

AUGUST 8, 2012 WORKSHOP ITEMS:

1. UNITY OF TITLE

EXISTING CODE AND REVISIONS THERETO:

Sec. 30-30.2. - General application requirements

(d) *Application(s) for building permit(s) and development approval(s).* A development approval application is an action pursuant to Chapter 30, taken after public hearing or an administrative development review as provided under this Division 30-30. All applications for development approval shall be filed with the appropriate Department, and shall be reviewed by all the various departments needed including Public Works, Building, Parks, and all outside agencies, including but not limited to the Miami-Dade County School Board, Miami-Dade County Fire Department, ~~DERM-PERA~~, and/or the South Florida Water Management District (SFWMD). The application shall be accompanied by a fee as is established from time to time by the Village Council.

(13) The Village may require a property owner to file supporting legal instruments as outlined below:

b. Unity of title. A unity of title, or other similar agreement or covenant, ~~may~~ shall be required to be submitted on a form approved for legal sufficiency by the Village Attorney, which shall run with the land and be binding upon the heirs, successors, personal representatives, assigns, and upon all mortgagees or lessees and others having any interest in the property. Development Code. No permits shall be issued until the covenant/unity of title is recorded.

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AUGUST 8, 2012 WORKSHOP SUGGESTION:

~~(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.~~

Comment [DD1]: Provision provided at Section 30-30.2(d)(13)b. Please see above.

Comment [DD2]: Incorporated in to 30-30.2(d)(13)b above.

2. REQUIRED ZONING WORKSHOP

EXISTING CODE AND REVISIONS THERETO:

DIVISION 30-110. - PLACES OF WORSHIP, PRIVATE SCHOOLS, AND CHILD CARE FACILITIES, AND OTHER NON-GOVERNMENTAL PUBLIC ASSEMBLY USES

Sec. 30-110.7. - Additional site plan review standards.

Comment [DD3]: Please cross-reference with Section 14, below. Staff recommends a restructuring of this chapter and section 30-60.15 [Buildings for Public Assemblage.]

In addition to site plan review as required by this Code, the following review standards shall be utilized by the Village:

12. Required Zoning Workshop. This section shall apply solely to the residential and multi-family residential districts of the Village, including the Live Work District, R-5 through AG. The Zoning Workshop shall not be considered part of the quasi-judicial hearing. Each application shall be evaluated based upon the record presented at the Village Council hearing(s) on the application. Upon submission of an application for any of the above described uses, the applicant shall present a planned development to the public during a zoning workshop, which is to be held within 90 days of submittal of the application. Notice of the workshop shall be provided to the public consistent with the requirements of 30-30.11(o), for Other non-governmental Public Assemblage Uses” conditional uses. The zoning workshop shall be held to provide a forum for the public to learn about the proposed development within the residential zoning district(s). During this workshop members of the public may ask questions and provide feedback or input to the applicant(s). Representatives of the applicant shall be available to answer questions. Color renderings of the proposed structures, 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 30 45 minutes prior to the scheduled start time. A public comment period shall be provided. Developments may be presented to the public simultaneously, in several locations within the meeting site. During this workshop members of the public are encouraged to ask questions and to provide feedback to the applicant about the proposed development. In addition, representatives of the applicant shall be available to answer questions that members of the public may have about the proposed development. A second workshop maybe scheduled within 30 days of the first, provided, however the meeting date is established prior to the conclusion of the first workshop. Upon completion of the workshop procedure, the application shall be scheduled for the next available zoning hearing provided, however, the application and staff review is complete and consistent with notification requirements at Section 30-30.11. The members of the Village Council may be present during the workshop but may not participate in the discussion.

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AUGUST 8, 2012 WORKSHOP SUGGESTION:

(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,

Comment [DD4]: Is it the Council's desire to include all residential districts or to restrict the regulation to single-family zoning districts? The existing moratorium is broader and included multifamily districts. The moratorium also did not include commercial and mixed use districts (minus live work). The discussion at the August 8, 2012 workshop centered principally around the single family zoning districts. Clarification for the Council is requested.

Comment [DD5]: Staff at Section 14 shall be recommending a change in the title of "conditional uses" as it relates to the nonresidential uses contemplated in the NPO.

Comment [DD6]: Public comments during the August 8, 2012 workshop indicated a desire for additional time to for the public to review the renderings.

Comment [DD7]: This language assists staff in implementation while ensuring proper public notification and completion of staff analysis and review.

Comment [DD8]: Per the request of the Council during the August 8, 2012 workshop, staff mirrored the process implemented by the Town of Cutler Bay as to Council attendance at the proposed workshop process delineated here. Council however, may not participate during the process in order to ensure compliance with the quasi-judicial nature of the final hearing on an application.

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. Further, 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.~~

Comment [DD9]: Based upon the direction of the Village Council the provisions relating to a Community Relations Committee have been stricken.

EXISTING CODE AND REVISIONS THERETO:

DIVISION 30-50 ZONING DISTRICTS

30-50.1 Districts and General Provisions.

