



**AGENDA**  
**HYBRID ZONING HEARING**  
**MONDAY, MARCH 21, 2022 – 7:00 PM**  
**VILLAGE HALL COUNCIL CHAMBERS**  
**9705 EAST HIBISCUS STREET, PALMETTO BAY, FL 33157**

Mayor Karyn Cunningham  
Vice Mayor Leanne Tellam  
Council Member Patrick Fiore (Seat 1)  
Council Member Steve Cody (Seat 2)  
Council Member Marsha Matson (Seat 3)

Village Manager Nick Marano  
Village Attorney John C. Dellagloria  
Village Clerk Missy Arocha

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

THE VILLAGE OF PALMETTO BAY SHALL CONDUCT A HYBRID ZONING HEARING ON **MONDAY, MARCH 21, 2022 AT 7:00 PM**. THE ZONING HEARING WILL BE CONDUCTED USING A TELECONFERENCING PLATFORM AND BROADCAST LIVE. MEMBERS OF THE PUBLIC MAY ATTEND THE ZONING HEARING IN PERSON AT THE PHYSICAL MEETING LOCATION, OR, ALTERNATIVELY, MAY WATCH VIA THE VILLAGE'S OFFICIAL FACEBOOK PAGE, INCLUDING OUR GRANICUS WEB STREAM ON [WWW.PALMETTOBAY-FL.GOV](http://WWW.PALMETTOBAY-FL.GOV). FOR PERSONS WISHING TO PARTICIPATE VIRTUALLY AND PROVIDE PUBLIC COMMENT, PLEASE REFER TO THE INSTRUCTIONS AND OPTIONS ON THE PUBLIC NOTICE.

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

2. **REQUESTS, PETITIONS, AND PUBLIC COMMENTS**

3. APPROVAL OF MINUTES:

A. Zoning Hearing (February 28, 2022)

4. PUBLIC HEARING ITEMS:

**\*Item 1:** The following Resolution is being considered pursuant to Section 30-80 of the Village's Land Development Code (*this item is continued from the Zoning Hearing of January 24, 2022 and February 28, 2022*):

**Location:** 17800 SW 97<sup>th</sup> Avenue (Franjo Road), Palmetto Bay, FL

**Property Folio:** 33-5033-000-0860

**Applicant:** Shores at Palmetto Bay, LLC

**Application:** VPB-21-008

**Request:** A RESOLUTION OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, RELATING TO LAND DEVELOPMENT AND ZONING; PURSUANT TO SECTION 30-80, "PLATTING AND SUBDIVISIONS"; AUTHORIZING THE PLAT OF LANDS LOCATED AT 17800 SW 97<sup>TH</sup> AVENUE (FOLIO # 33-5033-000-0860) AS MORE SPECIFICALLY DESCRIBED IN ATTACHMENT "A", CREATING THE PLAT OF ONE PARCEL OF LAND, FURTHER PROVIDING UTILITY EASEMENTS, AND PROVIDING AN EFFECTIVE DATE.

**\*THIS APPLICATION IS RECOMMENDED FOR CONTINUATION TO THE APRIL 18, 2022 ZONING HEARING TO RESPOND TO COUNCIL QUESTIONS.**

**Item 2:** The following Ordinance on Third Reading is being considered pursuant to Section 30-10.3 of the Village's Land Development Code:

**Location:** Village-wide

**Property Folio:** N/A

**Applicant:** Village of Palmetto Bay Municipality

**Application:** N/A

**Request:** AN ORDINANCE OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, RELATING TO LAND DEVELOPMENT AND ZONING; AMENDING THE ZONING CODE AT SECTION 30-10.3 STYLED "APPLICABILITY AND VESTED RIGHTS" REGARDING DEVELOPMENT APPLICATIONS; ESTABLISHING TIME FRAMES FOR COMPLETED APPLICATIONS; PROVIDING FOR SEVERABILITY, CODIFICATION AND AN EFFECTIVE DATE. (*Sponsored by Administration*) (*Third Reading*)

**WE, THE VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, HEREBY COMMIT OURSELVES TO MAINTAINING CIVILITY IN OUR PUBLIC AND POLITICAL DISCOURSE AND PLEDGE TO THE FOLLOWING PRINCIPLES:**

- **We will respect the right of all citizens in our community to hold different opinions;**
  - **We will avoid rhetoric intended to humiliate or question the wisdom of those whose opinions are different from ours;**
  - **We will strive to understand differing perspectives;**
  - **We will choose our words carefully;**
  - **We will speak truthfully without accusation and we will avoid distortion;**
  - **We will speak out against violence, prejudice, and incivility in all of their forms, whenever and wherever they occur.**
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**NOTICE OF APPEAL RIGHTS**

Decisions of the Village of Palmetto Bay Council (VPB) are appealed to the Circuit Court. Appeals to Circuit Court must be filed within 30 days of the execution of the Village of Palmetto Bay resolution. Pursuant to Florida Statutes 286.0105, the Village hereby advises the public that if a person decides to appeal any decision made by this Council with respect to any matter considered at its meeting or hearing, he or she will need a record of the proceedings, and that for such purpose, the affected person may need to ensure that a verbatim record of the proceeding is made, which record includes the testimony and evidence upon which the appeal is to be based. This notice does not constitute consent by the Village for the introduction or admission of otherwise inadmissible or irrelevant evidence, nor does it authorize challenges or appeals not otherwise allowed by law. Further information and assistance may be obtained by contacting the Village Clerk at (305) 259-1234. For filing or status of Appeals to Circuit Court, you may call the Clerk of the Circuit Court at (305) 375-5955.



