

request within 30 days of receipt. Upon such a showing, the property owner erecting the wall or fence shall not be required to finish the opposite side.

30-100.1 Landscaping Regulations.

(e) **Minimum landscaping standards. The following standards shall be considered minimum requirements unless otherwise indicated:**

- (9) Buffers between dissimilar land uses, except for within the FT&I District. Where dissimilar land uses exist on adjacent properties, and where such areas will not be entirely visually screened by an intervening building or structure from abutting property, that portion of such area not screened shall be provided with a buffer consisting of a six-foot high wall or fence with a life expectancy of at least ten years, or shrubs which normally grow to a minimum height of six feet. Shrubs used as a buffer shall be a minimum of 30 inches in height at the time of planting, and shall be planted at a maximum average spacing of 36 inches on center, or a minimum of 36 inches in height at the time of planting and planted at a maximum average spacing of 36 inches on center. Said buffer shall form a continuous screen between the dissimilar land uses within one year after planting. Where chain link fencing is permitted, shrubs shall also be required. Buffers screening dissimilar uses shall include trees planted at a maximum average spacing of 35 feet on center within a minimum five-foot landscaped strip. Where dissimilar land uses exist on adjacent properties within the FT&I District, the height of a fence or wall that may be erected or maintained on the common property line shall be the tallest height permitted in either district.

Comment [DD42]: The six foot wall and landscape buffer is provided for when dissimilar land uses are adjacent. No change to existing code was made as it is more restrictive than proposed language.

Sec. 30-100.3. - Landscape maintenance.

- (a) A property owner is responsible to ensure that landscaping is:
- (1) Installed in compliance with the applicable landscape requirements, provided, however, the exceptions found at [subsection] 30-100.1(a);
 - (2) Maintained as to present a healthy, vigorous, and neat appearance free from refuse and debris;
 - (3) Sufficiently fertilized, braced and watered to maintain the plant material in a healthy condition; and
 - (4) Maintained to keep vegetation from encroaching onto or posing a hazard to those using sidewalks, rights-of-way, or pathways.

Comment [DD43]: Already contained in Code. No modification recommended.

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

- 4 Landscaping and Buffers. Buffering elements shall be utilized for visual screening and substantial reduction of noise levels at all property lines ~~where necessary to comply with Division 30-60.11 of this code.~~ Below shall be the minimum requirements as to the landscaping and buffering:
- a. Properties that are five (5) gross acres or less shall provide a buffer of 35 feet. Properties that are greater than five (5) gross acres shall provide a buffer of 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. If the residential property under consideration for non-residential use is separated

Comment [DD44]: See attached analysis of buffer.

- from the nearest single family residential property by a street/road, the buffer width may be reduced by 30 percent.
- b. The wall and buffer shall be constructed prior to the issuance of any permits for structures or improvements.
 - c. 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).
 - d. 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 PERA requirements. If the relocated trees do not survive, the applicant shall be required to replace the trees in compliance with PERA requirements.
 - e. 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 (2) 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.
 - k. Trees must be a maximum of 25 feet on center for the entire buffer.

* * *

Comment [DD45]: To be decided.

Comment [DD46]: It is not clear whether berms or plantings have a sound buffering quality that is measurable. The document already proposes enhanced landscape buffers with increased planting density, which given the assumption of the proposed language, would presumably achieve the same noise dampening effect regardless of the performance of a study. Further, there exist an enforceable noise ordinance today, should there be a violation thereto, it would be enforced regardless of any prior noise study.

Comment [DD47]: Does this mean if the adjacent home is 35 feet in height, the buffer has to include plantings that reach a height of 35 feet, minimum? There may be a conflicts between the proposed landscape density criteria and the plantings capable of growing in such a dense formation. Further, availability of landscape material fluctuates from one year to the next thus complicating compliance with the proposal.

