Darby Delsalle, AICP
Planning & Zoning Director

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

2
3 * * *

4
5 (b) Exemptions.

6
7 * * *

8
9 (4) Parking Reduction Waiver Request. It is acknowledged that for parking
10 calculation purposes, parking requirements and demand may shift for
11 existing developments over time as the use or mix of uses change. In cases
12 where the required parking, as provided for in this Division, for a proposed
13 use exceeds the amount of spaces available on the receiving property, the
14 applicant may request a Parking Reduction Waiver in lieu of pursuing a
15 public hearing variance.

16
17 a. Eligibility. These provisions shall only apply to existing
18 developments.

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

21
22 1. The applicant shall file an application and pay a filing fee
23 equal to half the cost of a non-use variance modification,

24
25 2. The application shall include a parking study confirming
26 whether or not the existing parking facilities of the
27 development adequately accommodate the proposed use.
28 The parking study shall be prepared by an engineer, architect,
29 or city planner, with expertise in parking, and shall be paid for
30 by the applicant. The Village may hire its own engineer,
31 architect, or city planner, at the applicant's expense, to
32 evaluate applicant's parking study.

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

35
36 c. The Director of Planning and Zoning, or his/her designee, shall
37 either approve, approve with conditions, or deny the request based
38 on the parking study's finding of adequacy to accommodate of the
39 proposed use. Any approval shall be specific to the applicant's
40 requested use and will be deemed null should the operations cease
41 for a period of six (6) months or longer. Any expansion of the
42 approved use shall require full compliance with required parking or
43 resubmission of a waiver request as provided by this section. Denial
44 of a waiver request may be appealed to the Mayor and Village
45 Council pursuant to public hearing variance procedures as provided
46 at Division 30-30 of the Village's Land Development Code. All

1 applicable public hearing fees shall apply, and an application fee of
2 the appeal shall be half the cost of a non-use variance modification.
3

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

- 14 a. The use or portion of a use, that requires the shared parking in order
15 to obtain the necessary permits or licenses, shall cease and terminate
16 upon any change in their respective schedules of operation that
17 results in conflicting or overlapping usage of the parking facilities;
18 b. and/or no nonresidential use may be made of that portion of the
19 property until the required parking facilities are available and
20 provided.

21 The covenant shall also provide that the Village may collect attorneys' fees if
22 litigation is necessary to enforce the requirements of this section.
23

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

29
30 a. All allocation of on-street parking spaces counted towards on-site
31 parking requirements shall be by written agreement between the
32 village and property owner, as reviewed by the Village Attorney for
33 legal sufficiency, and approved by the village manager. The
34 agreement shall clearly delineate the terms and conditions. The
35 village manager upon the advice of the village council, will
36 determine if the installation of parking meters is warranted and
37 appropriate for the area.

38
39 b. On-street parking shall be prohibited from those portions of right-
40 of-way adjacent to single family residential uses, and shall fully
41 comply with Division 30-100.1, Landscaping Regulations.

42
43 c. On-street parking constructed by property owner as part of their
44 development in question shall receive a credit with the village for
45 said spaces for a term five (5) years. Thereafter, an annual fee of
46 \$1,000.00, per space, which shall increase five percent annually,
47 shall be paid to the village for all on-street parking spaces which

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

6
7 d. Failure to comply with the provisions of this subsection, shall
8 result in the loss or revocation of the certificate of use and/or
9 occupancy for the property failing to meet minimum parking
10 requirements for the project, and subject the property to a daily
11 penalty of \$250.00, per day.

12
13 e. Funds received under subsection 30-70.2(b)(6)d. shall be paid into
14 the Parking District Improvement Trust Fund, which shall be a
15 trust account separated from the village's general fund accounts.
16 The funds from the Parking District Improvement trust account
17 shall be used at the village council's discretion for the specific
18 purpose of developing or reimbursing the village for construction
19 and improvement to public parking facilities, infrastructure with
20 the intent to increase parking capacity, and the installation of
21 metering devices. Funds collected in this account may also be used
22 towards items that improve the pedestrian environment and may
23 include, but not be limited to bicycle parking and racks, sidewalk
24 improvements and maintenance, bench installation, water
25 fountains, outdoor recycle bins, signage for parking and bicycle
26 racks, tree planting and maintenance.

27
28 * * *

29
30 Sec. 30-70.5 Size and character of parking spaces.

31
32 The following requirements shall be observed for parking:

33
34 * * *

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

46
47 * * *

1
2 Sec. 30-70.8 Amount of parking.

3 The minimum number of parking spaces to be provided and maintained for each use or occupancy
4 shall be as ~~follow~~: provided in this section. Developments built prior to this provision shall be
5 considered nonconforming and continue to rely upon the amount of parking standard required at
6 the time of their original development.

7
8 * * *

9
10 Sec. 30-70.12 Calculating required parking spaces.

11
12 * * *

13
14 (d) Unless otherwise specified in Section 30-70.8, parking amount shall be calculated
15 based on actual use of space, (e.g. grocery stores shall have separate calculations for
16 actual retail customer service area and storage areas). Bathrooms, storage closets,
17 hallway corridors, and lobbies not used as waiting areas shall be excluded from
18 parking calculations.

19
20
21 **Section 2. Conflicting Provisions.** The provisions of the Code of Ordinances of the
22 Village of Palmetto Bay, Florida and all ordinances or parts of ordinances in conflict with the
23 provisions of this ordinance are hereby repealed.

24
25 **Section 3. Severability.** The provisions of this Ordinance are declared to be severable,
26 and if any sentence, section, clause or phrase of this Ordinance shall, for any reason, be held to be
27 invalid or unconstitutional, such decision shall not affect the validity of the remaining sentences,
28 sections, clauses or phrases of the Ordinance, but they shall remain in effect it being the legislative
29 intent that this Ordinance shall stand notwithstanding the invalidity of any part.

30
31 **Section 4. Codification.** It is the intention of the Village Council and it is hereby
32 ordained the provisions of this Ordinance shall become and be made part of the Code of
33 Ordinances of the Village of Palmetto Bay, Florida, that sections of this Ordinance may be
34 renumbered or re-lettered to accomplish such intentions, and that the word "Ordinance" shall be
35 changed to "Section" or other appropriate word.

36
37 **Section 5. Effective Date.** This ordinance shall take effect immediately upon
38 enactment.

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

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45 First Reading: _____
46 Second Reading: _____

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Attest: _____
Meighan Alexander
Village Clerk

Eugene Flinn
Mayor

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

Dexter W. Lehtinen
Village Attorney

FINAL VOTE AT ADOPTION:
Council Member Karyn Cunningham _____
Council Member Tim Schaffer _____
Council Member Larissa Siegel Lara _____
Vice-Mayor John DuBois _____
Mayor Eugene Flinn _____

EXHIBIT A



To: Honorable Mayor and Village Council

Date: March 17, 2015

From: Ron E. Williams, Village Manager

Re: Pre-release of Council
Requested Items

The attached items are provided to you in advance of the regular agenda release for the April 6, 2015, Mayor and Village Council hearing. These items are provided as per your direction on March 2, 2015. Village staff looks forward to sitting with you to discuss each item.



