



**VILLAGE OF NORTH PALM BEACH  
PLANNING COMMISSION  
REGULAR MEETING MINUTES  
TUESDAY, SEPTEMBER 10, 2019**

Present:

Cory Cross, Chairman  
Donald Solodar, Vice Chair  
Thomas Hogarth, Member  
Jake Furlott, Member  
Jonathan Haigh, Member  
Lori Rainaldi, Member  
Kathryn DeWitt, Member

Jeremy Hubsch, Community Development Director  
Len Rubin, Village Attorney  
Paola West, Principal Planner

Council Member:

Mark Mulinix, Vice Mayor

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I. CALL TO ORDER

Chairman Cross called the meeting to order at 6:30 PM.

IA. ROLL CALL

All members of the Planning Commission were present.

II. APPROVAL OF MINUTES

The Minutes of the August 6, 2019 Regular Meetings were approved as corrected.

III. DECLARATION OF EX PARTE COMMUNICATIONS

Jake Furlott, Kathryn DeWitt, Cory Cross and Thomas Hogarth stated that they each had spoken with the developer of Prosperity Village. There were no declarations of Ex Parte Communications.

IV. QUASI JUDICIAL MATTERS / PUBLIC HEARING

Attorney Len Rubin swears in all persons speaking.

**A. CERTIFICATES OF APPROPRIATENESS**

**1. PROJECT 2019-1484: 336 Golfview Road- Gemini Condominium Association, Inc.  
CERTIFICATE OF APPROPRIATENESS**

Request: An application submitted by William Fuhs on behalf of the Gemini Condominium Association, Inc. requesting a Certificate of Appropriateness (COA) for building paint colors.

Mr. Hubsch presented the Staff Report and recommendations. Applicant is requesting a Certificate of Appropriateness (COA) for paint colors for the Gemini condominium building, in accordance with the Appearance Code. The existing building color is a beige/off-white color. The proposed building colors are a white for the body (STO 16287) and a light gray for the trim (STO 16298).

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Staff is recommending approval and requests the Commission include the following condition(s) as a part of their order:

1. Obtain a paint permit for the proposed building colors as approved herein.

Mr. Bill Fuhs, 336 Golfview Road, was present to represent the project.

The Board's comments and discussion were regarding whether the sign is staying on the building; whether the street address will remain on the building and if not, are there any Fire Department requirements for temporary address visibility.

Motion: Mr. Solodar moved to approve the application as presented. Ms. Rainaldi seconded the motion, which passed 7-0.

**2. PROJECT 2019-1382: 108 Lakeshore Drive- Old Port Cove Condo Five HOA CERTIFICATE OF APPROPRIATENESS**

Request: An application submitted by Steve Cohen on behalf of Old Port Cove Condo Five HOA, requesting Certificate of Appropriateness (COA) Approval for a reverse back-lit channel letter building sign.

Mr. Hubsch presented the Staff Report and recommendations. Applicant is requesting a Certificate of Appropriateness (COA) for a reverse back-lit channel sign. The applicant is proposing to install a new, stud-mounted building sign, offset to the building fascia. The sign will be bronze painted, reverse back-lit channel letters and will incorporate a blue halo light behind the letters. The building has no identification signage currently, save for the "108" which indicates the building address. The applicant has indicated that the Marina Tower is the only building without a name in the Old Port Cove residential development. Consequently, the residents have complained that guests and service workers have difficulty finding the building because of this very reason. Staff has no objection to the request.

Ms. Lisa Mardar, Signarama North Palm Beach, was present to represent the project.

Mrs. Pat Friedman, Old Port Cove Representative, was also present and spoke regarding the project.

The Board's comments and discussion were regarding whether the blue backlight may be too difficult to see the lettering at night and whether white may be a better option.

Motion: Mr. Solodar moved to approve the application as presented. Mrs. DeWitt seconded the motion, which passed 7-0.

