

**PALM BEACH COUNTY
PLANNING, ZONING AND BUILDING DEPARTMENT
ZONING DIVISION**



**ZONING COMMISSION VARIANCE
STAFF REPORT
05/05/2011**

APPLICATION NO.	CODE SECTION	REQUIRED	PROPOSED	VARIANCE
ZV-2011- 00407	5.B.1.A.2.c.2 d) Fences, Walls, and Hedges Dangerous Material Barbered Wire	In conjunction with a wastewater or water treatment plant, if limited to the top portion of a fence, and located behind any required perimeter buffer hedges and shrubs	Barbed wire is limited to top of fence. Existing vegetation to remain to remain.	No hedges or shrubs to be planted
	7.F.3.A Landscape - Walls & Fences: Location of Wall or Fence	Vinyl coated chain link fences are permitted only if used in the R-O-W Buffer, installed behind an opaque six foot high hedge or approved by the BCC, or ZC	Vinyl Coated chain link fence provided.	No 6' high hedge
	7.C.3-1 Minimum Tier Requirements	3 layers of shrubs and ground cover	Existing native vegetation to remain	0 layers of shrubs and ground cover
	7.F.7.B Table 7.F.7.B - Shrub Planting Requirements	R-O-W Buffers shall include: Ground cover (2 per 1 linear foot); Small Shrubs (1 per 2 linear foot); Medium Shrub (1 per 4 linear foot); Large Shrub (1 per linear foot)	Existing vegetation to remain Existing vegetation to remain	0 ground cover; 0 small shrub; 0 medium shrub; 0 large shrub

SITUS ADDRESS:	2500 Jupiter Park Dr Jupiter 33458		
AGENT NAME & ADDRESS:	George Gentile Gentile, Holloway, O'Mahoney & Assoc 1907 Commerce Ln Jupiter FL 33458		
OWNER NAME & ADDRESS:	River Loxahatchee 2500 Jupiter Park Dr Jupiter FL 33458		
PCN:	00-42-41-10-00-000-3000		
ZONING DISTRICT:	PO		
BCC DISTRICT:	01		
PROJECT MANAGER:	Autumn Sorrow, Senior Site Planner		
LEGAL AD:	<p>Title: Resolution approving a Type II Standalone Variance application of River Loxahatchee by Gentile, Holloway, O'Mahoney & Assoc, Agent. Request: to eliminate the required hedges and shrubs along the north, south, east, and west, and east property lines. General Location: Located on the south side of Jupiter Park Drive 0.52 miles south of Indiantown Road and Central Boulevard. (LOXAHATCHEE RIVER ENVIRONMENTAL CONTROL DISTRICT) (1974-00034)</p>		
LAND USE:	UT	S/T/R: 10-41-42	
CONTROL #:	1974-00034		
LOT AREA:	161.54 acres +/-		
LOT DIMENSIONS:	2512 feet x 2739 feet		
CONFORMITY OF LOT:	Yes	CONFORMITY OF ELEMENT:	Nonconforming
TYPE OF ELEMENT:	Existing nonconforming landscaping	ELEMENT SIZE:	Varies
BUILDING PERMIT #:	PR 2010-16278	NOTICE OF VIOLATION:	None
CONSTRUCTION STATUS:	Fence is installed and building permit is pending this variance approval		
APPLICANT REQUEST:	to eliminate the required hedges and shrubs along the north, south, east and west property lines.		