To: Honorable Mayor and Village Council

Date: March 17, 2015

From: Ron E. Williams, Village Manager

Re: Supplemental Report
Parking Waiver Procedure
Ordinance for 1st Reading

BACKGROUND:

On March 2, 2015, a proposed parking waiver procedure was read into the public record for consideration of a potential administrative process that would offer an avenue of relief from current parking Codes for businesses seeking to locate within the Village. No vote was taken on the item for first reading and instead it was deferred so that the Mayor and Village Council could review additional information regarding the nature of the proposal. This supplemental report is offered for that purpose.

This report describes the Certificate of Use process and provides a presentation on the challenges faced by a few commercial property owners and businesses seeking to locate within the Village. The final section will provide a discussion as to potential remedies. That portion of the report highlights some of the strengths and weaknesses of those approaches.

CERTIFICATES OF USE

The Certificate of Use program is a review process utilized by many jurisdictions to ensure that any given use, whether new, relocating or expanding, complies with those development standards appropriate thereto. It is the first application a prospective business makes when seeking to locate or expand within the Village. A certificate of use (CU) is the primary permitting tool utilized by the Village to ensure that the operational nature of any given business is appropriately suited to the zoning district within which it is located. Although a CU is principally a zoning instrument, its issuance is not rendered until conformance to the appropriate codes are properly reviewed and approved. The review process often involves the Village's Building Department as well as agencies from the Miami-Dade County such as the Department of Environmental and Resource Management (DERM), Water and Sewer Department (WASD), and the Fire Department.

Before any of the above reviews are performed and any application is accepted or fee paid, Village staff first checks to see if the requested use (ie. business) is permitted within the receiving zoning district. If it is determined that the use is permitted, the next step is to check if there is sufficient parking per code requirements to support the use at the requested location. The zoning code provides a matrix which delineates how many parking spaces a particular use must provide. Typically it is a function of the total floor of the business in question (ie. 1 space per 300 square feet). For multi-tenant centers, all leasable space, whether occupied or not must be included in the calculation. The principal reason for ensuring compliance is to prevent parking demand from

spilling out onto adjacent properties or the right-of-way. Another intent involves ensuring adequate and safe parking is available at any given property for the proper operation of the facility. If the proposed use requires more parking than is available for allocation at the site, the Village is prohibited by ordinance from approving the CU request. It is worth noting that it has been Village practice to perform a preliminary parking review prior to taking in a CU application and corresponding fee. This is done to save the customer from the expense of paying for an application that would likely result in a denial due to parking requirements.

THE PARKING CHALLENGE

The previous report spoke of older developments built under older parking standards as applied to new uses and new business models. Some businesses and their operation may change overtime and new businesses ideas and models may come into being. Changes in the market place may also affect the lease-ability of a commercial property. The essence of the issues addressed in this section were initially presented in the original staff report dated February 23, 2015. The following are excerpts of that report.

“Most of the new businesses that (re)locate [or expand] within the Village typically have business models that neatly comport to the Village’s parking standards and that of the parking facilities available at their new location. There are however times when the business model and the receiving locale do not sync well with the Village’s established parking standards.”

To understand why the above scenario exists, the following was offered.

“The Village’s parking code was modeled after Miami-Dade County which originally adopted theirs in 1957. Approximately 78% of the Village’s commercial development was constructed prior to 1970¹, and built to the standards of that Code. Since that time, new uses have come into being, others have adjusted their operational models, while others still have ceased to operate or even exist. Put into context, the occasion arises that 21st century uses and business models are trying to fit themselves into pre 1970’s development standards.”

As stated above, the majority of businesses that seek to locate within the Village are able to comply with the parking code. This is typically the case because the proposed business fits neatly into a parking category originally assigned to the building or property. Hence, parking functionality is presumed to exist per original code approvals, and the use thusly clears that portion of the CU review². This is of course not always the case. There are from time to time requests that do not

¹ This data was culled by CoStar, a real estate data service provider, and was provided to the Village as part of Lambert Advisory’s, Downtown Redevelopment Task Force market report.

² Compliance at this level of review should not be presumed to mean full conformance with the amount of parking as so identified within the current parking matrices. It is possible that a given property may enjoy a protected nonconforming status as it pertains to the permitted amount of parking as applied at the time of its original development. It is also

comply with the parking code. This report is not suggesting that every business which does not comply with the parking code be entitled to or should receive a waiver. Not all commercial properties have the facilities to support the parking demands of a business. Some uses have operational demands that may inevitable overwhelm the receiving site. The consequence of authorizing such a use could be parking spillage into the right-of-way or the adjacent neighborhood. Overall, the existing parking code does a good job of capturing and controlling for that issue. However, there are other uses, which despite the parking prescribed by code, may have operational demands that can be accommodated by the receiving property's parking facilities.

Hard data is not kept on those businesses which don't meet the parking requirement since as a courtesy to the requestor, no application or fee is collected if the first two review steps identified above are not met. Regardless, attached to this supplemental report are tables that reflect current vacancies at Village area shopping centers³. Some, but not all, have experienced difficulty from time to time locating business at their respective properties. What the tables do not reflect are those commercial properties that are smaller or may be single tenant facilities. Those properties are provided on a separate list with aerials to demonstrate their configurations. What should not be gleaned from this data is a vacancy rate driven solely by parking concerns, as there are many factors that may contribute to such a condition. What is of note, frontline zoning personnel have encountered on occasion a CU request for a business whose parking operational demands do not comport to that of the standard established by Code, and that some commercial properties tend to be prone to higher vacancies rates than the rest of the Village. The reasons for which those properties are challenged vary.

One example cited in the February 23, 2015 report described an MRI facility moving into a flex warehouse space. MRI facilities are classified as medical with a parking calculation of one space per 200 square feet. Yet, MRI facilities devote more space to equipment, the tests take longer, and thus fewer patients can be seen on any given day when compared with a traditional general practitioner's office. Another challenge presented to prospective businesses that don't comply with the parking code relates to the times of their operations. Not all businesses are open at the same time, yet the code requires their calculation as if they were. The prior report provided the example of a karate studio versus a breakfast/lunch diner establishment. The former operates primarily in the evening and weekend, the other in the morning and early afternoon. Another scenario involves buildings originally developed to one standard, say office or light warehouse, but are now more marketable to uses with different parking calculations, say yoga studio, or an MRI facility (respectively). Each of the two examples requires a parking calculation of greater intensity. The tables on the next page, offered by the Village's traffic engineering consultant, Marlin Engineering, reflects the peak hours of different uses within broad commercial categories.

possible that a given property may benefit from a prior variance approval which waived all or a portion of required parking.

³ The information provided in these tables and list are reflective of those businesses that have a business tax receipt or CU on file with the Village's Planning and Zoning Department.