(h) **Nothing** shall be allowed on the premises in any district which would in any way be offensive or obnoxious by reason of color, design, or the emission of odors, liquids, gases, dust, smoke, vibration or noise. Nor shall anything be placed, constructed or maintained that would in any way constitute an eyesore or nuisance to adjacent property owners, residents, or to the community. No structure shall be erected, altered, structurally altered or moved except by methods and on locations unless as provided under this Code.

Comment [DD10]: This provision applies to all districts. No need to include proposed language as odor is regulated under this provision.

DIVISION 30-60. - GENERAL REGULATIONS

Sec. 30-60.11. - Pre-construction and construction standards for sites.

- (a) No construction may occur within the Village, without obtaining all applicable permits. A site management plan shall be submitted to the Village's Building Department for review and approval prior to issuance of the construction permit. The site management plan shall include a plan of the structure to be constructed, location of utilities, location of septic tank (if applicable), material storage location and mechanism for securing same, location of dumpsters and method of securing trash during Hurricane Season, if applicable, tree identification and protection, site grading, sidewalk protection and measures to control pedestrian access around the site, runoff control, weed control, fencing or screening, site appearance control, and a construction schedule.
- (b) All construction sites shall be maintained free of debris and scrap materials.
- (c) During hurricane season (June thru November), the construction site shall be maintained cleaned of loose debris and/or secured in accordance with the Village's Code of Ordinances and the Florida Building Code.
- (d) All construction sites readily accessible to the public not already providing site conditions that fence or wall off the area from the public, shall be enclosed with a temporary six-foot **fence** which shall be installed prior to starting the construction activity, unless exempt by the Village's Building Official. Construction shall be defined to include new construction of structures, additions to existing structures, renovation of existing structures, and any construction that shall include excavation or exposure of the interior of an existing structure. Construction shall not include paving or repaving of a driveway, or other re-surfacing and/or minor interior renovations or construction which is not exposed to the elements. The fence permit is to be issued, and the fence installed, inspected, and permit closed-out by the building department prior to initiating construction. Each site, must additionally comply with Section 1.1 [Florida Building Code], above, relating to demolition permit requirements if demolition permit is needed. The required perimeter fence shall be chain link, covered with green or black nylon material screening the construction from view, and installed on the front, side and rear lot lines. The fence shall be installed so as not to create a public hazard and the fence gate shall be locked during nonworking hours. The fence shall remain in place through completion of construction, unless exempt by the Village's Building Official. Additional protective

Comment [DD11]: Compliance with this provision is already required. It would be redundant to add this provision into the code for a second time.

safeguards may be required where the Village identifies an attractive nuisance. "Readily accessible to the public" shall mean a "Level Three" alterations of existing residential buildings as defined under the Florida Building Code at section 405.1 (exceeds 50 percent of the aggregate area of the building within any 12-month period). Level One (Florida Building Code section 403.1) and Level Two (Florida Building Code section 404.1) residential alterations shall not be considered readily accessible. Levels Two and Three of Construction for commercial properties (as defined at 404.1 of the Florida Building Code) shall be considered readily accessible.

- (e) All construction sites shall be monitored for dust, dirt, and particulate control by hosing of debris with water.
- (f) All pavement, surfacing, driveways curbs, walks, buildings, utility poles, fences, and other surface structures affected by the construction operations, together with all sod and shrubs in yards, parkways, and medians shall be restored to their original conditions, whether within or outside the easement right-of-way. All replacements shall be made with new materials.
- (g) All construction sites shall comply with the Village's noise code. 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.
- (h) In addition to the above, the site management plan for all nonresidential developments in residential districts and their corresponding construction shall comply with the following:
 - (1) 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.
 - (2) 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.
 - (3) Construction trailers for staging area shall be permitted solely during construction and shall be removed within 60 days of final Certificate of Occupancy.
 - (4) Materials or vehicles shall not be parked, placed, or stored on public right of way under the jurisdiction of the Village 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, with a time limit reported to Council and public.

Comment [DD12]: Modified per request of Council.

Comment [DD13]: The Workshop Discussion Items from August 8, 2012 reflected a request to add this language. However, it is already located within the code. To re-insert same would be redundant.

Comment [DD14]: Staff inserted an applicable time frame for reasonable removal of the construction trailers.

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AUGUST 8, 2012 WORKSHOP SUGGESTION:

~~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.~~

Comment [DD15]: Already provided under 30-60.11(a).

~~(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.~~

Comment [DD16]: An MOT is required under existing section 30-30.5(g)(2)v.

~~(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.~~

Comment [DD17]: Added as sub (2) above.

~~(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).~~

Comment [DD18]: See above, already addressed in 30-60.11(g).

Comment [DD19]: Added as sub (3) above.

~~(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.~~

Comment [DD20]: Added as sub (4) above with duration modification (60 days after CO).

Comment [DD21]: Added as sub (5), above.

