



## VILLAGE OF PALMETTO BAY

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

Village Manager Ron E. Williams  
Village Attorney Eve A. Boutsis  
Village Clerk Meighan J. Alexander

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.

### NEIGHBORHOOD PROTECTION WORKSHOP AGENDA

Wednesday, August 8, 2012 - 7:00 P.M.  
Village Hall Chambers, 9705 E. Hibiscus Street

- 1. CALL TO ORDER, ROLL CALL, PLEDGE OF ALLEGIANCE**
- 2. WORKSHOP DISCUSSION**
- 3. ADJOURNMENT**



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To: Mayor and Village Council

Date: August 1, 2012

From: Eve A. Boutsis, Village Attorney

Re: Neighborhood Protection  
Ordinance Workshop

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**BACKGROUND:**

At the direction of the Mayor and Village Council, and presented herein for public comment at this workshop, are those suggestions submitted by Council Person Lindsay to the Village Attorney regarding proposed additions and modifications to the Land Development Code in furtherance of the intent of the current moratorium. No portion of the document is intended to be an analysis of the items therein. However, staff has submitted certain strikethroughs and additions (underlining) for those portions which may result in a conflict of interest, an obstruction of vested or anticipated development rights, and/or present a potential conflict with the Burt J. Harris Act or RLUIPA. Those portions of the document will include italicized text explaining the reason for the strikethrough or addition.

**FISCAL/BUDGETARY IMPACT:** The fiscal/budgetary impact is undetermined.

**RECOMMENDATION:** Staff seeks direction from the Mayor and Village Council in order to complete the draft Ordinance for presentation of first reading.

## WORKSHOP DISCUSSION ITEMS

### 1. UNITY OF TITLE

(a) Where more than one parcel is being developed, a unity of title document shall be recorded in the public records of Miami-Dade County, which unity of title shall covenant (or provide a covenant in lieu of unity of title) the property holder(s) to join the parcels together as one parcel, in a form approved by the Village Attorney, consistent with the requirements of the Village's Land

(b) Development Code. No permits shall be issued until the covenant/unity of title is recorded.

### 2. REQUIRED ZONING WORKSHOP

(a) Coincident with submission of an application for non-residential use on a single-family zoned property, the applicant shall present his planned development to the public in a zoning workshop. ~~Such application shall not be considered or processed by Village staff until the conclusion of the zoning workshop.~~ The workshop to be held within 60 days (notice compliance for workshop as provided in 30-30.11), and add such a category to the notice spread sheet.*[This change may be necessary because should such a workshop fail to reach a final conclusion, the applicants due process right may be violated.]*

(b) The zoning workshop shall be held to provide a forum for the public to learn about the proposed development. During this workshop, conducted by the Planning and Zoning Director, members of the public may ask questions and provide feedback or input to the applicant. Representatives of the applicant shall be available to answer questions. Color rendering of the building(s) along with a site plan and any other visual materials shall be provided in a form viewable by all in the meeting room at least 15 minutes prior to the scheduled start time.

(c) In the event there are irresolvable issues or modification requests raised during the workshop, a COMMUNITY RELATIONS COMMITTEE ~~shall~~ will be established at the workshop (if possible). Otherwise, the committee will be established within 10 days of the workshop. The Planning and Zoning Director shall seek three volunteers (with preference to persons living within the notification radius). Three (3) representatives shall be appointed to the committee by from the applicant. ~~and the Planning and Zoning Director shall make up the remainder of the committee.~~ *[This change may be necessary because should such a workshop fail to reach a final conclusion, the applicant's due process right may be violated. Village staff should not be a member of the Community Relations Committee as staff must be able to use professional expertise, training, and the objective criteria of the code when evaluating a development application, and should not be part of such an ad hoc consensus building group. Legal challenges could arise if staff were a part of the proposed committee. Futher, selection of*

*committee members by the P&Z Director may impose the same conflict as such appointments may be considered of a political nature and thus such action more appropriately situated with the Mayor and Village Council. A time frame for the committee's review should be established so as not to infringe upon the applicant's due process rights. Finally, there are potential Burt J. Harris Act and RLUIPA issues with regards to this extraordinary review.]*

(d) The committee is to meet to resolve issues identified above at (c) and more specifically, any issues not addressed by Village Code. The committee may choose to hold additional meetings. The application may not proceed to a public hearing until the committee has submitted its recommendations. ~~; however, staff may process the application (without recommendations) after the Zoning Workshop.~~ [There must be a time frame for holding the committee meetings, with a final report, and either a vote on report, or execution of the report by a majority of the members. The meetings must be held in the sunshine. Need to determine if there should be additional public notice under 30-30.11 relating to advertising and if additional public input should be provided at these meetings.]