**PUBLIC NOTICE:**  
INSTRUCTIONS  
FOR  
PUBLIC PARTICIPATION



## VILLAGE OF PALMETTO BAY NOTICE OF HYBRID ZONING HEARING AND PUBLIC HEARING

**NOTICE IS HEREBY GIVEN** that on **MONDAY, MARCH 21, 2022, AT 7:00 PM** the Village of Palmetto Bay shall conduct a Zoning Hearing/Public Hearing at Village Hall Municipal Center located at 9705 East Hibiscus Street, Palmetto Bay, FL 33157.

This meeting will be conducted using a teleconferencing platform and broadcast live. **Members of the public may attend the meeting at the physical meeting location and/or watch the virtual meeting via the Village's official Facebook page and/or our Granicus web stream on [www.palmettobay-fl.gov](http://www.palmettobay-fl.gov).** Facial coverings and social distancing are encouraged at the physical meeting location.

**PLEASE NOTE** that pursuant to the Village of Palmetto Bay's Declaration of COVID-19 Virus State of Emergency Order No. 2020-11, all Village Advisory Boards, Committees, Task Forces, Charter Officers, and staff shall continue to meet virtually. Commencing December 1, 2020, a minimum of three members such as the Mayor and Village Council shall be present to maintain a quorum at meetings requiring legislative actions. This Emergency Order allows any Councilmember who believes they are at high risk to not be required to be physically present in the Village Chambers but shall be permitted to participate virtually and vote provided they remain physically present in Village Hall, including waiving all applicable requirements in the Village Charter, Code of Ordinances, Resolutions, or other Village policy that may require the physical presence at any public meeting. All virtual meetings shall otherwise continue to comply with the Florida Constitution, Florida's Government in the Sunshine Law, and Chapter 286, Florida Statutes.

**For persons wishing to participate virtually and provide public comment, please refer to the options described below:**

**Public comments forum (Option 1):** Prior to the meeting, the public can submit a web form available at this address: <https://www.palmettobay-fl.gov/FormCenter/Public-Comments-Form-10/Public-Comments-Form-52>. Form submissions received prior to the meeting will be read before the item is heard. Form submissions received after 5:00 p.m. will remain part of the record.

**Public comments forum (Option 2):** Public attendees wishing to provide real-time, audible public comments during the meeting may do so using GoToWebinar's desktop, laptop, tablet, or smartphone app. Once registered, attendees will receive GTW session information and call-in telephone numbers for those wishing to use a telephone. Telephone attendees may not participate in public comment as the system has no way to mute or unmute. Attendees wishing to speak during public comment time must use the GoToWebinar application on their desktop, laptop, or smart device. Attendees may not use a webcam whatsoever. In lieu if no availability to participate through the webinar, please submit your public comment using the web form as described above.

**Please register to attend the session as follows:**

**<https://attendee.gotowebinar.com/rt/3952342300337481741>**

**After registering, you will receive a confirmation email containing information about joining the webinar.**

The following items are being heard and considered during the Zoning Hearing pursuant to the Village's Land Development Code:

**\*Item 1:** The following Resolution is being considered pursuant to Section 30-80 of the Village's Land Development Code ***(this item is continued from the Zoning Hearing of January 24, 2022, and February 28, 2022):***

**Location:** 17800 SW 97<sup>th</sup> Avenue (Franjo Road), Palmetto Bay, FL  
**Property Folio:** 33-5033-000-0860  
**Applicant:** Shores at Palmetto Bay, LLC  
**Application:** VPB-21-008

**Request:** A RESOLUTION OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, RELATING TO LAND DEVELOPMENT AND ZONING; PURSUANT TO SECTION 30-80, "PLATTING AND SUBDIVISIONS"; AUTHORIZING THE PLAT OF LANDS LOCATED AT 17800 SW 97<sup>TH</sup> AVENUE (FOLIO # 33-5033-000-0860) AS MORE SPECIFICALLY DESCRIBED IN ATTACHMENT "A", CREATING THE PLAT OF ONE PARCEL OF LAND, FURTHER PROVIDING UTILITY EASEMENTS, AND PROVIDING AN EFFECTIVE DATE.

<b>Item 2:</b> The following Ordinance on Third Reading is being considered pursuant to Section 30-10.3 of the Village's Land Development Code:
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**Location:** Village-wide  
**Property Folio:** N/A  
**Applicant:** Village of Palmetto Bay Municipality  
**Application:** N/A

**Request:** AN ORDINANCE OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, RELATING TO LAND DEVELOPMENT AND ZONING; AMENDING THE ZONING CODE AT SECTION 30-10.3 STYLED "APPLICABILITY AND VESTED RIGHTS" REGARDING DEVELOPMENT APPLICATIONS; ESTABLISHING TIME FRAMES FOR COMPLETED APPLICATIONS; PROVIDING FOR SEVERABILITY, CODIFICATION AND AN EFFECTIVE DATE.  
**(Sponsored by Administration) (Third Reading)**

All persons are invited to appear and be heard. The documents pertaining to this Zoning Hearing/Public Hearing may be inspected at the Department of Planning & Zoning at Village Hall, 9705 East Hibiscus Street, Palmetto Bay, Florida, during regular working hours by making an appointment. 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 at (305) 259-1234. 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.

[www.palmettobay-fl.gov](http://www.palmettobay-fl.gov)



# **APPROVAL OF MINUTES**

ITEM 3A



**MINUTES  
HYBRID ZONING HEARING  
MONDAY, FEBRUARY 28, 2022 – 7:00 PM  
VILLAGE HALL COUNCIL CHAMBERS  
9705 EAST HIBISCUS STREET, PALMETTO BAY, FL 33157**

Mayor Karyn Cunningham  
Vice Mayor Leanne Tellam  
Council Member Patrick Fiore (Seat 1)  
Council Member Steve Cody (Seat 2)  
Council Member Marsha Matson (Seat 3)

Village Manager Nick Marano  
Village Attorney John C. Dellagloria  
Village Clerk Missy Arocha

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

The Zoning Hearing was called to order at 7:01 PM.