Comment [DD48]: Plantings have to reach 35 feet in two years? This may be biologically impossible for many trees. See comment below at [DD49]

Comment [DD49]: Current standard is 35 feet on center for street trees. However, the proposed is consistent with the Village's Landscape Mitigation program. Please note, in another portion of this document there is a request to implement a landscape standard adopted by Islamorada, a Florida State recognized environmental sensitive area. Their standard is significantly more dense with trees planted effectively at 12 feet on center. Such planting density would preclude larger trees such as native live oaks, gumbo limbos and mahoganies and other native friendly trees such as royal Poinciana's, jacaranda or southern magnolia, which have a greater canopy. The 12 foot on center provision may preclude trees that can reach a 35 foot height.

AUGUST 8, 2012 WORKSHOP SUGGESTION:

(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.

Comment [DD50]: Provision already provided at Section 30-100.1(e)(9). Existing code is more restrictive than this recommendation as current code applies to all properties in the Village with dissimilar uses. Therefore language not included.

Comment [DD51]: Added at sub (a).

Comment [DD52]: Added at sub (a).

Comment [DD53]: Under existing code, finished side of wall or fence must face neighbor.

Comment [DD54]: Added at sub (a).

Comment [DD55]: This is already provided for in existing code.

Comment [DD56]: Conditions can be applied at public hearing as supported by supplementary evidence. This comment adds nothing to the Code for enforcement purposes and provides ambiguity to code that could be challenged as arbitrary. Staff recommends this provision be eliminated.

Comment [DD57]: Provided under 30-100.3(a)(1) – (4). See above. No modification proposed.

Comment [DD58]: Added as sub (b).

Comment [DD59]: This is existing code requirements. No need to add. Miami Dade County Code on Landscaping and Trees is the minimum code for the entire county. Village Code can be more stringent than county code but not less.

Comment [DD60]: Added as sub (c).

Comment [DD61]: This is the basic principle of existing code. But added as sub (d)

(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

EXISTING CODE AND REVISIONS THERETO:

Sec. 30-70.4. - Parking plan required.

(a) A parking plan shall be provided with all applications for development approval which shall clearly and accurately designate the parking spaces provided; indicate required parking by type of use; location and number of required handicapped spaces, child and baby stroller spaces and/or bicycle racks; required landscaped areas; planter islands; access aisles; driveways; drive-through facilities, if any; and, a description of the relationship between the parking facilities and the uses or structures the spaces are intended to serve.

(b) Plans for buildings or uses requiring loading facilities under the provisions of this Division shall clearly indicate the location, dimensions, clearances and access of all such required loading facilities.

(c) The plan must meet with the approval of the ~~community development~~ Planning and Zoning Department and the public works department. In making a determination, the departments shall consider the best interests of the community, volume of traffic to be generated, pattern of traffic, site circulation, conflicts with adjacent road traffic; number of and proximity of driveways, location and proximity of median cuts, visual clearances or obstructions, angle and location of driveways, intersections with roads, elevation of the driveways in reference to the road, and any other factors that may affect the safety and welfare of the public. In addition, all driveways extending into state roads shall meet with the approval of the state.

(d) Applications for building or use permits shall indicate the area to be used for parking and permits shall be issued specifying the area shall to be reserved and developed. Recordable restrictions reserving the area may be required at the discretion of the community development director. The area reserved for parking area shall be marked on the zoning map and no permits for additional use of such area shall be issued.

(e) Where a traffic study is required, it shall be prepared by a certified traffic engineer, licensed in the State of Florida and paid for by the applicant.