(e) The committee process is intended to resolve problems and is to issue written recommendations ~~recommend solutions~~ The mission statement of the committee would be to seek community and applicant consensus. In the absence of such consensus, all recommendations from all committee members shall be reported to the Planning and Zoning Director and presented in full to the Village Council. Recommendations from the committee shall be non-binding unless approved by the Village Council.

### **3. PRECONSTRUCTION - CONSTRUCTION – BUILD OUT CONDITIONS**

Proposed conditions to be added as requirements to review process: *[Please note that the Village's review of any application is ordinarily under a site plan and not a construction document. A site plan is more general in that it delineates setbacks, and general locations, but not the detailed plans needed for construction. As such, much of the preconstruction terms identified below would be utilized or created during permitting and not during site plan approval. To do otherwise may inordinately burden the applicant for what is intended to be more of an establishment of a broad development plan].*

(a) A construction staging plan shall be submitted to the Village ~~Village's Planning & Zoning and Building Directors~~ prior to commencement of construction ~~at the time a permit is pulled for construction.~~

(b) A construction and Maintenance of Traffic (MOT) Plan shall be submitted to the Village ~~the Building and Public Works Departments for approval~~ at the time a permit is pulled for construction.

(c) Access points by construction vehicles shall be identified as part of the construction staging plan for Village approval at the time a permit is pulled for construction. Access points shall be from major collector streets rather than local roads/streets in neighborhoods whenever possible.

(d) Construction shall comply with the noise controls provided in the Village's Code of Ordinance – Sec. 30-60.29. Construction activity is limited between the hours from 7:00 a.m. to 6:00 p.m., Monday thru Friday. Saturday hours shall be from 9:00 a.m. to 5:00 p.m. No construction activity is permitted on Sunday. (Sec. 30-60.11).

(e) Construction staging shall take place towards the center of the property, away from all property lines, where possible. Construction staging shall not be permitted in the buffer areas.

(f) Construction trailers for staging area shall be permitted solely during construction.

(g) Materials or vehicles shall not be parked, placed, or stored on public right of way except under the following conditions: mobile equipment may be parked during the permitted hours of construction. Materials may only be stored on Right of Way with permission of the appropriate PW Department Planning and Zoning Director, with a time limit reported to Council and public. *[If county road, then Village lacks ability to regulate.]*

(h) No trees shall be removed unless a building permit and tree removal permit (if required) have been secured for the construction of the work requested. *[As a practical observation, tree removal permits are issued under County auspices. A tree removal permit is not contingent upon a construction permit. So, a person could go in, prior to site plan application, and remove all the trees provided they comply with the County's Code.]*

(i) Compliance with the Village's demolition and construction fencing ordinance shall be required.

(j) Construction site shall be monitored for dust control at all times. Hosing with water shall be required to control dust, dirt, and airborne particulars of any type.

(k) The emission of dust, dirt, fly ash, fumes, vapors or gases which can cause any damage to human health, animals or vegetation or other forms of property or which can cause any soiling or staining of persons or property at any point beyond the lot line of the use creating the emission

shall be prohibited. *[Derived from Coconut Creek code. Enforcement may be an issue unless the emission is blatant and excessive and of long duration.]*

(l) Odorous material released from any operation or activity shall not exceed the odor threshold beyond the lot line, measured either at ground level or habitable elevation. Odor threshold is defined as the lowest concentration of odorous matter that produces an olfactory response in normal human beings. *[Derived from Coconut Creek. Enforcement may be an issue unless blatant, excessive, and of long duration.]*

(m) All parts of the construction site shall be restored as specified in Village Code Sec.30-60.11(f).

#### **4. ATHLETIC FIELDS AND AMENITIES:**

(a) No athletic field(s), athletic court(s), or pool shall be used for commercial purposes such as renting, leasing, or allowing use by third-parties unaffiliated with the property.

(b) No bleachers shall be located within twenty (20) feet of a buffer.

(c) Lighting of outdoor recreational areas shall not be permitted.

(d) A swimming pool may only contain interior lighting below the surface of the water.

(e) High school or Olympic sized pools shall have a "sound ~~proof~~ wall" separating the pool area from adjacent residential uses. The sound ~~proof~~ wall shall be installed prior to the utilization of the pool. The design and construction method of the sound ~~proof~~ wall shall be determined by a certified acoustical engineer paid for by the applicant. The acoustical engineer shall be selected by the Village Planning and Zoning Director and be under his direction at all times. The pool may be completely enclosed in a building in lieu of the sound ~~proof~~ wall.

(f) Any outdoor athletic field(s)/court(s)/pool(s) on non-residential properties shall be a minimum of xxx feet from any property or lot line of a single-family residential lot. Exemptions include a single-family size pool, a single tennis court, or a single basketball court.

(g) Fencing for a tennis court(s) shall be required.