The following members of the Village Council were present during roll call:  
Mayor Karyn Cunningham  
Vice Mayor Leanne Tellam  
Councilmember Patrick Fiore  
Councilmember Steve Cody (*participated and attended virtually*)  
Councilmember Marsha Matson

The following Charter Officials were in attendance:  
Village Attorney John C. Dellagloria  
Village Manager Nick Marano  
Village Clerk Missy Arocha

A moment of silence was held for the victims of war in Ukraine.

The pledge of allegiance was led by Village Manager Nick Marano.

The Decorum Statement was disposed by Mayor Karyn Cunningham.

## 2. REQUESTS, PETITIONS, AND PUBLIC COMMENTS

Village Clerk Missy Arocha reported that there were no public comments submitted by form.

No one wished to speak during public comments in-person or in the virtual lobby.

## 3. APPROVAL OF MINUTES:

### A. Zoning Hearing (November 15, 2021)

Vice Mayor Leanne Tellam **motioned** to approve the minutes. **Seconded** by Councilmember Patrick Fiore. **All voted in favor (5-0). The motion passed unanimously.**

## 4. PUBLIC HEARING ITEMS:

**\*Item 1:** The following Resolution is being considered pursuant to Section 30-80 of the Village's Land Development Code (*this item was continued from the Zoning Hearing of January 24, 2022*):

**Location:** 17800 SW 97<sup>th</sup> Avenue (Franjo Road), Palmetto Bay, FL

**Property Folio:** 33-5033-000-0860

**Applicant:** Shores at Palmetto Bay, LLC

**Application:** VPB-21-008

**Request:** A RESOLUTION OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, RELATING TO LAND DEVELOPMENT AND ZONING; PURSUANT TO SECTION 30-80, "PLATTING AND SUBDIVISIONS"; AUTHORIZING THE PLAT OF LANDS LOCATED AT 17800 SW 97<sup>TH</sup> AVENUE (FOLIO # 33-5033-000-0860) AS MORE SPECIFICALLY DESCRIBED IN ATTACHMENT "A", CREATING THE PLAT OF ONE PARCEL OF PLAN, FURTHER PROVIDING UTILITY EASEMENTS, AND PROVIDING AN EFFECTIVE DATE.

Public hearing item no. 1 was moved by Councilmember Patrick Fiore. Vice Mayor Leanne Tellam seconded.

Village Clerk Missy Arocha reported that there were no public comments submitted by form. No one wished to speak in-person or in the virtual lobby.

Village Clerk Missy Arocha swore-in those witnesses that wished to testify on public hearing item no. 1.

The Village Council provided their Exparte communications.

Mr. David Joel Moscoso, Esq., explained that his client, Shores at Palmetto Bay, LLC is the owner of the property and introduced a letter into the record for Council wherein the letter served as a formal request for more information regarding the decision to further continue the application for approval to the March 21, 2022, Zoning Hearing.

Village Attorney John Dellagloria questioned the date of the March Zoning Hearing.

Village Clerk Missy Arocha responded March 21, 2022.

Councilmember Patrick Fiore **motioned** to continue public hearing item no. 1 to the Zoning Hearing of March 21, 2022. Councilmember Marsha Matson **seconded** the motion. **All voted in favor (5-0). The motion passed unanimously.**

<b>Item 2:</b> The following Ordinance on Second Reading is being considered pursuant to Section 30-10.3 of the Village's Land Development Code:
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**Location:** Village-wide

**Property Folio:** N/A

**Applicant:** Village of Palmetto Bay Municipality

**Application:** N/A

**Request:** AN ORDINANCE OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, RELATING TO LAND DEVELOPMENT AND ZONING; AMENDING THE ZONING CODE AT SECTION 30-10.3 STYLED "APPLICABILITY AND VESTED RIGHTS" REGARDING DEVELOPMENT APPLICATIONS; ESTABLISHING TIME FRAMES FOR COMPLETED APPLICATIONS; PROVIDING FOR SEVERABILITY, CODIFICATION AND AN EFFECTIVE DATE. **(Sponsored by Administration) (Second Reading)**

Public hearing item no. 2 was moved by Councilmember Patrick Fiore. Councilmember Marsha Matson seconded.

Community & Economic Development Director, Mark Alvarez provided a background synopsis on the Ordinance on Second Reading. He explained that approval and subsequent adoption of the proposed Ordinance would resolve the impacts toward the effectiveness of the land development regulations.

Mr. Alvarez answered questions raised by the Council on the matter.

Councilmember Marsha Matson **motioned** the Ordinance on Second Reading, i.e., lines 27-34, page 3 of 5 as follows:

- (g) Application Approval. Development applications requiring either a public hearing or administrative approval shall expire after One-Hundred and Eighty (180) days if the applicant has not scheduled a public hearing or received an administrative determination after the Community Planning and Development

Department determines the application is complete. If a public hearing is required, upon receipt of an official staff recommendation to the Village Council, development applications will expire One-Hundred and Eighty (180) days after the application can be scheduled and after meeting notice and public workshop requirements. The above time frames shall be extended once only, for that period of time an extension is requested by the Village.

Mayor Karyn Cunningham passed her gavel to Vice Mayor Leanne Tellam and **seconded** the motion made by Councilmember Marsha Matson.

Village Attorney John Dellagloria reported that the amendment on Second Reading, would require a Third Reading to the Ordinance.