~~(f) The applicant shall be responsible for compliance with Comprehensive Plan relating to traffic concurrency requirements.~~

Comment [DD62]: A few important distinctions must be made here. First is the intent to regulate a clearly delineated ball field with bleachers or does it aim to more broadly include all play areas (i.e. open fields, playground equipment). Second, landscape material would interfere with an open play area/ball field and as such cannot necessarily occupy the same space with few exceptions. This in and of itself does not appear to present a hindrance on school development as existing code provisions allow turf areas for playgrounds and ball fields to be included within the landscape requirement. [Definition within 30-40] However, if the intent is to exclude ball fields and play areas from the open space requirement, a possible Burt J. Harris claim could be made as the use would effectively be precluded. It would potentially eliminate lot coverage area due to either a zero or near zero square foot area available to provide for buildings. This effect becomes more pronounced as a lot gets smaller. Please see the Staff Analysis for fuller explanation of this element.

Comment [DD63]: This first sentence is found at 30-110.7(4). No need to reiterate in code.

Comment [DD64]: Do plants have a sound buffering quality that is measurable.

Comment [DD65]: 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 at the property line the noise levels are met, there is nothing for the acoustical engineer to determine.

Comment [DD66]: The Code already requires a traffic study. No need to add it here.

Comment [DD67]: Changed the draft from referencing the Land Development Code, as concurrency requirements are in the Comprehensive Plan. This provision is redundant since this is already an existing requirement of law.

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

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

(5) Traffic Circulation.

- i. Where possible, local roads as prescribed by the Comprehensive Plan shall not be used for the delivery of goods or services by commercial vehicles, where possible.
- iii. Applicant shall be responsible for all expenses relating to traffic control. 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 the Village Police and Public Works Departments. The applicant shall manage traffic at property entrance(s) and off-site locations affected by traffic conditions.
- iv. The applicant shall be required to provide additional on-site stacking of automobiles to accommodate any spill-over onto neighborhood streets.
- v. No driveway or driveway access shall be within 10 feet of the buffers abutting residential properties.
- vi. No helicopter or fixed wing landing zones shall be permitted except for emergency medical services.
- vii. All non-residential use on residential properties where possible 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.
- viii. Pedestrian and vehicular circulation shall be separated insofar as is practicable, and all circulation systems shall adequately serve the needs of the facility and be compatible and functional with circulation systems outside the facility. Automobile and bus stacking spaces shall be provided to accommodate the drop-off and pick-up needs without causing substantial disruption to adjacent right-of-ways or the surrounding uses.

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Comment [DD68]: Changed this from "neighborhood streets". This provision is sufficient in those situations whereby the nonresidential use is adjacent to a roadway of a higher classification. In such cases where it does not, the provision acts as a prohibition to the use entirely. As such, the words "Where possible" was added.

Comment [DD69]: As a condition provided for at public hearing, and agreed to by applicant, the Village could request the use of Village Police Officers. To require police in the code, without the consent of the applicant could be problematic. Further, if on duty, and an accident occurs, it may be Village liability. Preferable to have a private actor take responsibility.

Comment [DD70]: Parking areas typically have buffer requirements from adjacent properties, hence the intent of the buffer. A setback from a buffer appears to be awkward. Is the setback to be landscaped and if so does that become nothing more than an enlarged buffer. The question is important because the concern at the workshop has already been raised regarding the size of the landscape buffer. Adding such a setback, whether here or with the play areas/ball fields, merely amplifies the effect of taking up land available to accommodate the use. This appeared to be the issue raised at the Workshop. Additional clarification is necessary.

Comment [DD71]: This provision is sufficient in those situations whereby the nonresidential use is adjacent to a roadway of a classification higher than local road. In such cases where it does not, the provision acts as a prohibition to the use entirely. As such, the words "Where possible" were added.

AUGUST 8, 2012 WORKSHOP SUGGESTION:

(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.

Comment [DD72]: Current code permits the village to request additional studies as needed when reviewing a request for a development order. The parking code requires consideration of traffic generated volume generated by the development as well as its pattern. Inserting it here only creates a redundancy. With regards to the stricken portion, the Village already employs an Engineer to review the work of the applicant. The workshop did not appear to support this portion of the suggestion. Moreover, the requirement that the engineer work for Village, at Village's direction, but be paid for by applicant, may raise due process considerations.