**3. PROJECT 2019-0002: 2768 Richard Road- New Country Motor Cars of Palm Beach LLC CERTIFICATE OF APPROPRIATENESS**

Request: An application submitted by Gary Brandenburg, Esq. on behalf of owner NEW COUNTRY MOTOR CARS OF PALM BEACH LLC, requesting Certificate of Appropriateness (COA) Approval in order to construct a new stand-alone employee parking lot.

Mr. Gary Brandenburg, was present to represent the project. He made a presentation to Planning Commission, providing a brief history and background information on the project. He stated the applicant would like to improve on the site plan that was originally approved in 2008 when they received a variance for the site.

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Mr. Howard Ostrout, Landscape Architect, 1851 W. Indiantown Rd., Jupiter, was also present to represent the project. He stated the plan being submitted now is the same as the one presented 11 years ago except the new plan is in compliance with the new parking Code regarding the number of parking spaces. The landscape plan has also changed and now includes adding a pedestrian plaza feature along A1A with two benches, and a trash receptacle, and adding decorative aluminum fencing around the parking lot perimeter. The plan also exceeds the tree requirements; 25 required and 37 are proposed.

Mr. Ostrout stated that he is seeking removal of three of Staff's conditions of approval:

#2 - *Maintaining overhead utility setbacks per FPL Right Tree Right Place criteria* – He states that all the trees proposed meet the requirements under FPL's plan and the conditioned setbacks; and

#3 - *Replace cypress mulch with another type, such as eucalyptus or pine straw* – He provided a lengthy discussion of the cypress mulch industry and advised that the Village Code does not address mulch types; eucalyptus mulch is typically unavailable and the use of certified environmentally sustainable cypress mulch is acceptable; and

#4 - *As per code section 27-62(b), palms and canopy trees are required to be installed at a minimum of 6" of caliper* – He advised that this section of Village Code refers to palm trees, not canopy trees. The proposed plan includes the use of sabal palms and royal palms, which have calipers greater than 12 inches. The Code does not require 6" caliper for shade trees. According to a large tree grower in Florida, a 6 inch caliper shade trees grow to 20'- 26' tall, and 10 - 16' spread.

The Board's comments and discussion were regarding whether there is a Unity of Title for Mercedes Benz and the Former Live Oak Plaza, whether the existing trees on the property are going to be used; what the proposed pedestrian park will look like; whether curbing is being proposed around the property; what type of light poles are being proposed; whether a photometric plan has been submitted; whether there will also be tire stops in the parking lot; and whether there will be glare into the surrounding neighborhood from the light poles;

Mrs. West, Principal Planner, addressed Mr. Ostrout's objections to the staff's conditions of approval. For items 2 & 3, there is no requirement in the Village Code and item 4, was an error as there is no requirement for canopy trees.

Motion: Mr. Solodar moved to approve the application as presented with Conditions 1, 5 & 6 and to encourage the use of cypress mulch as recommended in Condition 2; eliminate foot candle lighting on the east side, and to require a Unity of Title be obtained for the three (3) properties. Mr. Haigh seconded the motion, which passed 7-0.

The Chairman recessed the meeting at 7:35 PM for a brief break.

The Chairman called the meeting to Order at 7:38 PM.

**B. ZONING/SITE PLAN/VARIANCE APPLICATIONS**

**1. PROJECT 2019-1274: 740 Alamanda Drive- Jordan McInnes VARIANCE**

Request: An application submitted by property owner Jordan McInnes, requesting a VARIANCE from Section 45-36(D) of the Village Code of Ordinances, in order to install a 6-foot fence a minimum of 5 Feet from the side property line, rather than limit the fence height to 4 feet in this area as required by Code.