Weekday Peaks	Evening Peaks	Weekend Peaks
Banks Schools Medical clinics Offices Professional services	Auditoriums Bars and dance halls Meeting halls Restaurants Theaters Personal Services	Religious institutions Parks Shops and malls Personal Services

Uses	M-F	M-F	M-F	Sat. & Sun.	Sat. & Sun.	Sat. & Sun.
	8am-5pm	6pm-12am	12am-6am	8am-5pm	6pm-12am	12am-6am
Office/ Warehouse /Industrial	100%	20%	5%	5%	5%	5%
Commercial	90%	80%	5%	100%	70%	5%
Hotel	70%	100%	100%	70%	100%	100%
Restaurant	70%	100%	10%	70%	100%	20%
Movie Theater	40%	80%	10%	80%	100%	10%
Entertainment	40%	100%	10%	80%	100%	50%
Conference/Convention	100%	100%	5%	100%	100%	5%

These tables are offered as a guide and not a hard fast rule. One of the experiences that make frontline zoning work interesting is learning about the unique operational demands of the many businesses out there. So, while the above tables may serve as a guide, it, as well as the zoning code with its rigid structure of uses and culled parking rate averages, cannot anticipate every business operational model.

THE PARKING REMEDY

Current Code offers multiple paths for relief from the parking requirement. Presented here, they include shared parking agreements, on-street parking facilities, variances, or a modification of Code. Also presented is multi tenet parking option as well as additional discussion of the proposed option.

Shared Parking Agreements. One alternative available to remedy a technical (as opposed to actual) parking imbalance is through the use of shared parking. Our Code currently provides for this option. Shared parking provisions work by allowing required parking to be located on a separate property. For the program to work, the adjacent property must be within 300⁴ feet of the principal property where the use is located, and have surplus spaces available that are not already allocated to

⁴ Section 30-70.2(b)(2) only applies to governmental and commercial lots. The approval process is administrative and requires the property owners to record a covenant to reflect the shared parking agreement. That covenant, together with a long term lease would be submitted to the Village's Planning Department and include a review by the Village Attorney for legal sufficiency.

existing building square footage at that donating site. This option is not available to most properties as much of the existing development is at or near capacity for their respective parking requirements.

On-Street Parking. Another option provided by current code involves shifting a portion of the required parking to the curb. This remedy is currently only available in the Franjo Triangle and Island (FT&I) District. Although it is a preferred option (at least as it pertains to the Village's downtown area), the associated cost to construct the on-street parking areas may serve as a deterrent when the offsetting benefit is the capture of just a single business. This approach makes greater sense with redevelopment or new development.

A Multi-Tenant Parking Standard. An alternative akin to the shared parking concept above is an approach suggested in the tables above. The idea would be to adjust required parking for multi-tenant centers reflective of the averages of typical commercial mixes. Typically what would happen is again, an average or standard would be established. So instead of calculating each individual use, the center would be assigned one parking calculation which would be presumed to represent all the possible use combinations (or at least the likely average thereto). From a staff implementation side and business side, the solution is simple; users 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.

Variations. A variance is a form of development order which if granted allows for a total or partial waiver from a zoning standard(s). The approvals run with land, but may be written in a manner specific to the nature of the request. They can be reviewed and authorized administratively or at a public hearing by the Mayor and Village Council. The Village's Code provides for both varieties.

Administrative Variance. Current Code does not permit administrative parking variances. This subsection is submitted for your consideration so that the other options presented may be put into context. The Villages' administrative variance procedure is drafted in a manner that largely relies upon the existence of certain conditions within a narrow purview. Requests of this nature are limited in scope and number as may be applied to any given property. Decisions are rendered based on the fulfillment of certain criteria, such as location of request, scope of request (size), non-objection of adjacent neighbors, preservation of trees, etc. Actual technical review is limited because such requests are considered de minimus. The strength of an administrative variance is that it can typically be completed in half the time of a public hearing variance and is less expensive to process.

Public Hearing Variance. Public hearing variance requests go to the Mayor and Village Council as the final decision making body. These requests can be without limitation⁵. Applicants are not limited in

⁵ With the exception of the FT&I District, Village Code does not permit variances that request unpermitted uses within a zoning district.

the number of requests or the nature of the requests. The request(s) could be for a partial waiver or the complete elimination of the rule as applied to the proposed development. The standard of review for the Village's public hearing variance is that of a "Strict Hardship". Strict hardships generally apply when there is a determination that development would be severely restricted or outright blocked unless a variance is granted. Strict hardship criteria are generally viewed through the prism that the rule is clearly delineated. An example of a property that may qualify for a strict hardship variance would be a pie shaped lot. As the lot narrows, compliance with required setbacks becomes increasingly prohibitive. When placed in the rubric of a business requesting a parking adjustment, it becomes difficult to justify a variance using such standards. Simply wanting a business at a particular location where parking becomes the challenge would not qualify as a strict hardship. Further, public hearing variances take more time than an administrative process and are more expensive to process do to the additional steps involved.

Text Amendment. Another solution to remedy a business model/parking incongruence is to amend provisions of the parking code which respond to the new reality. New uses could be added to the parking matrix to represent that unique operation. And there are times when such an approach may be necessary. For example, many early parking codes did not contemplate drive through facilities. As these became common, codes were amended to reflect the safe and efficient operation of this model. The same can be done for individual uses as their unique needs are identified. This approach has many challenges. First, how often must a particular type of business be turned down before a code change is initiated? The imposition upon a single business model may not be justification enough to amend a code provision. But without the amendment, the use cannot open for business. Second, is it just the nature of a particular use or is it the operator's unique way of managing a business model that does not sync well with code? As in the first question, it may not be appropriate to amend the code every time a business has a novel approach to their operations. Amendments to code should only be pursued when a clear pattern is established. Third, if an amendment is pursued, can the prospective business tolerate the wait needed to accommodate a change of law? Changes in code take time. Florida Statutes requires two hearings. This makes the process longer than a variance which only requires one hearing. Forth, does the cost to pursue such a change exceed the owner's tolerance as part of their start-up costs? The cost of an amendment is reflective of the time and effort involved to enact the legislation.

Administrative Parking Waiver. The information provided by this supplemental report may not reflect all considerations, but it does represent a fair range of issues that may arise and the options that are available to remedy. No parking code will ever be fully complete. New uses may be added from time to time, but at what point does the matrix of parking standards become overly long? It would be seemingly difficult to list every single conceivable business type within the zoning parking code. Amendments to code should not be reactive to a singular situation. They should only be done when a clear pattern is established. In this particular case a pattern has appeared, but not one reflective of any particular business model. The pattern that has evolved is broader. At times, there has come a new business and/or new business model, which may foreseeable be able to operate within acceptable parameters on a particular property. When applied to the existing parking matrix,

the use does not comply with the established parking standard. This is the matter staff is attempting to resolve with a methodology that is based on a technical review of parking operations. The analysis and peer review is performed by professionals in the field of parking. If the two reviews agree with each other, the waiver is granted to that business and its operation as identified within the CU. Where there is disagreement, the matter may be brought before the Mayor and Village Council for final resolution.

CONCLUSION

Any of the above solutions may be implemented to remedy what has become a challenge for a few commercial property owners and prospective businesses. None of them, including the amendment proposed by staff, are perfect in resolving all potential issues. It may very well be possible that a tool box of approaches is needed to ensure businesses which experience the challenges discussed in this report are able to open up shop within the Village in a manner that will allow for proper parking operation functionality.