#### **5. LANDSCAPING AND BUFFERS**

(a) A six (6) foot concrete wall and a landscaped buffer shall be constructed where the non-residential use of a residential -zoned property abuts a single-family residential use.

Property < 5 acres	buffer = 35 feet
Property ≥5 acres	buffer = 75 feet

A buffer shall herein be defined as an area set aside for the exclusive use and purpose of providing a transition between dissimilar land uses, and eliminating the visual and acoustic impact of the dissimilar land use. See attached proposed buffer manual (From Islamorada).

(b) The wall shall be finished and maintained on both sides by the applicant.

(c) If the residential property under consideration for non-residential use is separated from the nearest single family residential property by a street/road, the buffer width may be reduced by 30%.

(d) The applicant shall submit a landscape plan to the Planning and Zoning Director for approval.

(e) Additional landscaping may be required by the Village Council in the buffer area and elsewhere to provide additional screening to the adjacent single family residences.

(f) Landscaping within the buffer areas shall be maintained perpetually with plantings specified in the landscape plan.

(h) The wall and buffer shall be constructed prior to the issuance of any permits for structures or improvements.

(i) All minimum landscaping requirements of Section 30-100 of the Village's Code of Ordinances, Chapter 24 of the Miami-Dade County Code and conditions imposed by Miami-Dade County DERM shall be met. Additional vegetation size, area, and density may be required in this ordinance.

(j) No improvements shall be permitted within the buffer area (i.e. no roads, parking, storage sheds, recreational areas, pedestrian access or any other use except landscaping and unpaved maintenance access).

(k) Existing trees shall be preserved whenever possible during the development. If trees must be removed, the applicant shall be required to mitigate the impact in accordance with

Village and DERM requirements. If the relocated trees do not survive, the applicant shall be required to replace the trees in compliance with Village and DERM requirements.

(l) Ball fields shall not be considered as satisfying landscaping requirements.

(m) The plants required and selected for the buffer area shall provide both visual and acoustic buffering between the adjacent homes and the proposed structures and the expected noise sources. This required protection shall extend vertically to include the existing heights of the adjacent homes. Any planted materials shall be chosen to provide the required buffering within two years of planting. A berm may be included in the buffer to absorb sound and increase the vegetation height, as long as irrigation is provided and **runoff retention requirements** are met. A berm may not substitute for a required fence or wall. **Trees must be a maximum of 25 feet on center in the entire**

(n) The design of the buffer shall be determined and approved by a certified acoustical engineer (licensed by the State of Florida) paid for by the applicant. The acoustical engineer shall be selected by the Village Planning and Zoning Director and be under his direction at all times.

## **6. TRAFFIC**

(a) Where a traffic study is required by Village Code or the Planning and Zoning Director, a certified traffic engineer, licensed in the State of Florida, paid for by the applicant and selected and directed at all times by the Village Planning and Zoning Director, shall conduct the traffic study and prepare a report of that study for the Village.

(b) The applicant shall be responsible for compliance with Land Development Regulations relating to traffic concurrency requirements.

(c) Neighborhood streets shall not be used for the delivery of goods or services by commercial vehicles where possible.

(d) Applicant shall be responsible for all expenses relating to traffic control, police involvement, and police participation in traffic movements. The traffic plan for the roadways relating to the daily use of the property or any special events on the property shall be subject to approval of Village Police Department. Village Police Officers are to be hired by and paid for by Applicant to manage traffic at property entrance(s) and off-site locations affected by traffic conditions.

(e) The applicant shall be required to provide additional on-site stacking of automobiles to accommodate any spill-over onto neighborhood streets.

(f) No driveway or driveway access shall be within 10 feet of the buffers abutting residential properties.

(g) No helicopter or fixed wing landing zones shall be permitted except for emergency medical services.

(h) All non-residential use on residential properties shall have main access directly from a collector road or main arterial road only. Residential and feeder roads are not to be used as main or secondary access to the property or parking lots.

## **7. PARKING RELATED CONDITIONS**

(a) Vehicle parking shall not be permitted in any on-site buffer areas.

(b) Ample parking shall be provided on-site and off all right-of-way areas.

(c) Parking structures (for more than six vehicles) shall not be permitted on residentially zoned properties.

(d) Parking areas shall be screened and so located as not to interfere with the livability of the adjacent residential properties.

## **8. LIGHTING**

(a) All lighting shall require a detailed site lighting plan with location, height, type of lights, shades, deflectors, beam directions, and photometric data.

(b) Exterior lighting intensities shall be controlled to assure that light spillage and glare are not directed onto adjacent properties or streets and all direct illumination is kept with property boundaries. Exterior lighting shall be controlled so as not to adversely affect adjacent properties and motorists. (Derived from Cutler Bay Code)

Maximum illumination at the property line shall not exceed 0.3 foot candles and 0.01 foot candles 10 feet beyond the property line. The intensity of illumination for exterior lighting across the site shall not exceed an average of six (6) foot candles measured at grade. Light trespass beyond property boundaries or above the horizontal plane beyond the levels noted here shall be considered non-compliant. Fixtures shall be placed to provide uniform distribution of light and to avoid excessive glare. (Derived from Cutler Bay Code).