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Mrs. West presented the staff report and recommendations. The property is a uniquely shaped lot located at the intersection of two streets and abutting two back-to-back lots to the rear. There are approximately 4 other lots that are similarly situated in the Village, of which only two (including the subject property) are located west of Prosperity Farms Road. In all 4 examples, the house orientation dictates how much backyard area the property has. Of all 4, only two (including the subject property) have the same challenges with respect to fencing height and amount of backyard area. While the property is larger than an average single-family lot, the current location of the home is 79.2 feet from the furthest point of the lot. This is setback further than a typical single family lot in the Village. It is important to note that the recently amended fence regulations allow the subject property to install a 6-foot fence 20 feet from the two street-side property lines, whereas the previous fence regulations required a 6-foot fence to be setback aligned with the required front building setback line extended of the adjacent street side lots to the south. On the east and west sides, this would have been a required 25-foot setback.

It is Staff's analysis that this application is consistent with the six (6) variance criteria provided herein. She explained that should the Planning Commission determine that the Applicant has met the necessary prerequisites for the granting a Variance, Staff requests the Commission include the following condition(s) as a part of their order:

1. Subject to substantial conformance to the plan submitted, limiting the fence height to 6 feet, no closer to the property line than 5 feet on the west side of the home, no closer to the property line than 14 feet on the southwest end of the property, and no closer than 10 feet to the east property line.
2. Provide a continuous hedge between the proposed fence and the existing sidewalk on both sides. Hedge is to be maintained no taller than 3 feet.
3. Obtain all necessary permits and governmental approvals for the proposed fence, including easement release forms from the applicable utility companies.

Jordan McInnes, 740 Alamanda Dr., North Palm Beach, was present to represent the project. She states that they have a boat and would like to eventually add a pool, and due to an FPL pole anchor in the middle of the yard, space is limited. Currently there is no privacy in their back yard.

The Board's comments and discussion included whether there is a maximum height requirement for hedges; recommending planting a hedge to screen a boat; and whether a hardship actually exists as a fence is allowed to be permitted.

The Chairman opened the floor to comments from the public.

Susanne Reiter, 441 Gulf Rd., North Palm Beach, addressed the Planning Commission regarding fencing regulations for corner lots.

Motion: Mr. Haigh moved to approve the Variance with the conditions that:

1. Approved only for the side property line along Buttonwood Road in conformance with the Fence Location Plan submitted by Applicant (no closer than five (5) feet from the side property line on the west side of the home and no closer than fourteen (14) feet from the side property line on the southwest end of the Property). The proposed fence must meet all Village Code requirements for the side property line along Alamanda Drive.

2. Applicant shall provide a continuous hedge between the fence and the existing sidewalk along Buttonwood Road.
3. Applicant shall obtain all necessary permits and government approvals for the fence, including easement release forms from the applicable utility companies.

Mr. Solodar seconded the motion, which passed 5-2 with Mr. Cross and Mr. Hogarth voting nay.

**2. PROJECT 2019-1319: 11353 Twelve Oaks Way- Twelve Oaks Condo Assn Inc VARIANCE**

Request: An application submitted by Carrie Voltz on behalf of property owner TWELVE OAKS CONDO ASSN INC., requesting a VARIANCE from Section 45-36(D) [General Provisions] of the Village Code of Ordinances in order to install an 8-foot privacy fence along the west side property line, rather than limit the fence height to 6 feet in this area as required by Code.