Darby Delsalle, AICP
Planning & Zoning Director



To: Honorable Mayor and Village Council

Date: February 23, 2015

From: Ron E. Williams, Village Manager

Re: Parking Waiver Procedure
Ordinance for 1st Reading

**AN ORDINANCE OF THE MAYOR AND VILLAGE COUNCIL OF THE
VILLAGE OF PALMETTO BAY, FLORIDA, RELATING TO ZONING;
CREATING SECTION 30-70.2(b)(4) OF THE LAND DEVELOPMENT
CODE RELATING TO REQUIRED PARKING EXEMPTIONS;
PROVIDING FOR ORDINANCES IN CONFLICT, CODIFICATION,
SEVERABILITY AND AN EFFECTIVE DATE.**

BACKGROUND:

The Village of Palmetto Bay has approximately 1,000 active businesses within its jurisdictional boundaries. The turnover rate averages approximately 10% of that total every year. Most of the new businesses that (re)locate within the Village typically have business models that neatly comport to the Village's parking standards, and that of the parking facilities available, at their new location. There are however times when the business model and the receiving locale do not sync well with the Village's established parking standards. Under current Code the available remedy is a variance; a process that may prove to be both timely and expensive. The proposed ordinance offers an alternative path which relies upon the actual demands of the proposed business relative to the facilities available at the site. To understand the nature of the proposal, the following is offered for your consideration:

On October 20, 2008, the Mayor and Village Council adopted Ordinance 08-20, which established Division 30-70, Required Parking, of the Village's Land Development Code, which provided parking standards for uses within the Village. The Village's parking code was modeled after Miami-Dade County which originally adopted theirs in 1957. Approximately 78% of the Village's commercial development was constructed prior to 1970¹, and built to the standards of that Code. Since that time, new uses have come into being, others have adjusted their operational models, while others still have ceased to operate or even exist. Put into context, the occasion arises that 21st century uses and business models are trying to fit themselves into pre-1970's development standards.

Parking categories are broken down into categories such as retail, office, medical, assembly, etc. As stated above, the majority of new business requests do in fact conform to current Code, but not all do. The challenge presented to Village staff and to a prospective business looking to set up shop in

¹ This data was culled by CoStar, a real estate data service provided, and was provided to the Village as part of Lambert Advisory's, Downtown Redevelopment Task Force market report.

the Village is when the operational demands of the use relative to the receiving property does not comply with the parking code.

One solution would be to completely rewrite that portion of Code that sets the parking amount standard. However, this exercise is not without its own problem. First, changing the parking standards cart blanc runs the risk of creating parking nonconformities across the vast majority of existing development within the Village. This could result in greater challenges in located new business than exists today. Further, given most requests for new businesses do comply with Code, such an amendment could be deemed unnecessary.

A second alternative would be to create a unique parking standard for new or altered uses not fully contemplated by current Code. Such an example would be an MRI facility. Classified as diagnostic, its parking standard is significantly higher than its actual operational demand. MRI facilities need more space due to equipment, yet see fewer patients than say a facility that merely draws blood. Current parking standards would prevent such a facility from locating in an industrial flex space that is typically built with fewer parking stalls. This despite the fact that it may be demonstrated, by way of a parking study, that the property is capable of managing the demands of the use. The deficiency with the individualized parking standards approach is first, it makes the Code reactive and adds unnecessary delay to the prospective business as they await an ordinance change. Second, should such an approach be followed, the Village could end up with an endless list of uses with unique parking standards.

Another potential challenge presented to a prospective business occurs when locating within a multi-tenant center. The Code requires all parking to be calculated as if the center were fully leased with all businesses operating at the same time. However, not all businesses share the same operational hours. Some close by mid-day, others only open in the evening. Some may be open all day but have customer volumes that occur at predictable times (i.e. karate studio or breakfast/lunch diner). There are jurisdictions that remedy this conflict with provisions that contemplate the hours of operation of a particular business. The Village could pursue such a Code; however the attached proposed ordinance is capable of achieving the same result while addressing a broader issue discussed above.

The proposed ordinance recognizes that not all businesses share the identical operational demands. It offers a remedy that is more nimble than a variance request or change of law, and one that would be considerably less timely or expensive to pursue. Where it is determined that a parking deficiency exists, the prospective business owner may complete a parking study to determine if the operational demands of the use does not over burden the property where it is to be located. The review and approval, denial or approval with conditions, of that plan would be completed administratively. If the applicant and staff do not agree, the owner may elect to purse the variance option. The fee for parking analysis review shall be half of that for a non-use variance. Appeal of the administrative final decision shall be by way of non-use variance upon which the application shall pay other half of the variance fee plus any other costs associated with the application and hearing as provided by ordinance. The relief procedure shall only be available to existing development. Parking facilities for

new developments shall be built according to the standards provided by each use category as applicable.

ANALYSIS:

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

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

Analysis: The Village's Comprehensive Plan or Concurrency Management Plan do not address parking requirement.

Finding: Not applicable.

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

Analysis: Please see Background section of this report. The proposed ordinance is internally consistent with the remaining portions of Section 30-70 in that it that is seeks the (unstated) intent to ensure adequate parking is provided on site for those uses approved thereon. No parking study shall be approved that fails to demonstrate adequate parking exists to accommodate a use(s) at a particular property.

Findings: Consistent.

Criteria (3) Whether, and the extent to which, land use and development conditions have changed since the effective date of the existing regulations, and whether the changes support or work against the proposed change in land use policy.

Analysis: Please see Background section of this report. As reflected in the Background Section of this report, considerable time has passed since the adoption of the first parking code and the development commercial portions of the Village. The proposed amendment offers an avenue for relief when such standards fall out of sync with the proposed use; and it does so in a manner that does not compromise the legal conforming status of the receiving property.

Findings: Consistent.

Criteria (4) Whether, and the extent to which, the proposal would result in any incompatible land uses, considering the type and locations of uses involved, the impact on the adjacent or neighboring properties, consistency with existing development, as well as compatibility with existing and proposed land uses.

Analysis: Please see Background section of this report. The proposed ordinance does not change permitted uses. It merely provides a level of flexibility when siting business within the Village. The intent of the parking study is to determine if approving the new use would create such an impact. If one exists, the application is denied, if it does not, then it is approved.

Finding: Consistent.

Criteria (5) Whether, and the extent to which, the proposal would result in demands on transportation systems, public facilities and service; would exceed the capacity of the facilities and services, existing or programmed, including: transportation, water and wastewater services, solid waste disposal, drainage, recreation, education, emergency services, and similar necessary facilities and services.

Analysis: The proposed ordinance does not alter permitted use, intensities or densities. As such, it does not impact the above systems.

Finding: Consistent.

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

Analysis: The proposed ordinance may only affect existing parking facilities and does not impact the above systems.

Finding: Consistent.

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

Analysis: It is anticipated, though not quantified, that the ordinance will likely have a positive effect on property values. The logic is as follows; a fully rented commercial facility is worth more than one partially or fully unleased.

Findings: Consistent.

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

Analysis The proposed ordinance does not change permitted uses or change any provisions which affect the development of land. It only applies to existing developments.

Findings: Consistent.

Criteria (9) Whether the proposal would be in conflict with the public interest, and whether it is in harmony with the purpose of Chapter 30.

Analysis: See Analysis under Criteria 2, 3 4 and 7.