The question was called in favor of the amendment. **All voted in favor of the amendment (5-0). The motion passed unanimously.**

The question was called in favor of the *amended* Ordinance on Second Reading.

- Councilmember Marsha Matson - YES
- Councilmember Patrick Fiore - YES
- Mayor Karyn Cunningham - YES
- Vice Mayor Leanne Tellam - YES
- Councilmember Steve Cody - YES

**The amended Ordinance on Second Reading passed (5-0).**

The Ordinance was scheduled for Third Reading: March 21, 2022, Zoning Hearing.

<b>Item 3:</b> The following Resolution is being considered pursuant to Section 30-50.23 and Section 30-30.5 of the Village's Land Development Code:
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**Location:** 9741 Wayne Avenue, Palmetto Bay, FL

**Property Folio:** 33-5032-007-0160

**Applicant:** Indigo at Palmetto Bay, LLC a/k/a Sandpiper

**Application:** VPB-16-008

**Request:** A RESOLUTION OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, RELATING TO LAND DEVELOPMENT AND ZONING; REQUESTING APPROVAL FOR A SITE PLAN MODIFICATION OF A MIXED-USE DEVELOPMENT, APPROVED BY RESOLUTION 2017-79, ENTITLED "SANDPIPER VILLAGE OF PALMETTO BAY", ZONED DOWNTOWN URBAN VILLAGE ("DUV"), "DOWNTOWN VILLAGE" ("DV") SECTOR AT THE TIME OF APPROVAL, ON A 1.33-ACRE SITE WITH FOLIO NUMBER 33-5032-007-0160; WITH MODIFICATIONS CONSISTING OF: A CHANGE FROM 82 APPROVED RESIDENTIAL UNITS TO 114 RESIDENTIAL UNITS, INCLUDING 19 AGE-RESTRICTED UNITS, PURSUANT TO RESIDENTIAL DENSITY PER DUV REQUIREMENTS AND TO THE ALLOCATION OF RESERVE RESIDENTIAL UNITS APPROVED BY RESOLUTION 2017-79; A CHANGE IN COMMERCIAL FLOOR AREA FROM 10,000 SQUARE FEET TO 14,222 SQUARE FEET; A CHANGE IN

MINUTES

Hybrid Zoning Hearing of Monday, February 28, 2022

Page 4 of 7

PROVIDED PARKING SPACES FROM 159 SPACES TO 298 SPACES; ACCEPTANCE OF A VOLUNTARY CONTRIBUTION TO THE PALMETTO BAY I-BUS; AND ACCEPTANCE OF A PUBLIC PARK IMPROVEMENT WITH MAINTENANCE COVENANT, PURSUANT TO SECTION 30-50.23, "DUV" ZONING DISTRICT, SECTION 30-30.5, "SITE PLAN APPROVAL"; AND SECTION 30-30.3(C) "SUBSTANTIAL COMPLIANCE"; AND TO PROVIDE AN EFFECTIVE DATE.

Public hearing item no. 3 was moved by Councilmember Patrick Fiore. Seconded by Councilmember Marsha Matson.

The Village Council provided their ex-parte communications.

Village Attorney John Dellagloria questioned if the title that was read into the record, is the title that was advertised for the public hearing item.

Village Clerk Missy Arocha responded yes.

Village Clerk Missy Arocha reported that there were no public comments submitted by form. No one wished to speak in the virtual lobby.

In-person comment:

- Beverly Gerald (14271 SW 74<sup>th</sup> Court) – spoke in support of the development; likes the set aside for age-restricted units; history of continuing to manage their properties.

Director Mark Alvarez illustrated a PowerPoint Presentation on the approved site plan modification for Addison Landing (previously named Sandpiper). The presentation depicted the following data:

- Future land use and current zoning
- Site plan approval – Zoned DUV
- Modification request meets approval
- Site plan comparisons: General, first level, parking level, second level, third level, fourth level, fifth level, elevations
- Site plan illustrations
- Pocket park proffer
- Recommendation

Following the presentation, Mr. Alvarez answered questions raised by the Council on the public hearing item.

The following documents were introduced into the record by Javier Fernandez, Esq., from the firm of SMGQ Law, 1200 Brickell Avenue, Ste. 950, Miami, FL:

- Covenant Running with the Land between the Village of Palmetto Bay and Indigo at Palmetto Bay, LLC
- Parking and Traffic Info

- PowerPoint presentation on the project

Managing member and senior officer, Mr. Pablo L. Cejas (11000 Snapper Creek Road) introduced himself and provided an explanation on the history of prior project and applicant's request.

Mr. Javier Fernandez, Esq., applicant's representative, illustrated a PowerPoint Presentation. The presentation depicted the following data:

- Project history and applicant's request
- Project enhancements
- New residential standard and enhanced architecture
- Public benefits
- Enhancements

All members of the Village Council spoke in support of the site plan approval.

The question was called in favor of the Resolution.

- Mayor Karyn Cunningham - YES
- Vice Mayor Leanne Tellam - YES
- Councilmember Patrick Fiore - YES
- Councilmember Steve Cody - YES
- Councilmember Marsha Matson - YES

**The Resolution passed unanimously (5-0).**

**Item 4:** The following Resolution is being considered pursuant to Section 30-50.4 and Section 30-30.6 of the Village's Land Development Code:

**Location:** 15450 SW 67<sup>th</sup> Avenue, Palmetto Bay, FL

**Property Folio:** 33-5026-005-0010

**Applicant:** Timothy Wright

**Application:** VPB-21-009

**Request:** A RESOLUTION OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA; RELATING TO LAND DEVELOPMENT AND ZONING; APPROVING AN ACCESSORY STRUCTURE FRONT YARD SETBACK VARIANCE FOR THE EXPANSION OF A GUEST HOUSE LOCATED 15450 SW 67<sup>TH</sup> COURT, ON A 0.48-ACRE LOT WITH FOLIO NUMBER 33-5026-005-0010, PURSUANT TO SECTION 30-50.4 "ESTATE MODIFIED SINGLE-FAMILY" AND SECTION 30-30.6 "VARIANCES", AND TO PROVIDE AN EFFECTIVE DATE.

