

ORDINANCE NO. 2016-14

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.

WHEREAS, on June 6, 2008, the Mayor and Village Council created the zoning district Village Mixed Use (VMU), which provided for permitted uses and development standards thereto; and

WHEREAS, in creating the VMU, certain multifamily residential uses were narrowly defined as Senior Living Facility and rowhouses/townhouses; and

WHEREAS, it is now desired to simply identify the permitted residential uses within the VMU as multifamily residential with the ability to construct senior living or townhomes; and

WHEREAS, the VMU also provided for varying heights based on the type of residential construction ranging from 75 feet to 85 feet; and

WHEREAS, it is now desired to provide a consistent height of 85 feet for multifamily buildings within the VMU; and

WHEREAS, this ordinance is being considered as part of a broader Transfer of Development Rights initiative that seeks to conserve certain lands surrounding the VMU zoned property, as more specifically addressed pursuant to Resolution No. 2016-28.

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 May 2, 2016, the Local Planning Agency recommended approval the proposed ordinance; and

WHEREAS, the Mayor and Village Council of the Village of Palmetto Bay desire to amend Division 30-50.19.

1 NOW, THEREFORE, BE IT ENACTED BY THE MAYOR AND COUNCIL OF
2 THE VILLAGE OF PALMETTO BAY, FLORIDA, AS FOLLOWS:
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4 **Section 1. Recitals.** The above recitals are true and correct and incorporated herein by
5 this reference.

6 **Section 2.** Chapter 30, of the Village's Land Development Code, at Section 30-50.19 is
7 amended to read as follows:
8

9 **DIVISION 30-50**
10 **ZONING DISTRICTS**
11

12 * * *

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14 **Sec. 30-50.19. Village Mixed Use District, VMU.**
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16 * * *

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18 (b) No provision in this section 30-50.2019 shall be applicable to any property lying outside
19 the boundaries of the Village Mixed-Use District ("VMU").
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21 (c) *Definitions.* Terms used throughout this zoning district, under section 30-50.2019 shall take
22 their commonly accepted meaning unless otherwise defined in other Village Code
23 provisions. Terms requiring interpretation specific to this zoning district are as follows:
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25 *Apartment building:* A building which is used or intended to be used as a multi-family dwelling
26 unit; as a home or residence for three or more families living in separate apartments, in
27 which the yard areas, hallways, stairways, balconies and other common areas and facilities are
28 shared by families living in the apartment units.
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30 * * *

31
32 *Residential building type:* One of the following multifamily residential building types shall be
33 permitted in the VMU District: Apartment Building, Rowhouses/Townhouses or Senior
34 Housing (as hereinafter defined).
35

36 * * *

37
38 (d) *Uses.* Uses are allowed in the VMU District as provided for in this subsection. However,
39 these uses shall not be deemed or construed to prohibit a continuation of any structure, use
40 or occupancy in the VMU that were existing as of the date of the effective date of this
41 division.

42 (1) *Permitted uses: Village Mixed Use District.*

43 a. *Residential uses. Multifamily residential, up to 400 units which may include*
44 *apartment buildings, rowhouses/townhouses, and Senior Living Facilities as*
45 *provided by F.S. § 760.29. For the purposes of this subsection and within*
46 *the VMU zoning district, each individual hotel unit shall be considered and*

count as an individual residential unit. Residential uses are permitted in the VMU as provided below in accordance with the village's adopted comprehensive plan and the Declaration of Restrictive Covenants and the First Amendment to the Declaration of Restrictive Covenants recorded May 1, 1989 at Official Records Book 14089 at Pages 2349-52 and Official Records Book 12428 at Pages 923-1010, of the Public Records of Miami-Dade County, Florida, and the Amended Declaration of Restrictive Covenants in Lieu of Unity of Title recorded Official Resources Book 27101 at Pages 2672-2678 of the public Records of Miami-Dade County, Florida.