(c) No building or structure shall have any up lighting, directional soffit lights or wall-pac lights. One way down lights on walls, columns, covered terraces or walkways shall be permitted.

(d) Lighting shall not be installed (or used) for outdoor recreational areas. (Underwater lighting used for the illumination of a swimming pool, fountain and other water features may be permitted.)

(e) Parking area, circulation, and security light fixtures shall be installed which project the light rays directly to the ground surface and shall include shields which restrict projection of light rays outward to adjacent properties and also restrict the upward projection of light rays into the night sky.

(f) The parking area, circulation and security lights shall have a maximum overall height of fifteen (15) feet.

(g) Compliance with minimum green standards – Section 28-6 – relating to energy saving fixtures and LED lighting shall be required.

(h) The parking area and internal circulation lights shall be placed on a timer consistent with the termination of operational hours and consistent with applicable codes.

## **9. NOISE**

(a) The sound level of any operation, other than the operation of motor vehicles, operations involved in the construction or demolition of structures, or emergency alarm signals from an authorized use shall not exceed the decibel levels in the Village Noise Ordinance – Sec. 30-60.29

(b) Sound pressure levels shall be measured at the property line upon which the emission occurs.

(c) Any temporary public address speaker system or similar amplified sound device in the athletic fields, courts, or pool shall not be operated between the hours of 5:00 p.m. and 10:00 a.m. (Monday – Friday). On Saturday, the temporary public address speaker system or similar amplified device shall not be operated between the hours of 2:00 p.m. and 10:00 a.m. The temporary public address speaker system shall be used in compliance with the Village's Noise Ordinance 30-60.29, as amended, and shall not generate a direct sound pressure level in excess of that permitted by Sec. 30-60.29 at the property boundary. (Taken from Palmer Trinity Special Exception Resolution)

(d) Acoustical engineer proposed to be hired by applicant, selected by the Village.

**10. OPERATIONS**

(a) Service and delivery vehicles, including solid waste pick-up, shall be restricted to Monday through Friday between the hours of 7:00 a.m. to 7:00 p.m. [consistent with 30-60.29 (e)(7) of the Code]. Saturday deliveries shall be allowed from 10:00 a.m. to 1:00 p.m.

(b) Service, delivery and storage areas and equipment shall be adequately screened and located away from view of adjacent single family residential properties.

(c) Operational hours of the non-residential use shall be such that the impact upon the immediate residential neighborhood is minimized. *[Don't know what this means or how to enforce].*

(d) Where services areas are provided they shall be screened and so located as not to interfere with the livability of the adjacent residential properties. *[Don't know what this means or how to enforce].*

**11. TRASH PICKUP LOCATION:**

(a) Trash pickup location shall not be closer than 10 feet from buffer abutting residential zone.

(b) Any trash enclosure that has any food waste shall be enclosed and screened with landscaping.

**12. LOADING ZONE LOCATIONS:**

(a) Loading zones shall not be located closer than 10 feet from the buffer abutting a residential zone.

(b) Loading zones may be located within building structures provided the buildings meet setback requirements.

**13. ENFORCEMENT**

(a) A violation of any of the development approvals or conditions of the Village Council shall result in a \$250.00 a day fine per violation. (Derived from Palmer Trinity special exception Resolution).

(b) In the event the terms of an approved site plan are not complied with, in addition to any other remedies available, the Village is authorized to withhold any further permits, and refuse to make any inspections or grant any approvals, until such time as the conditions are complied with. (Derived from Palmer Trinity special Exception Resolution)

#### 14. MISCELLANEOUS

(a) The additional conditional use standards in this section shall apply when there is a need for a conditional use approval of a non-residential use on a parcel zoned for single-family residential. Conditional uses are approved after a public hearing by the Village Council. (Derived from Cutler Bay)

(b) No administrative variances or other waiving of any requirement of this ordinance shall be granted except as approved after a public hearing by the Village Council. [*Not sure this is currently permitted under zoning code. May be a non-issue*].

(c) Adjacent property shall mean property that touches or is across a street, canal, private street, access easement, or right-of-way from the subject property.

(d) All applicable State, County, and Village Codes and Ordinances shall be complied with at all times. Where a conflict exists in the Code, the more restrictive shall prevail. [*General standard in law.*]

(e) Setbacks

(f) Building Size

(g) Building Heights – Max 2 Stories, 35 Feet; No Height Variances.

(h) Screening Of Rooftop Equipment (T)

(i) Grandfather Existing Uses