Public hearing item no. 4 was moved by Councilmember Patrick Fiore. Seconded by Vice Mayor Leanne Tellam.

Village Clerk Missy Arocha reported that there were no public comments submitted by form. No one wished to speak in-person or in the virtual lobby.

Village Clerk Missy Arocha swore-in those witnesses that wished to testify on public hearing item no. 1.

The Village Council provided their Exparte communications.

Planner, Craig Southern illustrated a PowerPoint Presentation on the variance. The presentation depicted the following data:

- Applicant's request and background
- Neighborhood characteristics
- Existing conditions and staff analysis for criterias A – H
- Staff recommendation

Following the presentation, Mr. Southern and applicant, Timothy Wright answered questions raised by the Council on the variance.

No objections were made by the Village Council on the applicant's request.

The question was called in favor of the Resolution.

- Vice Mayor Leanne Tellam - YES
- Councilmember Steve Cody - YES
- Councilmember Patrick Fiore - YES
- Councilmember Marsha Matson - YES
- Mayor Karyn Cunningham - YES

**The Resolution passed unanimously (5-0).**

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The meeting minutes were approved this 21<sup>st</sup> day of March, 2022.

Attest:

\_\_\_\_\_  
Mayor Karyn Cunningham

\_\_\_\_\_  
Village Clerk Missy Arocha



**PUBLIC HEARING**  
**ITEM NO. 1**

Shores at Palmetto Bay, LLC



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To: Honorable Mayor and Village Council

Date: March 21, 2022

From: Nick Marano, Village Manager

Re: VPB 21-008 Tentative Plat

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**A RESOLUTION OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, RELATING TO LAND DEVELOPMENT AND ZONING PURSUANT TO SECTION 30-80, "PLATTING AND SUBDIVISIONS": AUTHORIZING THE TENTATIVE PLAT OF LAND LOCATED AT 17800 SW 97TH AVENUE (FOLIO # 33-5033-000-0860) AS MORE SPECIFICALLY DESCRIBED IN ATTACHMENT "A"; PROVIDING UTILITY EASEMENTS, AND PROVIDING AN EFFECTIVE DATE.**

**The application is recommended for continuation to the April 18, 2022 Zoning Hearing to respond to Council questions.**

**BACKGROUND AND ANALYSIS:**

The applicant, Terri G. Sonn on the behalf of the owner, Shores at Palmetto Bay, LLC requests the approval of application VPB-21-008 for a Tentative Plat, Shores at Palmetto Bay, prepared by Ricardo Rodriguez, P.S.M. with Ford, Armenteros & Fernandez, Inc. Professional Land Surveyors and Mappers, to officially plat 2.75 acres (119,744.65 ft<sup>2</sup>) denoted as proposed Tract A that will be consistent with the site development standards and the dimensional requirements of the Section 30-50.23.3-02.1 Main Street Sector of the Downtown Palmetto Bay Zoning District and to dedicate the required amount of public right-of-way for public access, thoroughfare and utility easements for FPL and WASD. The 2.75 acres (net lot area) is currently unplatted and located at the northeast corner of SW 179<sup>th</sup> Street and SW 97<sup>th</sup> Avenue (Franjo Road), identified with folio number: 33-5033-000-0860. This request for approval of the Tentative Plat, Shores at Palmetto Bay, is a required companion document to the conditionally approved administrative site plan application ASPR-21-008.

**FISCAL IMPACT:**

The fiscal impact of the tentative plat to the Village of Palmetto Bay is neutral.

**RECOMMENDATION:**

The Village Planning and Zoning staff recommends that the Mayor and Council approve application VPB-21-008 for a Tentative Plat, Shores at Palmetto Bay, prepared by Ricardo Rodriguez, P.S.M. with Ford, Armenteros & Fernandez, Inc. Professional Land Surveyors and Mappers, to officially plat 2.75 acres (119,744.65 ft<sup>2</sup>) denoted as proposed Tract A, that will be consistent with the site development standards and the dimensional requirements of Section 30-50.23.3-02.1 the Main Street Sector of the Downtown Palmetto Bay Zoning District and to dedicate the required amount of public right-of-way for public access, thoroughfare and FPL and WASD utility easements.



**PUBLIC HEARING**  
**ITEM NO. 2**

Village of Palmetto Bay Municipality



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To: Honorable Mayor and Village Council

Date: March 21, 2022

From: Nick Marano, Village Manager

Re: Development Application  
Time Limits – 3<sup>rd</sup> Reading

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**AN ORDINANCE OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, RELATING TO LAND DEVELOPMENT AND ZONING; AMENDING THE ZONING CODE AT SECTION 30-10.3 STYLED “APPLICABILITY AND VESTED RIGHTS” REGARDING DEVELOPMENT APPLICATIONS; ESTABLISHING TIME FRAMES FOR COMPLETED APPLICATIONS; PROVIDING FOR SEVERABILITY, CODIFICATION AND AN EFFECTIVE DATE. (Third Reading) (Sponsored by the Administration)**

**Background**

The Village does not have a codified, enforceable time duration for development applications to be considered active from the time of receipt to the time of being complete with approval, approval with conditions or disapproval. The absence of such a regulations causes the Village administration to maintain applications in an active status, even when follow-up responsiveness for additional information, studies or fees is not provided by an applicant in a timely manner. Maintaining such applications on file without discontinuing them from active status has created three adverse impacts toward the effectiveness of the land development regulations.