Finding: Consistent.

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

Analysis: As per the direction of the Village Council.

Finding: As determined by the Village Council.

FISCAL/BUDGETARY IMPACT:

It is anticipated that the cost to process requests contemplated by the proposed ordinance, be fiscally neutral.

RECOMMENDATION:

Decision for the Village Council.

Darby Delsalle, AICP
Planning & Zoning Director

ORDINANCE NO. _____

AN ORDINANCE OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, RELATING TO ZONING; CREATING SECTION 30-70.2(b)(4) OF THE LAND DEVELOPMENT CODE RELATING TO REQUIRED PARKING EXEMPTIONS; PROVIDING FOR ORDINANCES IN CONFLICT, CODIFICATION, SEVERABILITY AND AN EFFECTIVE DATE.

WHEREAS, on October 20, 2008, the Mayor and Village Council adopted Ordinance 08-20, which established Division 30-70, Required Parking, of the Village's Land Development Code, which included Section 30-70.2(b), establishing the conditions under which a property may be exempt from parking requirements; and

WHEREAS, it is in the public interest for the Village to provide regulations for parking consistent with industry standards and practices, available technologies, available land resources, and traffic engineering in an effort to protect public security, privacy, and welfare, and

WHEREAS, it is further in the public interest for the Village to provide under proper circumstances for a waiver of the applicable requirements for parking facilities for existing developments, so that the issuance of a parking reduction waiver is in the public interest under such circumstances; and

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

WHEREAS, on April 6, 2015, the Local Planning Agency approved the proposed amendment; and

WHEREAS, the Mayor and Village Council, now desire to establish a procedure through which the citizens and/or property owner of the Village may request a parking reduction waiver, and through which the Village may approve, deny or approve with conditions such requests.

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

Section 1. Section 30-70.2(b)(4) of the Village's Code of Ordinances shall be created to read as follows:

DIVISION 30-70. - PARKING AND LOADING STANDARDS

* * *

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

* * *

1
2 (b) Exemptions.
3

4 * * *

5
6 (4) Parking Reduction Waiver Request. It is acknowledge that for parking
7 calculation purposes, parking requirements and demand may shift for
8 existing developments over time as the use or mix of uses change. In cases
9 where the required parking, as provided for in this Division, for a proposed
10 use exceeds the amount of spaces available on the receiving property, the
11 applicant may request a Parking Reduction Waiver in lieu of pursuing a
12 public hearing variance.

13
14 (1) Eligibility. These provisions shall only apply to existing
15 developments.

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

18
19 a. The applicant shall file an application and pay a filing fee
20 equal to half the cost of a non-use variance modification.

21
22 b. The application shall include a parking study confirming
23 whether or not the existing facilities can accommodate the
24 proposed use. The parking study shall be prepared by a
25 certified engineer, licensed in the State of Florida with
26 expertise in parking, and shall be paid for by the applicant.
27 The Village may hire its own engineer, at the applicant's
28 expense, to evaluate applicant's parking study.

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

31
32 (3) The Director of Planning and Zoning, or his/her designee, shall
33 either approve, approve with conditions, or deny the request. Any
34 approval shall be specific to the applicant's requested use and will be
35 deemed null should the operations cease for a period of six (6)
36 months or longer. Any expansion of the approved use shall require
37 full compliance with required parking or resubmission of a waiver
38 request as provided by this section. Denial of a waiver request may
39 be appealed to the Mayor and Village Council pursuant to public
40 hearing variance procedures as provided at Division 30-30 of the
41 Village's Land Development Code. All applicable public hearing fees
42 shall apply however the application fee shall be half the cost of a
43 non-use variance modification.

44
45 **Section 2. Conflicting Provisions.** The provisions of the Code of Ordinances of the
46 Village of Palmetto Bay, Florida and all ordinances or parts of ordinances in conflict with the
47 provisions of this ordinance are hereby repealed.
48

PROPOSED
ORDINANCE

ORDINANCE NO. _____

AN ORDINANCE OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, RELATING TO ZONING; AMENDING PORTIONS OF SECTION 30-70 OF THE LAND DEVELOPMENT CODE RELATING TO REQUIRED PARKING, EXEMPTIONS, VALET PARKING, AMOUNT OF PARKING, AND CALCULATION OF REQUIRED PARKING, TO PROVIDE FOR PARKING RELIEF REMEDIES; PROVIDING FOR ORDINANCES IN CONFLICT, CODIFICATION, SEVERABILITY AND AN EFFECTIVE DATE.

WHEREAS, on October 20, 2008, the Mayor and Village Council adopted Ordinance 08-20, which established Division 30-70, Required Parking, of the Village's Land Development Code, which included conditions under which a property may be exempt from parking requirements; and

WHEREAS, it is in the public interest for the Village to provide regulations for parking consistent with industry standards and practices, available technologies, available land resources, and traffic engineering in an effort to protect public security, privacy, and welfare, and

WHEREAS, it is further in the public interest for the Village to provide under proper circumstances, a waiver of the applicable requirements for parking facilities for existing developments; and

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

WHEREAS, on September 14, 2015, the Local Planning Agency approved the proposed amendment; and

WHEREAS, the Mayor and Village Council, now desire to establish a procedure through which the citizens and/or property owner of the Village may request a parking reduction waiver, and through which the Village may approve, deny or approve with conditions such requests.

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

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

DIVISION 30-70. - PARKING AND LOADING STANDARDS

* * *

Sec.

1 30-70.2. - Location of required parking; exceptions.

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3 * * *

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5 (b) Exemptions.

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7 * * *

8
9 (4) Parking Reduction Waiver Request. It is acknowledged that for parking
10 calculation purposes, parking requirements and demand may shift for
11 existing developments over time as the use or mix of uses change. In cases
12 where the required parking, as provided for in this Division, for a proposed
13 use exceeds the amount of spaces available on the receiving property, the
14 applicant may request a Parking Reduction Waiver in lieu of pursuing a
15 public hearing variance.

16
17 a. Eligibility. These provisions shall only apply to existing
18 developments.

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

21
22 1. The applicant shall file an application and pay a filing fee
23 equal to half the cost of a non-use variance modification,

24
25 2. The application shall include a parking study confirming
26 whether or not the existing parking facilities of the
27 development adequately accommodate the proposed use.
28 The parking study shall be prepared by a engineer, architect,
29 or city planner, with expertise in parking, and shall be paid for
30 by the applicant. The Village may hire its own engineer,
31 architect, or city planner, at the applicant's expense, to
32 evaluate applicant's parking study.

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

35
36 c. The Director of Planning and Zoning, or his/her designee, shall
37 either approve, approve with conditions, or deny the request based
38 on the parking study's finding of adequacy to accommodate of the
39 proposed use. Any approval shall be specific to the applicant's
40 requested use and will be deemed null should the operations cease
41 for a period of six (6) months or longer. Any expansion of the
42 approved use shall require full compliance with required parking or
43 resubmission of a waiver request as provided by this section. Denial
44 of a waiver request may be appealed to the Mayor and Village
45 Council pursuant to public hearing variance procedures as provided
46 at Division 30-30 of the Village's Land Development Code. All

1 applicable public hearing fees shall apply, and an application fee of
2 the appeal shall be half the cost of a non-use variance modification.
3

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

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

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

21 The covenant shall also provide that the Village may collect attorneys' fees if
22 litigation is necessary to enforce the requirements of this section.
23

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

29
30 a. All allocation of on-street parking spaces counted towards on-site
31 parking requirements shall be by written agreement between the
32 village and property owner, as reviewed by the Village Attorney for
33 legal sufficiency, and approved by the village manager. The
34 agreement shall clearly delineate the terms and conditions. The
35 village manager upon the advice of the village council, will
36 determine if the installation of parking meters is warranted and
37 appropriate for the area.

