



To: Mayor and Village Council

Date: July 2, 2012

From: Eve A. Boutsis, Village Attorney

Re: Child Daycare Facilities in B-1
First Reading

AN ORDINANCE OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, RELATING TO ZONING; AMENDING THE LIST OF PERMITTED USES FOR THE LIMITED BUSINESS DISTRICT (B-1) TO PROVIDE FOR CHILD CARE FACILITIES; PROVIDING FOR ORDINANCES IN CONFLICT, CODIFICATION, SEVERABILITY AND AN EFFECTIVE DATE. [Sponsored by Council Person Howard Tendrich].

BACKGROUND:

At the June 11, 2012 Committee of the Whole meeting, a majority of the Village Council requested staff to prepare an ordinance to permit child care facilities within the B-1, Limited Business District. The request came at the behest of Council Person Tendrich who introduced the item at that meeting. The Mayor and Village Council established the B-1 district on August 20, 2009 (Ordinance No. 09-17) which replaced the County's previous zoning of BU-1, Neighborhood Business Zoning District. The previous BU-1 zoning designation permitted child care facilities, subject to specified development standards. When the Village designated the B-1 district in 2009, the child care use was omitted from the list of permitted uses. The reason for that action was not clear.

The proposed ordinance seeks to restore the previously permitted use within the Village's B-1 district, subject to public hearing pursuant to the development standards established in Section 30-110.

ANALYSIS:

The proposed revision(s) was/were reviewed for consistency with the criteria established in Section 30-30.7(b). The following is a review of those criteria:

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

Analysis: Those parcels located within the B-1 zoning district have a land use designation of Business and Office. The Business and Office "category accommodates the full range of sales service activities including retail, wholesale, personal and professional services, commercial and professional offices, hotels, hospitals, theaters, medical buildings, nursing homes (subject to state regulations), entertainment and cultural

facilities, amusements and commercial recreation establishments.” Given the broad range of permitted uses, some of which are may be considered public assembly uses, (i.e. theaters, cultural facilities etc.), child care facilities may be considered consistent with the Business and Office designation of the Comprehensive Plan. As with all uses, development review is required to ensure the project conforms to the Village’s Concurrency Management Plan. Child care facilities are subject to public hearing pursuant Section 30-110.

Finding: Consistent.

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

Analysis: The Mayor and Village Council established the B-1 district on August 20, 2009, (Ordinance No. 09-17) which replaced the County’s previous zoning of BU-1, Limited Business District. The Village’s B-1 district was modeled after the County’s BU-1 zoning district. The previous BU-1 zoning designation permitted child care facilities, subject to public hearing. When the new code was adopted the child care use was omitted. The purpose to the B-1 district “is to provide for retail and service convenience facilities which satisfy the essential and frequent needs of the adjacent residential neighborhood.” The proposed amendment restores the child care facilities use as a permitted use to the B-1 zoning district. Requests for such uses shall be pursuant to Section 30-110, as provided for through the Village’s Land and Development Regulations.

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: See analysis under Criteria 2.

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: Those lands within the B-1 zoning district have a land use designation of Business and Office. The Business and Office “category accommodates the full range of sales service activities including retail, wholesale, personal and professional services,

commercial and professional offices, hotels, hospitals, theaters, medical buildings, nursing homes (subject to state regulations), entertainment and cultural facilities, amusements and commercial recreation establishments.” Given the broad range of permitted uses, some of which are may be considered public assembly uses, (i.e.: theaters, cultural facilities etc.), child care facilities may be considered consistent with the Business and Office designation of the Comprehensive Plan. The purpose to the B-1 district it “is to provide for retail and service convenience facilities which satisfy the essential and frequent needs of the adjacent residential neighborhood.” As with all uses, development review is required to ensure the project conforms with the Village’s Concurrency Management Plan. Child care facilities are subject to public hearing pursuant Section 30-110.

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: Child care facilities are subject to public hearing pursuant Section 30-110, which requires the review to include compliance with the Village’s Concurrency Management Plan and ensure compliance with the criteria identified herein.

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: Child care facilities are subject to public hearing pursuant Section 30-110, which requires the review to include compliance with the natural environment, including consideration of wetland protection, preservation of groundwater aquifer wildlife habitats, and vegetative communities.

Finding: Consistent.

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

Analysis The proposal does not impact residential zoning districts and is an addition to the list of permitted uses allowed in the B-1 zoning district.

Findings: Consistent.

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

Analysis: See Analysis under Criteria 2. The public hearing requirement, pursuant to section 30-110 would ensure orderly and compatible land use development, while utilizing the child care use within the B-1 district.