1. The non-expiring applications cause administrative inefficiency by causing the Village administration to continuously follow-up and monitor an application for which the applicant may no longer have investment-backed interest;
2. Where comprehensive plan designations (Franjo Activity Center) that have overall district-wide development caps, administration has to monitor potential development units of uncertain status resulting in diminished transparency regarding available development units and infrastructure impacts;
3. Development applications have been received by Village administration that continue to be active on file without on-going responsiveness towards completion by the applicant and have now outlived the zoning regulations under which they were initially filed, thereby diminishing the effectiveness of zoning code changes, and diminishing transparency and understanding for the Village Council and residents.

Approval and subsequent adoption of the proposed ordinance would resolve these impacts and prevent them in the future. **The language of the ordinance for 3<sup>rd</sup> reading has been modified to limit extension to one single extension only. The 3<sup>rd</sup> reading modifications are shown in double underline.**

**ANALYSIS:**

Changes to the land development code are to be reviewed pursuant to the criteria found at Section 30-30.7(b) of the Village of Palmetto Bay zoning code.

Criteria: Sec. 30-30.7 (b) (1 - 10)	Review Response Summary
<p>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.</p>	<p style="text-align: center;"><b>CONSISTENT</b></p> <p><i>The goal of the Future Land Use Element of the Village Comprehensive Plan is: "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."</i></p> <p>Pertinent to the proposed changes are:  <u>Objective 1.2 Land Development Code</u>  <i>Maintain, and revise as necessary, an effective Land Development Code (LDC), which clearly implements the goal, objectives, and policies of this Element, and the adopted Comprehensive Plan as a whole, and regulate development quality and impacts.</i>  <u>Policy 1.2.1</u> <i>Continue to update the Village Land Development Code so that it is consistent with this Future Land Use Element and other applicable elements of the adopted Comprehensive Plan, and provides Village businesses, residents and developers with a clear and concise set of zoning and other regulations for implementing Palmetto Bay's future vision.</i></p> <p>The proposal provides regulation to define limits for development proposal review. By providing incentive for timely interaction between development applicants and Village administration, the proposal improves the effectiveness of the land development regulations in implementing the Village Comprehensive Plan, and supports Objective 1.2 and Policy 1.2.1</p>
<p>2. Whether the proposal is in conformance with all applicable requirements of Chapter 30.</p>	<p style="text-align: center;"><b>CONSISTENT</b></p> <p>The proposal maintains and improves consistency by providing definitive limits for development proposal review, allowing certainty for applicants, and clarity and transparency for council and residents. The proposal is in conformance with all other areas of Chapter 30.</p>
<p>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.</p>	<p style="text-align: center;"><b>CONSISTENT</b></p> <p>Development applications have been received by Village administration that continue to be active on file without ongoing responsiveness to completion by the applicant, and have now outlived the zoning regulations under which they were initially filed, thereby diminishing the effectiveness of code changes, and diminishing transparency and understanding for the Village Council and residents.</p>

<b>Criteria: Sec. 30-30.7 (b) (1 - 10)</b>		<b>Review Response Summary</b>
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.	<p style="text-align: center;"><b>CONSISTENT</b></p> The proposed amendment does not include any map changes or changes in use of individual lands or zoning districts, and only affects the application process for applications throughout the Village. The proposal does not create incompatible land uses.
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.	<p style="text-align: center;"><b>CONSISTENT</b></p> The demands on transportation, water services, wastewater services, solid waste disposal, drainage, recreation, education, emergency services, and similar necessary facilities and services will not be affected, and will be maintained at their present levels. The proposal will not result in additional system demands.
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.	<p style="text-align: center;"><b>CONSISTENT</b></p> The proposed amendment does not include any map changes or changes in use of individual lands or zoning districts. There are no anticipated adverse impacts on the natural environment, including consideration of wetland protection, preservation of groundwater aquifer, wildlife habitats, and vegetative communities.
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.	<p style="text-align: center;"><b>CONSISTENT</b></p> The proposed amendment does not include any map changes or changes in use of individual lands or zoning districts. There are no anticipated adverse effects on property values.
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.	<p style="text-align: center;"><b>CONSISTENT</b></p> The proposed amendment does not include any map changes or changes in use of individual lands or zoning districts. There are no anticipated effects on development patterns.
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	<p style="text-align: center;"><b>CONSISTENT</b></p> The proposed amendment is not in conflict with the existing regulations of the Village's Land Development Code, Chapter 30. The proposal maintains the purpose and intent of Chapter 30 for predictable, harmonious and logical land development patterns.
10.	Other matters which the local planning agency or the village council in its legislative discretion may deem appropriate	<p style="text-align: center;"><b>DECISION FOR VILLAGE COUNCIL</b></p> The Village Council may consider other appropriate factors to determine whether the proposed zoning amendment is appropriate and consistent with the public interest.

**FISCAL IMPACT:**

There is an no anticipated fiscal impact to the Village caused by the proposed amendment.

**RECOMMENDATION:**

Staff recommends that the proposed amendment be approved and adopted on second reading.