38
39 b. On-street parking shall be prohibited from those portions of right-
40 of-way adjacent to single family residential uses, and shall fully
41 comply with Division 30-100.1, Landscaping Regulations.
42

43 c. On-street parking constructed by property owner as part of their
44 development in question shall receive a credit with the village for
45 said spaces for a term five (5) years. Thereafter, an annual fee of
46 \$1,000.00, per space, which shall increase five percent annually,
47 shall be paid to the village for all on-street parking spaces which

1 are credited or counted toward minimum parking requirements for
2 new structures. Unallocated on-street parking spaces may be
3 allocated to a development. The development seeking to use the
4 unallocated on-street spaces shall pay a fee of \$1,000 per space
5 which shall increase five percent annually.
6

7 d. Failure to comply with the provisions of this subsection, shall
8 result in the loss or revocation of the certificate of use and/or
9 occupancy for the property failing to meet minimum parking
10 requirements for the project, and subject the property to a daily
11 penalty of \$250.00, per day.
12

13 e. Funds received under subsection 30-70.2(b)(6)d. shall be paid into
14 the Parking District Improvement Trust Fund, which shall be a
15 trust account separated from the village's general fund accounts.
16 The funds from the Parking District Improvement trust account
17 shall be used at the village council's discretion for the specific
18 purpose of developing or reimbursing the village for construction
19 and improvement to public parking facilities, infrastructure with
20 the intent to increase parking capacity, and the installation of
21 metering devises. Funds collected in this account may also be used
22 towards items that improve the pedestrian environment and may
23 include, but not be limited to bicycle parking and racks, sidewalk
24 improvements and maintenance, bench installation, water
25 fountains, outdoor recycle bins, signage for parking and bicycle
26 racks, tree planting and maintenance.
27

28 * * *

29
30 30-70.5 Size and character of parking spaces.

31
32 The following requirements shall be observed for parking:

33 * * *

- 34
35 (j) *Valet parking.* Valet parking may shall be permitted, on-site or off-site, to provide
36 contribute towards meeting parking in excess of minimum parking requirements for
37 existing developments. For the village to consider approval of valet parking, a plan
38 must be submitted and shall include the location of valet spaces, insurance
39 requirements, staffing hours of operation, and the traffic circulations pattern
40 indicating all aspect of the valet operation to include drop-off and stacking areas and
41 may be used together with a shared parking agreement to ensure full compliance
42 with minimum required parking standards. The plan cannot alter previously
43 approved landscaping requirement, setbacks or buffers. Tandem parking shall be
44 permitted under valet parking plan. Robotic parking in an internally enclosed parking
45 garage shall be permitted.
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30-70.8 Amount of parking.

The minimum number of parking spaces to be provided and maintained for each use or occupancy shall be as ~~follow:~~ provided in this section. Developments built prior to this provision shall be considered nonconforming and continue to rely upon the amount of parking standard required at the time of their original development.

* * *

30-70.11 Bicycle Parking

* * *

(f) Every four (4) bicycle parking spaces provided over and above that required in section 30-70.11(b) may be counted as one required automobile parking space. The total number automobile parking spaces that can be replaced by bicycle parking spaces shall not exceed 5% of the requirement or ten (10) spaces, whichever is less.

30-70.12 Calculating required parking spaces.

* * *

(d) Unless otherwise specified in Section 30-70.8, parking amount shall be calculated based on actual use of space, (e.g. grocery stores shall have separate calculations for actual retail customer service area and storage areas). Bathrooms, storage closets, hallway corridors, and lobbies not used as waiting areas shall be excluded from parking calculations.

Section 2. Conflicting Provisions. The provisions of the Code of Ordinances of the Village of Palmetto Bay, Florida and all ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

Section 3. Severability. The provisions of this Ordinance are declared to be severable, and if any sentence, section, clause or phrase of this Ordinance shall, for any reason, be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sentences, sections, clauses or phrases of the Ordinance, but they shall remain in effect it being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part.

Section 4. Codification. It is the intention of the Village Council and it is hereby ordained the provisions of this Ordinance shall become and be made part of the Code of Ordinances of the Village of Palmetto Bay, Florida, that sections of this Ordinance may be renumbered or re-lettered to accomplish such intentions, and that the word "Ordinance" shall be changed to "Section" or other appropriate word.

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

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PASSED and ENACTED this ____ day of _____, 2015.

First Reading: _____
Second Reading: _____

Attest: _____
Meighan Alexander
Village Clerk
Eugene Flinn
Mayor

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

Dexter W. Lehtinen
Village Attorney

FINAL VOTE AT ADOPTION:
Council Member Karyn Cunningham _____
Council Member Tim Schaffer _____
Council Member Larissa Siegel Lara _____
Vice-Mayor John DuBois _____
Mayor Eugene Flinn _____



To: Honorable Mayor and Village Council

Date: March 7, 2016

From: Edward Silva, Village Manager

Re: Budget Amendment –
FY 2015-2016

AN ORDINANCE OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, RELATING TO THE FISCAL YEAR 2015-2016 BUDGET; AMENDING ORDINANCE NUMBER 2015-10; AMENDING THE VILLAGE'S BUDGET FOR THE 2015-2016 FISCAL YEAR; AUTHORIZING THE VILLAGE MANAGER TO TAKE ALL ACTIONS NECESSARY TO IMPLEMENT THE TERMS AND CONDITIONS OF THIS ORDINANCE; PROVIDING FOR ORDINANCES IN CONFLICT, CODIFICATION, SEVERABILITY AND AN EFFECTIVE DATE

BACKGROUND AND ANALYSIS:

The Adopted Budget for Fiscal Year 2015-2016 incorporates the Staffing Summary, summarizing all positions within the Village. At this mid-point of the budget year, administration finds that it is necessary to make certain personnel changes to better meet the needs of Village operations. The attached amended Staffing Summary reflects and details the proposed personnel changes and updates.

BUDGET AND FISCAL IMPACT:

None; the proposed changes will not have an impact on the approved funding levels.

RECOMMENDATION:

Approval is recommended.