Findings: Consistent.

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

Analysis: The proposal does not directly impact residential zoning districts. The use would be added to the list of potentially permitted uses in the B-1 zoning district, provided, however, a public hearing is held to determine compliance with the provisions of 30-110. Division 30-110 provides specific criteria relating to traffic, parking, number of students, amount of outdoor play space, etc. The purpose of the B-1 district is "to provide for retail and service convenience facilities which satisfy the essential and frequent needs of the adjacent residential neighborhood." The proposed use may be considered consistent with that stated purpose.

Findings: 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:

None at this time.

RECOMMENDATION:

It is the decision of the Village Council to proceed with the modifications.

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2 (19) Day nursery, kindergarten and after-school care licensed by the State of Florida
3 Department of Health and Rehabilitative Services and established in accordance with
4 the requirements of Division 30-110.
5 (20) Dry cleaning and minor alterations.
6 (21) Dog and pet hospitals in air-conditioned buildings.
7 (22) Drugstores.
8 (23) Electrical appliance and fixtures stores including related repair shops.
9 (24) Employment agencies.
10 (25) Florist shops.
11 (26) Food stores, fruit stores, health food stores, delicatessen, meat and fish markets and
12 other similar food stores.
13 (27) Furniture stores, retail of new merchandise only.
14 (28) Hair salons.
15 (29) Hardware stores.
16 (30) Health, exercise clubs and spas.
17 (31) Hotels and motels, subject to all the provisions of the R-4H District pertaining to
18 such uses.
19 (32) Interior design shops, office and display only.
20 (33) Jewelry stores, including incidental sales and purchases of used jewelry.
21 (34) Lawn mowers, retail, sales and service.
22 (35) Leather goods and luggage shops.
23 (36) Library.
24 (37) Mortuaries or funeral homes.
25 (38) Motorcycles sales and repair.
26 (39) Museum.
27 (40) Newsstand.
28 (41) Office buildings.
29 (42) Optical stores.
30 (43) Package stores in shopping centers provided the shopping center is in full
31 compliance with all provisions of this Code.
32 (44) Pet shops, pet care centers and dog beauty and pet grooming.
33 (45) Photograph galleries.
34 (46) Pottery shops.
35 (47) Printing shops.
36 (48) Residential.
37 (49) Restaurants.
38 (50) Restaurants with an accessory cocktail lounge-bar use, subject to compliance with
39 Alcoholic Beverages section of this Code.

- 1 (51) Post office and private mailing services.
- 2 (52) Shoe stores and shoe repair shops.
- 3 (53) Sporting goods stores.
- 4 (54) Tailor shops.
- 5 (55) Tobacco shops.
- 6 (56) Variety stores.
- 7 (57) Any use which is found by the director to be a use similar to one of the above
- 8 numbered uses and, in his/her opinion, conforms to the intent of this section.

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12 **Section 2.** All ordinances or parts of ordinances in conflict with the provisions of this
13 ordinance are repealed.

14
15 **Section 3.** This ordinance shall be codified and included in the Code of Ordinances.

16
17 **Section 4.** If any section, clause, sentence, or phrase of this ordinance is for any reason
18 held invalid or unconstitutional by a court of competent jurisdiction, the holding shall not affect the
19 validity of the remaining portions of this ordinance.

20
21 **Section 5.** This ordinance shall take effect immediately upon enactment.
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1 PASSED AND ENACTED this [] day of [], 2012.
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4 Attest: _____

5 Meighan Alexander
6 Village Clerk

7 Shelley Stanczyk
8 Mayor

9 APPROVED AS TO FORM:
10 _____

11 Eve A. Boutsis
12 Village Attorney
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14 FINAL VOTE AT ADOPTION:
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16 Council Member Patrick Fiore _____
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18 Council Member Howard Tendrich _____
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20 Council Member Joan Lindsay _____
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22 Vice-Mayor Brian W. Pariser _____
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24 Mayor Shelley Stanczyk _____
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To: Mayor and Village Council

Date: July 2, 2012

From: Eve A. Boutsis, Village Attorney

Re: Storage Tanks in FT&I
First Reading

AN ORDINANCE OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, AMENDING SECTION 30-50.18, RELATING TO THE PROVISION PRECLUDING OUTDOOR STORAGE WITHIN THE FT&I DISTRICT; PERMITTING OUTDOOR STORAGE TANKS UNDER SPECIFIC CONDITIONS FOR THOSE BUSINESSES WHICH PROVIDE FOR ANCILLARY SALE OF PROPANE AND CHLORINE; PROVIDING FOR ORDINANCES IN CONFLICT, CODIFICATION, SEVERABILITY AND AN EFFECTIVE DATE. [Sponsored by Council Person Patrick Fiore].