Mrs. West presented the staff report and recommendations. The applicant is requesting a variance from section 45-36(D) of the Village Code of Ordinances in order to install an 8-foot privacy fence along the west side property line of a multi-family development, rather than limit the fence height to 6 feet in this area as required by Code. Although this particular section of the code was not amended with the recent changes to section 45-36, subsection D requires that fences and walls built within the area between the property line and the building be no taller than 6 feet. If an applicant wishes to install an 8-foot fence or wall, they would need to set the fence or wall back to be located within the building envelope/buildable area. For this property, an 8' fence or wall would need to be set back 10 feet from the side property line. The applicant is also requesting approval for approximately 342 linear feet of 8-foot fencing, located along the side property line common area. The property currently has a chain link fence along the side property line. The applicant states on the variance application that the abutting property, which houses a car wash, creates runoff with chemicals that prohibit plants from growing on the common area of the multi-family development. The applicant mentions that there is currently a 10' wall just south of where the fence is being proposed, though the height is not as evident since the grade there is lower than the surrounding area. This would allow the height of the proposed fence to be less obvious due to the particular grading in this area. Additionally, the applicant states that this portion of the property being located adjacent to commercial businesses without a privacy fence creates an unsafe feeling for the residents and denies them privacy of their homes. The abutting commercial property to the northwest, zoned C-1, is the only commercial property within Village jurisdiction in this area. It is worth noting that no buffer is required in the C-1 zone abutting residential development.

It is Staff's analysis that this application is consistent with the six (6) variance criteria provided herein. Should the Planning Commission determine that the Applicant has met the necessary prerequisites for the granting a Variance, Staff requests the Commission include the following condition(s) as a part of their order:

1. Subject to substantial conformance to the plan submitted, limiting the fence height to 8 feet for a maximum of 342 linear feet along the west property line.
2. Fence must be painted wood to match a principal building or white PVC.
3. Obtain all necessary permits and approvals for the proposed fence, including easement release forms if the fence is proposed within a utility easement.

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Carrie Voltz, Twelve Oaks Condo Association, was present to represent the project. She states that the chemical runoff from the car wash is killing the hedge along the fence. The proposed fence will afford privacy to the residents from the businesses.

The Board's comments and discussion included whether an eight (8) foot fence for properties abutting commercial areas should be codified in the Code; the difference between the chain link fence and the proposed new fence; and the amount of linear feet needed.

The Chairman opened the floor to comments from the public.

Frances Bettes, 11325 Twelve Oaks Way, spoke in favor of the Variance.

Motion: Mr. Haigh moved to approve the Variance with the following conditions:

1. Applicant shall construct the fence in substantial conformance with the plan submitted up to a maximum of 342 linear feet along the west property line between the north property line of the adjacent Pelican Car Wash and the south property line of the adjacent Chase Bank. The fence shall not exceed eight (8) feet in height as measured from the grade of the Applicant's Property and shall be constructed within twelve (12) inches of the existing fence or wall.
2. The fence shall be constructed of pressure treated wood consistent with existing fences located on the Property.

Mr. Solodar seconded the motion, which passed 6-1 with Mr. Cross voting nay.

**3. PROJECT 2019-0462: 10401-10431 Prosperity Farms Road— Prosperity Farms Road, LLC (Prosperity Village) FLUMA & PUD Rezoning**

*Applicant has requested a Deferral of this application (Prosperity Village)*

Request: An application submitted by New Urban Communities on behalf of property owner Prosperity Farms Road, LLC, requesting FUTURE LAND USE MAP AMENDMENT from Low Density Residential to Medium Density Residential and REZONING from R-1 Single Family Dwelling District to PUD Planned Unit Development District of four parcels. The applicant intends to construct a development consisting of 8 townhomes and 12 single-family dwellings.

Motion: Mr. Solodar moved to remove this item from the Table. Ms. DeWitt seconded the motion, which passed 7-0.

Mr. Hubsch advised the Board that the applicant will be making a presentation first and the Village will present their Staff Report afterwards. He stated that there is a letter of denial as well as letters of support of the project, and a letter from the City of Palm Beach Gardens outlining their concerns about the project.

Mr. Tim Hernandez, New Urban Communities, 200 Congress Park Drive, Delray Beach, was present to represent the project. He made a presentation to Planning Commission, providing a brief history and background information on company and the project. He stated he has reviewed Minutes of previous meetings regarding other projects proposed for this site and has met with residents on several occasions to discuss their concerns. He described the proposed features of the development with houses clustered to preserve most major

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trees; houses that face the street with vehicular access in the rear, and a block structure that provides more than one way in and out of the project to allow traffic to disperse.