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46 Section 3. *Authorization of Village Manager.* The Village Manager is hereby authorized to
47 take all actions necessary to implement the terms and conditions of this Ordinance.
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49 Section 4. *Severability.* If any section, clause, sentence, or phrase of this Ordinance is for
50 any reason held invalid or unconstitutional by a court of competent jurisdiction, the holding shall
51 not affect the validity of the remaining portions of this Ordinance.
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53 Section 5. *Effective Date.* This ordinance shall take effect immediately upon adoption on
54 second reading.
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56
57 **PASSED AND ENACTED** this ____ day of _____, 2016.
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59 First Reading: _____

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61 Second Reading: _____

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65 Attest: _____

66 Meighan Alexander,
67 Village Clerk

Eugene Flinn
Mayor

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69
70 APPROVED AS TO FORM:

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73 _____
74 Dexter Lehtinen
75 Office of Village Attorney
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78 **FINAL VOTE AT ADOPTION:**

79
80 Council Member Karyn Cunningham _____

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82 Council Member Tim Schaffer _____

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84 Council Member Larissa Siegel-Lara _____

85
86 Vice-Mayor John DuBois _____

87
88 Mayor Eugene Flinn _____

Exhibit A
Amended Staffing Summary

VILLAGE POSITION DETAIL	FY 13-14 Adopted		FY 14-15 Amended Final		FY 15-16 Adopted		FY 15-16 Mid-Year Adj.	
	PT	FT	PT	FT	PT	FT	PT	FT
Mayor & Council								
Mayor	1.0	0.0	1.0	0.0	1.0	0.0	1.0	0.0
Vice Mayor	1.0	0.0	1.0	0.0	1.0	0.0	1.0	0.0
Councilmember	3.0	0.0	3.0	0.0	3.0	0.0	3.0	0.0
Total Positions	5.0	0.0	5.0	0.0	5.0	0.0	5.0	0.0
Office of the Village Manager								
Village Manager	0.0	1.0	0.0	1.0	0.0	1.0	0.0	1.0
Executive Assistant	0.0	1.0	0.0	1.0	0.0	1.0	0.0	1.0
Admin. Aide/Receptionist	0.0	1.0	0.0	1.0	0.0	1.0	0.0	1.0
Communications Mgr/PIO	0.0	1.0	0.0	1.0	0.0	0.0	0.0	0.0
TV & Camera Technician	0.0	0.0	1.0	0.0	0.0	0.0	0.0	0.0
Business Partner Liaison	0.0	0.0	0.0	0.0	0.0	1.0	0.0	0.0
Assistant to the Manager	0.0	0.0	0.0	0.0	0.0	0.0	0.0	1.0
Procurement Specialist	0.0	0.0	0.0	0.0	0.0	0.0	0.0	1.0
Architectural Renderer**	0.0	0.0	0.0	0.0	1.0	0.0	0.0	1.0
Total Positions	0.0	4.0	1.0	4.0	1.0	4.0	0.0	6.0
Office of the Village Clerk								
Village Clerk	0.0	1.0	0.0	1.0	0.0	1.0	0.0	1.0
Administrative Assistant	0.0	1.0	0.0	1.0	0.0	1.0	0.0	1.0
Total Positions	0.0	2.0	0.0	2.0	0.0	2.0	0.0	2.0
Finance Department								
Finance Director	0.0	1.0	0.0	1.0	0.0	1.0	0.0	1.0
Sr. Accountant	0.0	1.0	0.0	1.0	0.0	1.0	0.0	1.0
Procurement Specialist	0.0	1.0	0.0	1.0	0.0	1.0	0.0	0.0
IT Technician	0.0	0.0	0.0	0.0	0.0	0.0	0.0	1.0
Accountant	0.0	1.0	0.0	1.0	0.0	1.0	0.0	1.0
Cashier	0.0	1.0	0.0	1.0	0.0	1.0	0.0	1.0
Accounting & Alarm Clerk	0.0	1.0	0.0	1.0	0.0	1.0	0.0	1.0
Total Positions	0.0	6.0	0.0	6.0	0.0	6.0	0.0	6.0
Dept. of Community & Economic Dev								
Building & Permitting Community & Econ. Dev. Dir.**	0.0	1.0	0.0	1.0	0.0	1.0	0.0	1.0
Building Official**	0.0	0.0	0.0	0.0	0.0	1.0	0.0	1.0
Chief Building Inspector**	0.0	1.0	0.0	1.0	0.0	0.0	0.0	1.0
Office Manager**	0.0	1.0	0.0	1.0	0.0	1.0	0.0	1.0
Code Compliance Coordinator**	0.0	0.0	0.0	1.0	0.0	1.0	0.0	1.0
Code Compliance Inspector**	0.0	1.0	0.0	1.0	0.0	1.0	0.0	1.0
Code Compliance Officer**	0.0	0.0	0.0	2.0	0.0	2.0	0.0	2.0
Zoning Administrator**	0.0	0.0	0.0	1.0	0.0	1.0	0.0	1.0
Permit Clerk I**	0.0	1.0	0.0	1.0	0.0	1.0	0.0	2.0
Permit Clerk II**	0.0	1.0	0.0	1.0	0.0	1.0	0.0	0.0
Permit Clerk I/ Receptionist**	0.0	0.0	0.0	1.0	0.0	1.0	0.0	1.0
Plans Processing Clerk**	1.0	1.0	0.0	1.0	0.0	1.0	0.0	1.0
Receptionist**	1.0	1.0	0.0	0.0	0.0	0.0	0.0	0.0
Architectural Renderer**	0.0	0.0	1.0	0.0	0.0	0.0	0.0	0.0
Total Buiding & Permitting Positions	2.0	8.0	1.0	12.0	0.0	12.0	0.0	13.0