BACKGROUND:

On May 1, 2006, the Franjo Triangle and US 1 zoning district (FT&I) was established and included a specific prohibition precluding outdoor storage. At the request of Council Person Patrick Fiore, a proposed ordinance was prepared to permit those businesses which provide ancillary sale of chlorine or propane gas to be able to locate the storage tank(s) outside. The proposed ordinance conditions such operations, provided the tank(s) is located at the back of the building and is properly screened from view. The suggested need for this request is that propane tanks and chlorine tanks are precluded from being stored within the business as they require ventilation for safety reasons and thus would best if stored out of doors. This particular amendment only effectuates a change to the FT&I district.

ANALYSIS:

The proposed revision(s) was/were reviewed for consistency with the criteria established in Section 30-30.7(b). The following is a review of those criteria:

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

Analysis: The Comprehensive Development Master Plan does not address propane and chlorine tanks.

Finding: Not applicable

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

Analysis: By requiring such tanks be located at the back of the business and screened from view, the general intent of Chapter 30 is met.

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: By providing a development condition that such tanks be located to the back of buildings and be screened from view, it could argued that the proposed amendment is consistent with this criteria.

Findings: Consistent.

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

Analysis: See Analysis under Criteria 3.

Finding: Consistent.

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

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

Finding: Not applicable

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: Regardless of their locations, the storage tanks contemplated by the proposed ordinance are regulated by the Federal Government (OSHA, Environmental Protection and NFPA) and State (Florida EPA, Florida Dept. of Health, etc.) due to

the hazardous chemicals being utilized, and the licensed vendor must comply with the state regulations relating to same.

Finding: Consistent.

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

Analysis See Analysis under Criteria 3. The imposed conditions proposed by the ordinance should deflect any adverse effects on property values.

Findings: Consistent.

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

Analysis See Analysis under Criteria 3. The imposed conditions proposed by the ordinance should deflect any adverse effects on the land use development pattern.

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: Regardless of their locations, the storage tanks contemplated by the proposed ordinance are regulated by the Federal Government and the State due to the chemicals being regulated and any such use must comply with the laws regulating these substances. Addition of the development conditions may result in lessening of any potential impact thus minimizing any possible conflict with the public interest.

Findings: 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.

Storage Tanks in FT&I
Staff Memorandum
July 2, 2012
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FISCAL/BUDGETARY IMPACT:

None at this time.

RECOMMENDATION:

It is the decision of the Village Council to proceed with the modifications.

ORDINANCE NO. _____

AN ORDINANCE OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, RELATING TO REQUESTS, PETITIONS AND PUBLIC COMMENTS; PROVIDING FOR A ONE MINUTE REBUTTAL FOR PUBLIC COMMENT SPEAKERS WHOSE COMMENTS ARE ADDRESSED BY THE VILLAGE COUNCIL; PROVIDING FOR ORDINANCES IN CONFLICT, CODIFICATION, SEVERABILITY AND AN EFFECTIVE DATE. [Sponsored by Council Person Howard Tendrich].

WHEREAS, the Mayor and Village Council of the Village of Palmetto Bay adopted after incorporation a Meetings Procedures Ordinance found at Chapter 2 of the Village's Code of Ordinances and,

WHEREAS, the Mayor and Village Council desire to update and amend Chapter 2, relating to the "Requests, Petitions and Comments" portion of the public meetings of the council, by providing speakers during the "Requests, Petitions and Comments" portion of the agenda a one minute rebuttal period, should the Mayor or Council rebut or comment up the speaker's comments during that council meeting; and,

WHEREAS, the Mayor, as the presiding officer of the meeting, shall coordinate and guide the council as to all decorum issues and running of the meeting; and,

WHEREAS, the Village Council, may, through a majority vote over rule the Mayor's rulings, or proceed to take enforcement action, should the presiding officer fail to take action on a decorum issue; and,

WHEREAS, the Village Council desires to provide rebuttal time to public speakers, during the public comments (Requests, Petitions and Public Comments) portion of the agenda; and,

WHEREAS, the Mayor and Village Council desire to amend the Village's Code of Ordinances relating to same.