The Chairman opened the floor to comments from the public.

Gail Liberman Lavine, 10199 Willow Lane, Palm Beach Gardens spoke against the project (traffic concerns).  
Caroline Shubert, 2525 Pepperwood Circle, North Palm Beach, spoke against the project (gopher tortoises, trees and traffic concerns).

Deborah Cross, 2560 Pepperwood Circle South, North Palm Beach, spoke against the project (parking conditions within development, conditions of approval).

Lisa Dewar, 413 Quadrant Road, North Palm Beach, spoke in favor of the project (good for aging residents).

Jack Robson, 2600 Pepperwood Circle, North Palm Beach, spoke in favor of the project (good for Village).

Martha Andres, 732 Tradewind Drive, North Palm Beach, spoke in favor of the project (good for Village).

Tim Hulihan, 840 Country Club Drive, North Palm Beach, expressed his concerns regarding Staff's conditions of approval.

Mr. Hernandez addressed the comments from the public. He specifically addressed the concerns regarding the gopher turtles, relocation/status of the SUA lift station, the parking stipulation; access to Alamanda Drive; and density.

Mr. Rob Rennenbaum, Simmons & White, 928 Shore Drive, North Palm Beach, addressed the traffic concerns.

Nicole Plunkett, Cotleur & Hearing, 1934 Commerce Place, Jupiter, addressed the comments concerning the tree survey.

Mr. Hubsch presented the Staff's report and addressed the concerns raised, such as the preserving of the existing trees or replace with the largest live oak available; level of service increases; drainage; traffic; parking within the development; Palm Beach Gardens objection to pedestrian and traffic connections to Alamanda Drive; recreational space requirements; and lighting. He provided further information on the 25 conditions of approval.

The Board's comments and discussion included whether the turn lane on Prosperity Farms Road will be lengthened to stack traffic into the development; whether a waiver is required for the size of a PUD; recommend that forest area being screened during construction; recommend the gopher turtle relocation issue be strengthened; whether the site drainage will impact the forest area; whether the aluminum fencing along Prosperity Farms Road is to be black or white; whether the coach lighting in the alleys will be required to be illuminated at night; whether landscaping around the pool could include vertical elements; whether the fencing at the sidewalk along Prosperity Farms Rd. is allowed; whether the elevators are an option and what are the dimensions; whether

Motion: Mrs. Dewitt moved to approve the FLUMA. Mr. Solodar seconded the motion, which passed 5-2 with Mr. Cross and Mr. Hogarth voting nay.

Motion: Mr. Haigh moved to approve the Rezoning PUD and Site Plan Approval with the following conditions:

1. Eliminate Condition #9;
2. Modifying Condition #17 to require relocation of the lift station to the east;
3. Modify Condition #21 to set the minimum size of live oak tree replacements to 10" cal FL #1 quality;
4. Add to Condition #22 to require the northernmost and southernmost SF homes orientation not be flipped laterally;
5. Add a condition to reflect site and landscape plans and waiver chart to include a fence;
6. Consider an alternate location to monument sign;

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7. Modify Condition #18 to require a perimeter construction fence on perimeter; and
8. Add condition to increase buffer on south 8' high planting hedge and add a 6' high fence where a hedge isn't allowed.

Mr. Solodar seconded the motion, which passed 4-3 with Mr. Cross, Ms. Rainaldi and Mr. Hogarth voting nay.

**V. ADMINISTRATION MATTERS**

**A. Staff Updates:**

- Village Manager Andy Lukasik advised that Staff will be meeting to discuss Code changes before meeting with the Planning Commission, hopeful in October.

**B. Commission Member Comments:**

- Mr. Solodar thank Village Staff for their hard work.

**VI. ADJOURNMENT**

With there being no further business to come before the Board, the meeting adjourned at 10:35 P.M.

Minutes typed by Jane Lerner