**Exhibit A
Amended Staffing Summary**

Planning & Zoning	Planning & Zoning Director	0.0	1.0	0.0	1.0	0.0	1.0	0.0	1.0
	Planning & Zoning Administrator	0.0	1.0	0.0	1.0	0.0	1.0	0.0	1.0
	Planning & Zoning Admin. Coord.	0.0	1.0	0.0	0.0	0.0	0.0	0.0	0.0
	Administrative Assistant	0.0	1.0	0.0	1.0	0.0	0.0	0.0	0.0
	Permit Zoning Technician	0.0	1.0	0.0	0.0	0.0	0.0	0.0	0.0
	Code Compliance Officer	0.0	2.0	0.0	0.0	0.0	0.0	0.0	0.0
	<i>Total Planning & Zoning Positions</i>	<i>0.0</i>	<i>7.0</i>	<i>0.0</i>	<i>3.0</i>	<i>0.0</i>	<i>2.0</i>	<i>0.0</i>	<i>2.0</i>
Total Positions		2.0	15.0	1.0	15.0	0.0	14.0	0.0	15.0
Human Resources & Communications		PT	FT	PT	FT	PT	FT	PT	FT
	Human Resources & Communications Dir.*	0.0	1.0	0.0	1.0	0.0	1.0	0.0	1.0
	HR Generalist	0.0	1.0	0.0	1.0	0.0	1.0	0.0	1.0
	Communications Manager*	0.0	0.0	0.0	0.0	0.0	1.0	0.0	1.0
	Videographer/ Video Editor*	0.0	0.0	0.0	0.0	1.0	0.0	1.0	0.0
	Public Information Officer*	0.0	0.0	0.0	0.0	0.0	1.0	0.0	1.0
	Grantwriter	0.0	0.0	1.0	0.0	1.0	0.0	1.0	0.0
Total Positions		0.0	2.0	1.0	2.0	2.0	4.0	2.0	4.0
Parks & Recreation		PT	FT	PT	FT	PT	FT	PT	FT
	Parks and Recreation Director	0.0	1.0	0.0	1.0	0.0	1.0	0.0	1.0
	Parks and Recreation Manager	0.0	1.0	0.0	1.0	0.0	1.0	0.0	0.0
	Parks & Recreation Supervisor	0.0	2.0	0.0	3.0	0.0	3.0	0.0	3.0
	Administrative Assistant	0.0	1.0	0.0	1.0	0.0	1.0	0.0	1.0
	Special Events Supervisor	0.0	1.0	0.0	0.0	0.0	0.0	0.0	0.0
	Special Events & Programs Coord.	0.0	1.0	0.0	2.0	0.0	2.0	0.0	2.0
	Park Reservations Specialist	0.0	0.0	0.0	1.0	0.0	1.0	0.0	1.0
	Grounds/ Facility Maint. Supervisor	0.0	1.0	0.0	0.0	0.0	0.0	0.0	0.0
	Parks Maintenance Worker	6.0	3.0	0.0	0.0	0.0	0.0	0.0	0.0
	Tennis Center Attendant	3.0	0.0	3.0	0.0	3.0	0.0	3.0	0.0
	Park Service Aide	19.0	0.0	18.0	0.0	20.0	0.0	20.0	0.0
Total Positions		28.0	11.0	21.0	9.0	23.0	9.0	23.0	8.0
Public Services		PT	FT	PT	FT	PT	FT	PT	FT
Public Works	Public Works Director**	0.0	1.0	0.0	1.0	0.0	1.0	0.0	1.0
	Administrative Assistant**	0.0	1.0	0.0	1.0	0.0	1.0	0.0	1.0
	Field Operations Supervisor**	0.0	1.0	0.0	1.0	0.0	1.0	0.0	1.0
	Grounds Maintenance Worker**	0.0	2.0	0.0	2.0	0.0	3.0	0.0	3.0
	Stormwater Engineering Technician**	0.0	1.0	0.0	1.0	0.0	1.0	0.0	1.0
	Bus Operator**	3.0	0.0	1.0	1.0	1.0	0.0	1.0	0.0
	Transit Operations Specialist**	0.0	0.0	0.0	0.0	0.0	1.0	0.0	1.0
<i>Total Public Works Positions</i>		<i>3.0</i>	<i>6.0</i>	<i>1.0</i>	<i>7.0</i>	<i>1.0</i>	<i>8.0</i>	<i>1.0</i>	<i>8.0</i>
Facilities Maint.	Facilities Maint. Superintendent	0.0	1.0	0.0	1.0	0.0	1.0	0.0	1.0
	Facilities Maint. Worker I	0.0	1.0	0.0	1.0	0.0	1.0	2.0	3.0
	Facilities Maint. Worker II	0.0	1.0	0.0	1.0	0.0	1.0	0.0	1.0
	Grounds/ Facility Maint. Supervisor	0.0	0.0	0.0	1.0	0.0	1.0	0.0	1.0
	Maintenance Technician	0.0	0.0	0.0	1.0	0.0	1.0	0.0	1.0
	Maintenance Worker	0.0	0.0	5.0	3.0	5.0	3.0	4.0	3.0
<i>Total Facilities Maint. Positions</i>		<i>0.0</i>	<i>3.0</i>	<i>5.0</i>	<i>8.0</i>	<i>5.0</i>	<i>8.0</i>	<i>6.0</i>	<i>10.0</i>
Total Public Services Positions		3.0	9.0	6.0	15.0	6.0	16.0	7.0	18.0

Exhibit A
Amended Staffing Summary

CONTRACTUAL POSITION DETAIL		FY 13-14 Adopted		FY 14-15 Amended Final		FY 15-16 Adopted		FY 15-16 Mid-Year Adj.	
		PT	FT	PT	FT	PT	FT	PT	FT
Police Services									
<i>Contractual</i>	Police Major	0.0	1.0	0.0	1.0	0.0	1.0	0.0	1.0
	Police Lieutenant	0.0	1.0	0.0	1.0	0.0	1.0	0.0	1.0
	Police Sergeant	0.0	5.0	0.0	5.0	0.0	5.0	0.0	5.0
	Police Officer	0.0	35.0	0.0	35.0	0.0	35.0	0.0	36.0
	Secretary	0.0	1.0	0.0	1.0	0.0	1.0	0.0	1.0
	Police Record Specialist	0.0	2.0	0.0	2.0	0.0	2.0	0.0	2.0
	Police Station Specialist	0.0	1.0	0.0	1.0	0.0	1.0	0.0	1.0
	Total (Contractual) Positions	0.0	46.0	0.0	46.0	0.0	46.0	0.0	47.0
Village Attorney									
<i>Contractual</i>	Village Attorney	1.0	0.0	1.0	0.0	1.0	0.0	1.0	0.0
	Total (Contractual) Positions	1.0	0.0	1.0	0.0	1.0	0.0	1.0	0.0
Dept. of Community & Economic Dev (Bldg. & Permitting)									
<i>Contractual</i>	Building Inspector	1.0	0.0	1.0	0.0	1.0	0.0	1.0	0.0
	Chief Mechanical Inspector	1.0	0.0	1.0	0.0	1.0	0.0	1.0	0.0
	Chief Electrical Inspector	1.0	0.0	1.0	0.0	1.0	0.0	1.0	0.0
	Chief Plumbing Inspector	1.0	0.0	1.0	0.0	1.0	0.0	1.0	0.0
	Structural Plans Reviewer	1.0	0.0	1.0	0.0	1.0	0.0	1.0	0.0
	Total (Contractual) Positions	5.0	0.0	5.0	0.0	5.0	0.0	5.0	0.0
TOTAL VILLAGE POSITIONS		33.0	49.0	30.0	53.0	32.0	55.0	32.0	59.0
TOTAL COUNCIL POSITIONS		5.0	0.0	5.0	0.0	5.0	0.0	5.0	0.0
TOTAL CONTRACTUAL POSITIONS		6.0	46.0	6.0	46.0	6.0	46.0	6.0	47.0

Proposed Adjustments:

Departmental Name: Human Resources & Communications Department

Staffing Updates:

- Manager: Update Business Partner Liaison to Assistant to Manager
Update Architectural Rendered from PT to FT
Transfer (1) Procurement Specialist from Finance Dept.
- Finance: Add (1) IT Technician-FT
Transfer (1) Procurement Specialist to Village Manager
- Building & Permitting: Replace (1) Permit Clerk II with (1) Permit Clerk I
Add (1) Chief Building Inspector- FT
- Parks & Recreation: Remove (1) Parks & Recreation Manager-FT
- Public Works: Replace (1) FT Bus Operator with (1) FT Transit Operations Specialist
- Facilities Maint.: Add (2) Facilities Maint. Worker I- PT
Add (2) Facilities Maint. Worker I- FT
Remove (1) Maintenance Worker- PT

Title Updates*:

- Update Building & Capital Projects Director to Community & Economic Dev. Director
- Update Human Resources Director to Human Resources & Communications Director
- Update Communications Manager/ PIO to Communications Manager
- Update Public Information Specialist to Public Information Officer
- Update TV/ Camera Tech. to Videographer/ Video Editor

**Funded through Special Revenue