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

Comment [DD22]: The concern with this provision is that the Village does not regulate tree removal. The Village could undertake the implementation of the tree code, but to do so would require additional staff, the hiring of an arborist, inspection officers and support personnel. This would be a great administrative expense to the Village. The Village has spoken with the head of PERA (formerly DERM) Mr. Jack Osterholt (Deputy Mayor of Miami-Dade County). PERA is willing to work with the Village by language on all permits it issues in the Village. Please note, however, that enforcement of the language would remain with the Village and not Miami-Dade County. Implementation would require a preliminary injunction hearing if there was a violation of the provision. PERA's proposed language is as follows: "Issuance of a tree removal permit does not relieve the permittee from the requirement to obtain and comply with all necessary approvals or permits from the local municipality, or any other government entity otherwise having independent jurisdiction relating to the authorizations contained herein."

~~(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.]~~

Comment [DD23]: See above, already provided under 30-60.11(d).

Comment [DD24]: Modified existing sub section (e) to include particulates.

~~(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.]~~

Comment [DD25]: Not added.

~~(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.]~~

Comment [DD26]: Criteria could be viewed as either unenforceable or overly burdensome. Not included as a provision, is provided in our code. See above.

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

Comment [DD27]: See sub (f), already provided. Would be redundant.

4. ATHLETIC FIELDS AND AMENITIES:

EXISTING CODE AND REVISIONS THERETO:

30-60.2(h). Fences for tennis courts; fences and walls for other recreational uses. Fences for tennis courts may be erected up to 14 feet in height provided they conform to accessory use setbacks. The height of fences and walls in connection with other permitted recreational uses shall be permitted as necessary for the particular use, provided they conform to accessory use setbacks.

Comment [DD28]: Already required under existing code. No reason to modify code.

Sec. 30-110.6. - Physical standards.

(3) Physical standards – Athletic fields and Amenities. If provided as part of the application, as ancillary uses, the applicant shall comply with the following conditions:

- 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 applicant's project.~~
- 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 solely contain interior lighting below the surface of the water.~~
- e. ~~Pools shall have a sound wall separating the pool area from adjacent residential uses. The sound wall shall be installed prior to the utilization of the pool. The design and construction method of the sound wall shall be determined by a certified acoustical engineer paid for by the applicant. The pool may be completely enclosed in a building in lieu of the sound 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.~~

Comment [DD29]: Staff concern relates to enforcement. If information is not readily provided the Village will have to seek injunctive relief or seek other legal remedy to obtain the proof of any such violation. There is a policy consideration – does the Village want to preclude certain civic goals, whether providing CPR training, swimming safety classes, etc., to the Community when the Village may not be able to provide those civic uses on its public land either due to lack of facilities, or lack of space. Does the Village want to preclude itself from being able to partner with these institutions to provide these services?

Comment [DD30]: Buffers work as a “de facto” setback. It is unclear whether an additional setback is necessary.

Comment [DD31]: Staff concern is that the Village has a noise ordinance with decibel levels that must be complied with by any applicant. So, what exactly would the acoustical engineer be determining, if compliance is set by the noise ordinance? As long as the noise levels are met at the property line, there is nothing for the acoustical engineer to determine.

Comment [DD32]: Buffers work as a “de facto” setback. It is unclear whether an additional setback is necessary. Undetermined at this time as to an setback.

AUGUST 8, 2012 WORKSHOP SUGGESTION:

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(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.

Comment [DD33]: Added as sub (a) above. See comments to that subsection.

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

Comment [DD34]: Added as sub (b) above. Reference comment above relating to buffer.

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

Comment [DD35]: Policy determination for council. Lights are allowed currently in residential districts for residential properties with single family homes and tennis courts, etc.

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

Comment [DD36]: Added as sub (d) above.

(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.

Comment [DD37]: Modified and added as sub (e) above. Reference to size of pool is irrelevant to the discussion. If a sound wall is required it should be required regardless of pool size. Staff cannot determine how to define a "high school pool".

(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.

Comment [DD38]: Added as sub (f), above.

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

Comment [DD39]: Added as sub (g) above

Comment [DD40]: See section 30-60.2, above. Not included in revisions.

5. LANDSCAPING AND BUFFERS

EXISTING CODE AND REVISIONS THERETO:

30-60.2 Fences, Walls and Hedges

(b) Type, material, and exterior finish of walls and fences.

(1) Walls may consist of wood, masonry, rock, block or brick. The finished side of a wood wall shall face outward. Each side of a concrete block and stucco wall shall be completely finished with stucco and paint. Each side of a decorative masonry wall shall be completely painted.

(2) Fences may consist of wood, electrostatic plated aluminum, Miami-Dade County approved vinyl fencing, wrought iron, or chain link. The finished side of a wood fence shall face outward.

(3) If a wall or fence is to be placed on the property line, consent for access must be obtained from the adjoining property owner(s) prior to finishing the opposite side of the wall or fence. If consent cannot be obtained, the property owner erecting the wall or fence must present proof that a request for access approval was mailed to every adjacent property owner, by certified mail, return receipt requested, to the mailing addresses as listed in the most current county tax roll, and the mailing was returned undeliverable or the adjacent property owner(s) failed to respond to the

Comment [DD41]: Existing code provides a process for a placing wall or fence on property line. Do you want to create a separate process for these uses? It may be difficult to maintain the gap area and may be hard to enforce.