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

Section 1. Chapter 2, entitled "Administration", Article II Council, Division 2, entitled "Meetings" at Section 2-49 entitled "Council discussion, public participation and decorum", of the Code of Ordinances of the Village of Palmetto Bay is amended to read as follows:

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Chapter 2 Administration

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Article II Council

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Division 2 Meetings

* * *

Section 2-49. - Council discussion, public participation and decorum.

(a) *Discussion by Council Members.* Discussion by council members shall be unlimited except as determined by a majority of the Council. The councilmember who sponsors an item shall be afforded the privilege to Close with rebuttal. A member, once recognized by the Mayor, shall direct all comments or questions on the item being discussed to the Mayor only. Council Members shall not engage in cross conversation with other Members or with the public. Council members shall not interrupt another Member who has the floor. The Mayor shall not unreasonably withhold or delay recognition of any member of the Council desiring to speak. The Mayor shall recognize other Members of the Council in rotation and not call on any member a second time or subsequent time until all Members shall have had an opportunity to speak.

(b) *Questions by Council Members.* In the event a Member wishes to direct questions to another Member or to the public during a meeting, the questions shall be directed to the Mayor who, in turn, will recognize the Council Member or member of the public who wishes to answer the specific questions. In the event a member wishes to direct a question to the Village Manager or Village Attorney, the question shall be directed to the Manager or Attorney through the Mayor, who will, in turn, recognize the Member. All questions of Village staff shall be made through the Village Manager.

(c) *Public participation and discussion.* Individuals wishing to speak on matters that appear on the agenda as "public hearings" need only to be recognized by the Mayor. The public shall be permitted to speak after the Mayor opens an item for public hearing. After the Mayor closes the public hearing, only Members of the Council or the administration may discuss the item.

(d) *Manner and time of addressing council.* Public discussion shall be limited to three minutes maximum per person; provided, however, the Mayor may authorize an extension of time after due consideration for the substance, content and relative importance of the subject. The Mayor may limit the amount of time allowed for public discussion. Each person who addresses the Council shall step up to the speaker's podium and shall give his or her name, address, identify whether the person speaks on his or her own behalf, a group of persons, or a third party. Public speakers should avoid repetitive statements. If the person represents an organization, the person shall also indicate the number of members in the organization, the date of the most recent meeting of the organization's

1 governing body, and whether the view expressed by the speaker represents an established policy of
2 the organization approved by the governing board, compensation, if any, and whether the person or
3 any immediate family member has a personal financial interest in the pending matter (other than
4 compensation for speaking at the meeting). No person other than the Council and the person
5 recognized by the Mayor as having the floor shall be permitted to enter into discussion without the
6 approval of the Mayor. All questions from the public to the Council shall be addressed through the
7 Mayor. After a motion is made by a Council Member, no person shall address the Council without
8 first securing the approval of the Mayor.
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10 (e) *Written communications.* Interested persons or their authorized representatives may address the
11 council by written communications in compliance with criteria established under subsection (d)
12 regarding items to be considered by the Council.
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14 (f) *Decorum.*
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16 (1) Generally. Any person making impertinent or slanderous remarks, or who becomes boisterous,
17 while addressing the Council may be barred from further appearance before the Council by the
18 Mayor, unless permission to continue or again address the Council is granted by a majority vote of
19 the Council. Applauding speakers shall be discouraged. Heckling or verbal outbursts in support or
20 opposition to a speaker, or his or her remarks, shall be prohibited. No signs or placards shall be
21 allowed in the Council meeting. Persons exiting the council meeting shall do so quietly. All cellular
22 telephones and beepers are to be silenced during the meeting.
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24 (2) If the Mayor or a Council Person rebuts or comments upon a comment made by the
25 public speaker, or engages in discussion on an item made by the public, the person making the
26 original public comment shall be provided a one minute "rebuttal" period.
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30 **Section 2.** All ordinances or parts of ordinances in conflict with the provisions of this
31 ordinance are repealed.
32

33 **Section 3.** This ordinance shall be codified and included in the Code of Ordinances.
34

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

39 **Section 5.** This ordinance shall take effect immediately upon enactment.
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41 PASSED AND ENACTED this [] day of _____, 2012
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43 Attest: _____
44 Meighan Alexander

Shelley Stanczyk

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Village Clerk

Mayor

APPROVED AS TO FORM:

Eve A. Boutsis
Village Attorney

FINAL VOTE AT ADOPTION:

Council Member Patrick Fiore _____
Council Member Howard Tendrich _____
Council Member Joan Lindsay _____
Vice-Mayor Brian W. Pariser _____
Mayor Shelley Stanczyk _____