Comment [DD73]: As added at sub (ii).

Comment [DD74]: As added at sub (ii).

Comment [DD75]: As added at sub (iii).

Comment [DD76]: As added at sub (iv).

Comment [DD77]: As added at sub (v). Same issue with the concept of a setback buffer and an additional setback for a driveway, is it needed?

Comment [DD78]: As added at sub (vi).

Comment [DD79]: As added at sub (vii).

7. PARKING RELATED CONDITIONS

EXISTING CODE AND REVISIONS THERETO:

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

(7) *Parking areas.*

- a. Parking areas shall be screened and so located as not to interfere with the livability of the adjacent residential properties.
- b. Vehicle parking shall not be permitted in any on-site buffer areas.
- c. Ample parking shall be provided on-site and off all right-of-way areas.
- d. Parking structures (for more than six vehicles) shall not be permitted on residentially zoned properties.
- e. Loading zones shall not be located closer than 10 feet from the buffer abutting a residential zone.

Comment [DD80]: Prohibiting parking structures may result in addition asphaltting of the site thus eliminating pervious areas available for landscaping.

Comment [DD81]: Parking areas typically have buffer requirements from adjacent properties, hence the intent of the buffer. Is the setback to be landscaped and, if so, is the effect a greater buffer requirement. This issue was raised at the workshop as to the size of the landscape buffer and possible taking claims. Adding an additional "setback," whether here or with the play areas/ball fields, may limit the location of structures on the site.

f. Loading zones may be located within building structures provided the buildings meet setback requirements.

AUGUST 8, 2012 WORKSHOP SUGGESTION:

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

Comment [DD82]: As added at sub (b)

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

Comment [DD83]: As added at sub (c)

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

Comment [DD84]: As added at sub (d)

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

Comment [DD85]: This requirement appears to be adequately addressed through the landscape buffer provision and, therefore, is left out of this section.

8. LIGHTING

EXISTING CODE AND REVISIONS THERETO:

Sec. 5-54. - Scope of Green Program.

(a) For any village-owned civic or office construction project, the village shall participate in the program, unless the village council determines that the cost (e.g., time, function, or funding) associated with participating in the program significantly outweighs the benefits of participating in the program.

(b) Pursuant to section 5-56, infra, there shall be certain minimum mandatory Green Building requirements for all future mixed-use, commercial, and governmental projects, and other nonresidential uses.

(c) The remainder of this program shall be voluntary to non-village project participants.

(d) The village manager and the directors for the appropriate departments, or their designees shall develop policies and procedures to implement the "Green Building Program."

(e) The program shall encompass the expansion, retrofitting, or remodeling of existing, and new commercial, mixed-use development(s) and/or village projects. It includes portions of commercial and mixed-use development expansions, retrofitting or remodelings. The remodeling, expansion and retrofitting of existing projects shall be within the voluntary part of the program. A density bonus shall be allowed for certain specific levels of certification as provided under section 5-57.

(f) This program is not intended for implementation to single-family residential development projects in the R and E Zoning Districts of the Village. The program shall not apply to a single residential unit application, whether for a single-family residence or a single unit within a specific existing multifamily or duplex.

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Comment [DD86]: The Green Building Code does not require 30-110 structures contained in residential districts to comply.

Sec. 30-60.6. - Outdoor lighting.

Lighting of outdoor areas, such as but not limited to tennis courts, golf courses, sporting areas or grounds, parking lots or areas, amusement or entertainment areas, and outside lighting for security purposes, shall not be permitted except under the following conditions:

Comment [DD87]: The General Regulations provision of the Code provides lighting, as of right, provided the conditions that follow are met. This is relevant as the tennis courts, sporting area, and parking lots could be located on single family residential sites. Modifying the Code for nonresidential uses would create a different standard for those uses and could lead to a BJ Harris or a possible RLUIPA claim.