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

Automobile traffic volume on Old Cutler Road generated by residential land uses within the VMU Zoning District shall not exceed the automobile traffic volume which would have been generated by the residential development rights of 300 senior housing units and 100 multi-family residential rowhouses/townhouses in the VMU Zoning District pursuant to the VMU provisions of Village Ordinance 08-09 and by residential development rights of 85 single family residential units in the Interim Zoning District (which is contiguous to the western boundary of the VMU Zoning District) pursuant to the Interim provisions of Village Code section 30-50.22, as in effect on May 1, 2016. The owners of all property within the VMU shall execute a restrictive covenant running with the land containing the automobile traffic volume restriction of this subsection and development rights of this subsection shall not be available to such owners until such a covenant, approved by the Village Attorney, is publicly recorded.

* * *

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

- (1) *Buildings.*

- a. *Heights.* All height restrictions herein are deemed as consistent with the intent of the previously enacted Village of Palmetto Bay Comprehensive Plan which established parameters for this VMU District. Furthermore, all height restrictions must remain in conformity with any existing deed restrictions, declarations, or covenants in effect as to any lands within the VMU District. ~~Multi-family rowhouse/townhouse units shall not exceed 70 feet above grade in height. Multi-family senior housing facilities shall not exceed 85 feet above grade in height.~~ Nonresidential All buildings shall be no higher than 85 feet above grade in height. This shall not preclude, above such height restrictions, bonuses granted by a Transfer of Development Right, antennae, elevator and roof equipment, stairway roof access and railings or similar safety barrier, as

1 long as said structures are not visible from the property line of the VMU
2 District at Old Cutler Road.

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4 * * *

- 5 e. *Density.* Overall density for all residential units on the property, including
6 senior housing facilities, shall be a minimum of 3.0 and a maximum of
7 14.0 dwelling units per gross acre, all as consistent with the comprehensive
8 plan of the village. Residential density calculations pursuant to the
9 preceding sentence shall be calculated based upon the entire land area
10 zoned VMU, regardless of any non-residential development within the
11 VMU. Additional units may be developed in accordance with an approved
12 Transfer of Development Rights.

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14 * * *

- 15
16 (i) *Nonconforming structures, uses, and occupancies.* Nothing contained in this section 30-
17 50.2019 shall be deemed or construed to prohibit a continuation or restoration after
18 casualty of a legal nonconforming structure, use or occupancy in the VMU District that
19 was existing as of the effective date of this division.
20
21 (j) *Review procedure/administrative site plan review.* All applications for development approval
22 within the VMU District that are not otherwise permitted as nonconforming uses or
23 structures shall comply with the requirements of section 30-30.5 and this section and with
24 the site plan review criteria contained therein. Developments shall be processed and
25 approved administratively or by village council action, as applicable, as follows:
26 (1) *Administrative site plan review.*
27 a. The department shall review plans, including all materials required
28 under section 30-30.5 for completeness and compliance with the
29 provisions of sections 30-30.5 and 30-50.2019, and for compliance with
30 the site plan review criteria provided therein, including but not limited to
31 traffic analysis.

32
33 **Section 3. Companion TDR Resolution.** The provisions of the ordinance are offered
34 and approved contingent upon the owner(s) of those lands zoned VMU fulfill all conditions of the
35 companion TDR Resolution No 2016-28.

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

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

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

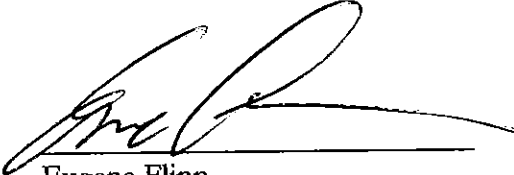
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7 **Section 7. Effective Date.** This ordinance shall only take effect once the conditions of
8 companion Resolution No. 2016-28 have been fulfilled.

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10 **PASSED and ENACTED** this 2nd day of May, 2016.

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12 First Reading: March 7, 2016

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14 Second Reading: May 2, 2016

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17 Attest: 
18 Meghan Alexander
19 Village Clerk


Eugene Flinn
Mayor

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

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27 
28 Dexter W. Lehtinen
29 Village Attorney

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31
32 FINAL VOTE AT ADOPTION:

33
34 Council Member Karyn Cunningham NO

35
36 Council Member Tim Schaffer YES

37
38 Council Member Larissa Siegel Lara YES

39
40 Vice-Mayor John DuBois NO

41
42 Mayor Eugene Flinn YES