Mark Alvarez  
Interim Community and Economic Development Director  
Village of Palmetto Bay, Florida

## **EXHIBIT A**

### **PROPOSED TEXT CHANGES IN UNDERLINE STRIKE-THROUGH FORMAT**

#### **DIVISION 30-10. - PURPOSE AND APPLICABILITY**

##### **Sec. 30-10.3. - Applicability and vested rights.**

- (a) *General applicability.* All development, redevelopment, alterations, changes of use, etc., shall comply with the requirements of the village comprehensive plan and the Code. A development order shall only be permitted if it complies with the goals, objectives, and policies of the comprehensive plan and Code. Except as expressly provided in this Code, no development and/or use of land shall be undertaken without prior approval of the village and the issuance of a development order pursuant to this Code. The fact that a development order, permit, or decision has been issued by an officer or employee with ostensible authority over the interpretation or enforcement of this Code shall not stop or otherwise prevent the village from strict enforcement of the provisions of the comprehensive plan and this Code.
- (b) *Vested rights.* A right that cannot be changed or altered by changes in the regulation. Existing land uses that were lawfully conforming uses prior to the adoption of the comprehensive development master plan or the Land Development Code shall continue as lawful uses and shall be subject to and regulated by vested rights policies contained in the Land Development Code.
- (c) *Existing lots.* All duly approved and recorded lots of record that existed as legal lots of record prior to adoption of this Code shall continue to be legal lots of record. This vested status may only be relinquished upon voluntary action by the vested entity.
- (d) *Existing development order or administrative site plan approval time period/expiration.* The provisions of this Code shall not affect, or be enforceable against, any development for which a development order was issued prior to the effective date of this Code. Any building or structure for which a lawful building permit was issued prior to adoption of this Code, as amended, and construction of which is in conformity with approved site plans and building plans shall not be affected by the changes to the Code, if the planned building or structure is built in full compliance with the land development regulations existing at the time of the issuance of the building permit. Notwithstanding the foregoing, for developments that previously obtained a development order, this exemption shall expire on the date applicable to the development orders as provided under subsection 30-10.4(c). This exemption shall expire earlier in the event any site-specific condition or requirement. In the event the foregoing exemption expires as provided above, or the required building permit is obtained but thereafter expires, then the development order shall be deemed null and void and a new application for development shall be required. Upon completion of a development exempted pursuant to this section, the development shall thereafter be subject to the provisions of this Code, and any amendments hereto.
- (e) *Existing building permits; time periods/expiration.* The provisions of this Code shall not affect, or be enforceable against, any development for which a building permit was issued

prior to the effective date of this Code and said permit was the only required development order, provided the building permit remains valid and construction has begun. Upon completion of a development exempted pursuant to this section, the development shall thereafter be subject to the provisions of this Code and any amendments hereto.

- (f) *Completion date.* Development authorized by a development order other than the building permit and exempted from the provisions of this Code hereof, shall be complete and satisfy all requirements for the issuance of a certificate of occupancy or certificate of completion, as applicable, within 24 months of the date of issuance of the development order.

(g) *Application Approval.* Development applications requiring either a public hearing or administrative approval shall expire after One-Hundred and Eighty (180) days if the applicant has not scheduled a public hearing or received an administrative determination after the Community Planning and Development Department determines the application is complete. If a public hearing is required, upon receipt of an official staff recommendation to the Village Council, development applications will expire One-Hundred and Eighty (180) days after the application can be scheduled and after meeting notice and public workshop requirements. The above time frames shall be extended once only, for that period of time an extension is requested by the Village.

(hg) *Extensions of time.* If additional time beyond the completion date under subsection 30-10.4(c) is desired by a developer, the developer may request an extension from the village council by filing an application for extension prior to the expiration of the development order. The village council shall consider any such request on a case-by-case basis and may grant an extension for a period of time deemed reasonable by the village council provided; however, the developer clearly establishes good cause for the extension substantially based upon events or occurrences beyond the control of the developer or inability to obtain financing, volatility in the economy, and/or changes in the market conditions affecting a project, standing alone shall and constitute circumstances beyond the control of the developer.

(Ord. No. 09-18, § 1, 8-20-2009)

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**ORDINANCE 2022-04**

**AN ORDINANCE OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, RELATING TO LAND DEVELOPMENT AND ZONING; AMENDING THE ZONING CODE AT SECTION 30-10.3 STYLED “APPLICABILITY AND VESTED RIGHTS” REGARDING DEVELOPMENT APPLICATIONS; ESTABLISHING TIME FRAMES FOR COMPLETED APPLICATIONS; PROVIDING FOR SEVERABILITY, CODIFICATION AND AN EFFECTIVE DATE. *(Third Reading) (Sponsored by the Administration)***

**WHEREAS**, the Mayor and Village Council of Palmetto Bay, pursuant to the Village’s adopted Comprehensive Plan have pledged to develop a Land Development Code tailored to the needs of the Village’s residents and properties; and

**WHEREAS**, the Village does not have a codified, enforceable time duration for development applications to be considered active from the time of receipt to the time of being complete with approval, approval with conditions or disapproval; and

**WHEREAS**, the absence of such a regulation causes the Village administration to maintain applications in an active status, even when follow-up responsiveness for additional information, studies or fees is not provided by an applicant in a timely manner; and

**WHEREAS**, non-expiring applications cause administrative inefficiency to continuously monitor an application for which the applicant may no longer have investment-backed interest; and

**WHEREAS**, in comprehensive plan designations that have overall district-wide development caps, administration has to monitor potential development units of uncertain status resulting in diminished transparency regarding available development units and infrastructure impacts; and

**WHEREAS**, development applications have been received by Village administration that continue to be active on file without on-going responsiveness towards completion by the applicant and have now

1 outlived the zoning regulations under which they were initially filed,  
2 thereby diminishing the effectiveness of zoning code changes, and  
3 diminishing transparency and understanding for the Village Council and  
4 residents.