(1) Detailed plans shall be submitted to the community development department showing the location, height, type of lights, shades, deflectors, ~~and~~ beam directions, and photometric data.

(2) The community development department may issue a permit if, after a review of the detailed plans therefore and after consideration of the adjacent area and neighborhood and its use and future development, the proposed lighting will be so located, oriented, adjusted and shielded that the lighting will be deflected, shaded and focused away from such adjacent property and will not be or become a nuisance to adjacent property(ies), and will not create a traffic hazard on adjacent streets by reason of glare or the like.

(3) In addition, outdoor lighting for recreational areas, parking areas, or for any other purpose shall be designed so that any overspill of lighting onto adjacent properties shall not exceed one-half foot candle (vertical) and shall not exceed one-half foot candle (horizontal) illumination on adjacent properties or structures. An outdoor lighting installation shall not be placed in permanent use until a letter of compliance from a registered engineer or architect or the duly authorized representative of such engineer or architect is provided stating that the installation has been field checked and meets the requirements as set forth above. The requirements of this subparagraph shall apply to any night lighting in zones abutting a residential or agricultural zoning ~~district.~~

(4) It is not intended here to regulate permitted sign lights and it is not the intent to modify, amend or repeal any portion of the Florida Building Code.

(5) 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.

(6) Underwater lighting used for the illumination of a swimming pool, fountain and other water features may be permitted.

(7) The parking area, circulation and security lights shall not exceed a maximum overall height of fifteen (15) feet.

(8) 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.

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Sec. 30-70.5. - Size and character of parking spaces.

(g) Lighting. Outdoor lighting, in accordance with standards set forth in division 30-60 of this Code entitled "General Regulations, Outdoor Lighting" and Chapter 8, Section 8C-3, of the Miami-Dade County Code, shall be provided for required parking facilities for multiple-family residential development and all nonresidential land uses. Light fixtures shall be installed which project the light rays directly to the parking surface, and shall include shields which restrict projection or light rays outward to adjacent properties and also restrict the upward projection of light rays into the night sky. All lighting shall comply with minimum standards and shall not cast more than one-half footcandle at the property line. Photometric drawings, by a certified engineer, shall be provided at time of permitting and prior to final approval. Such calculations shall certify compliance with this Division. Light fixture styles shall be in accordance with the Village's Street Improvement Standards.

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Comment [DD88]: Our code provides a ½ foot candle, consistent with industry standards for all properties. Do you want to create a more restrictive standard for nonresidential uses in residential districts, which could lead to a RLUIPA claim. If applied to all properties there would not be a RLUIPA issue. There was a concern raised at the 8/8/2012 workshop that there should be some illumination off-site due to driveways, identifying markers and security. Given that all such improvements requiring illumination are to be separated from the property line by dense landscape buffers, the suggested provision for standards at the property line and off property may be moot.

Comment [DD89]: Discussion at 8-8-2012 workshop did not direct a consensus on this item.

Comment [DD90]: Do you want to restrict this to perhaps solely the residential districts regardless of use?

Comment [DD91]: Further, Miami-Dade County through its home rule authority already provides a lighting standard for parking facilities. This suggestion may violate Section 8C(3) of Miami-Dade County Code which requires continuous illumination of such facilities.

Comment [DD92]: County Code through their home rule authority provide for parking lot lighting levels. They do not, however, provide for a codified standard at the property line. Our code provides a ½ foot candle, consistent with industry standards for all properties. To create a more restrictive standard for nonresidential uses in residential districts could lead to a RLUIPA claim and may violate Dade County's home rule authority. There was a concern raised at the 8/8/2012 workshop that there should be some illumination off-site due to driveways, identifying markers and security. County Code requires some level of continuous illumination of parking lots at night. Given that all such improvements requiring illumination are to be separated from the property line by dense landscape buffers, the suggested provision for standards at the property line and off property may be moot.