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6 **NOW, THEREFORE, BE IT ENACTED BY THE VILLAGE OF**  
7 **PALMETTO BAY, FLORIDA, THAT:**

8  
9 **Section 1.** The Code of Ordinances, at Chapter 30, Division 30-  
10 10.3, styled “Applicability and Vested Rights”, shall be amended as  
11 follows:

12 Sec. 30-10.3. - Applicability and vested rights.

13 (a) General applicability. All development, redevelopment,  
14 alterations, changes of use, etc., shall comply with the requirements of  
15 the village comprehensive plan and the Code. A development order shall  
16 only be permitted if it complies with the goals, objectives, and policies of  
17 the comprehensive plan and Code. Except as expressly provided in this  
18 Code, no development and/or use of land shall be undertaken without  
19 prior approval of the village and the issuance of a development order  
20 pursuant to this Code. The fact that a development order, permit, or  
21 decision has been issued by an officer or employee with ostensible  
22 authority over the interpretation or enforcement of this Code shall not stop  
23 or otherwise prevent the village from strict enforcement of the provisions  
24 of the comprehensive plan and this Code.

25 (b) Vested rights. A right that cannot be changed or altered by  
26 changes in the regulation. Existing land uses that were lawfully  
27 conforming uses prior to the adoption of the comprehensive development  
28 master plan or the Land Development Code shall continue as lawful uses  
29 and shall be subject to and regulated by vested rights policies contained  
30 in the Land Development Code.

31 (c) Existing lots. All duly approved and recorded lots of record that  
32 existed as legal lots of record prior to adoption of this Code shall continue  
33 to be legal lots of record. This vested status may only be relinquished  
34 upon voluntary action by the vested entity.

35 (d) Existing development order or administrative site plan approval  
36 time period/expiration. The provisions of this Code shall not affect, or be  
37 enforceable against, any development for which a development order  
38 was issued prior to the effective date of this Code. Any building or  
39 structure for which a lawful building permit was issued prior to adoption

1 of this Code, as amended, and construction of which is in conformity with  
2 approved site plans and building plans shall not be affected by the  
3 changes to the Code, if the planned building or structure is built in full  
4 compliance with the land development regulations existing at the time of  
5 the issuance of the building permit. Notwithstanding the foregoing, for  
6 developments that previously obtained a development order, this  
7 exemption shall expire on the date applicable to the development orders  
8 as provided under subsection 30-10.4(c). This exemption shall expire  
9 earlier in the event any site-specific condition or requirement. In the event  
10 the foregoing exemption expires as provided above, or the required  
11 building permit is obtained but thereafter expires, then the development  
12 order shall be deemed null and void and a new application for  
13 development shall be required. Upon completion of a development  
14 exempted pursuant to this section, the development shall thereafter be  
15 subject to the provisions of this Code, and any amendments hereto.

16 (e) Existing building permits; time periods/expiration. The  
17 provisions of this Code shall not affect, or be enforceable against, any  
18 development for which a building permit was issued prior to the effective  
19 date of this Code and said permit was the only required development  
20 order, provided the building permit remains valid and construction has  
21 begun. Upon completion of a development exempted pursuant to this  
22 section, the development shall thereafter be subject to the provisions of  
23 this Code and any amendments hereto.

24 (f) Completion date. Development authorized by a development  
25 order other than the building permit and exempted from the provisions of  
26 this Code hereof, shall be complete and satisfy all requirements for the  
27 issuance of a certificate of occupancy or certificate of completion, as  
28 applicable, within twenty -four (24) months of the date of issuance of the  
29 development order.

30 (g) Application Approval. Development applications requiring either  
31 a public hearing or administrative approval shall expire after One-  
32 Hundred and Eighty (180) days if the applicant has not scheduled a public  
33 hearing or received an administrative determination after the Community  
34 Planning and Development Department determines the application is  
35 complete. If a public hearing is required, upon receipt of an official staff  
36 recommendation to the Village Council, development applications will  
37 expire One-Hundred and Eighty (180) days after the application can be  
38 scheduled and after meeting notice and public workshop requirements.

1 The above time frames shall be extended once only, for that period of  
2 time an extension is requested by the Village.

3 (h) Extensions of time. If additional time beyond the completion  
4 date under subsection 30-10.4(c) is desired by a developer, the  
5 developer may request an extension from the village council by filing an  
6 application for extension prior to the expiration of the development order.  
7 The village council shall consider any such request on a case-by-case  
8 basis and may grant an extension for a period of time deemed reasonable  
9 by the village council provided; however, the developer clearly  
10 establishes good cause for the extension substantially based upon  
11 events or occurrences beyond the control of the developer or inability to  
12 obtain financing, volatility in the economy, and/or changes in the market  
13 conditions affecting a project, standing alone shall and constitute  
14 circumstances beyond the control of the developer.

15 (Ord. No. 09-18, § 1, 8-20-2009)

16  
17 **Section 2. Severability.** The provisions of this Ordinance are  
18 declared to be severable, and if any sentence, section, clause, or phrase  
19 of this Ordinance shall, for any reason, be held to be invalid or  
20 unconstitutional, such decision shall not affect the validity of the  
21 remaining sentences, sections, clauses, or phrases of the Ordinance, but  
22 they shall remain in effect it being the legislative intent that this Ordinance  
23 shall stand notwithstanding the invalidity of any part.

24  
25 **Section 3. Codification.** It is the intention of the Village Council  
26 and it is hereby ordained the provisions of this Ordinance shall become  
27 and be made part of the Code of Ordinances of the Village of Palmetto  
28 Bay, Florida, that sections of this Ordinance may be renumbered or re-  
29 lettered to accomplish such intentions, and that the word “Ordinance”  
30 shall be changed to “Section” or other appropriate word.

31  
32 **Section 4. Conflicting Provisions.** The provisions of the Code of  
33 Ordinances of the Village of Palmetto Bay, Florida and all Ordinances or  
34 parts of Ordinances in conflict with the provisions of this Ordinance are  
35 hereby repealed.

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

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