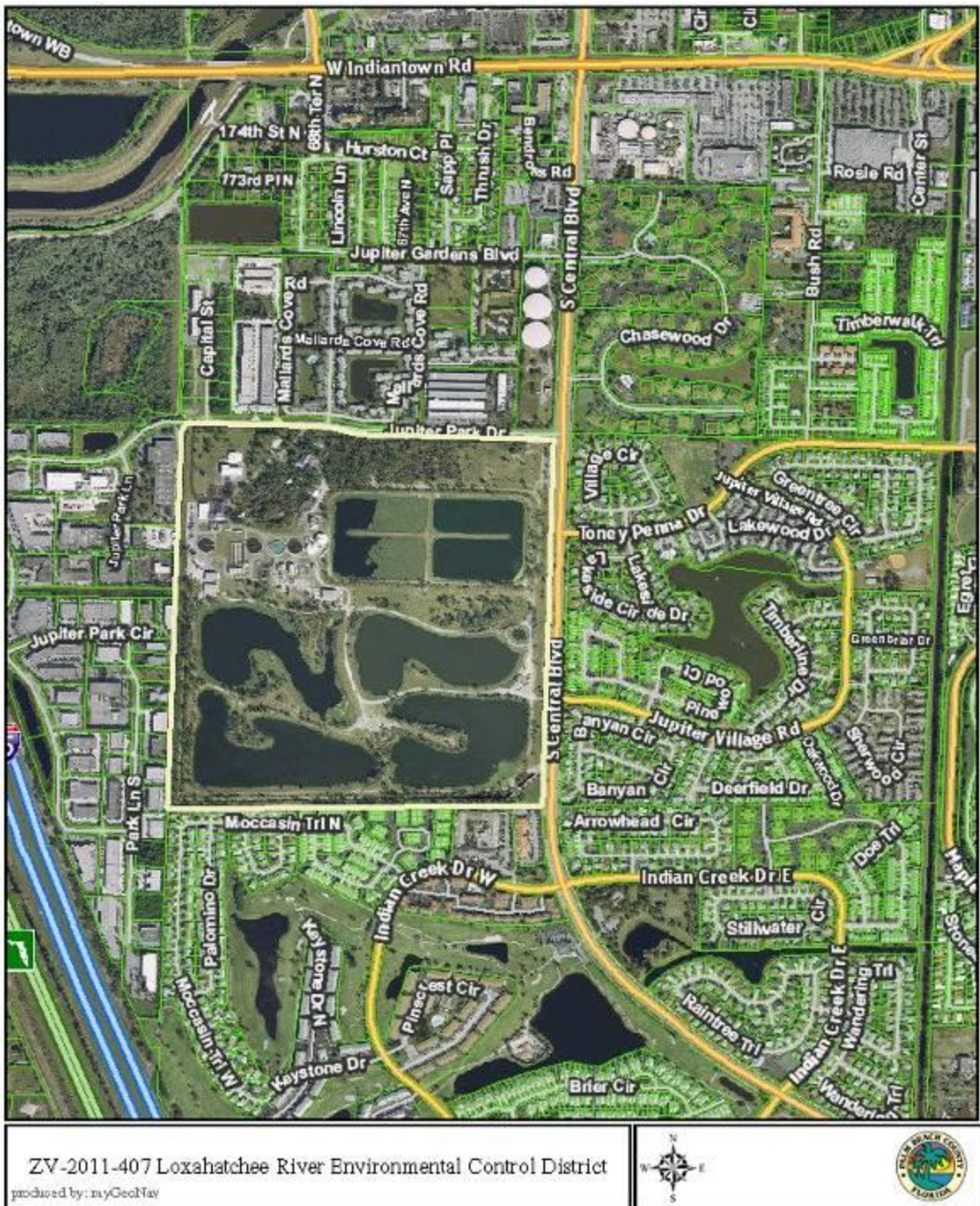


Figure 1 Aerial

STAFF SUMMARY

Type II Zoning Variance Request

Proposed are 4 Type II Zoning Variances for the 161.55-acre Loxahatchee River Environmental Control District site. The applicant is requesting relief from the portions of the ULDC that require perimeter buffer hedges and shrubs along with the use of chain link fence with barbed wire on top and when adjacent to a Right-of-Way. The existing fencing along the perimeter of the site is located on the Right-of-Way along the east and north side, an industrial area on the west, and residential units to the south. Security in part of the site is maintained with drive-by surveillance from both the local law enforcement and department security officers. The existing fence condition with minimal landscaping permits visual access around the property. The applicant is requesting to be able to maintain this design and not be required to install hedge and shrub material. The request for the allowance of barb wire is specifically provided for in the ULDC for consideration for waste water or water treatment facilities. Access to the site is from Jupiter Park of Commerce Drive.

General Location, Previous Approvals and Existing Conditions

The subject site is located on the south side of Jupiter Park of Commerce Drive, approximately 0.50 mile from the intersection of Indiantown Road and Central Boulevard. Currently on site is the

Wastewater Treatment Plant which was approved on April 16, 1974 pursuant to Resolution No R-74-283. On December 16, 1980 the Board of County Commissioners approved the rezoning of the subject site from AG-Agricultural District to PO-Pubic Ownership District pursuant to Resolution No. 80-1730.

The Busch Wildlife Sanctuary is also located on the subject site. Over time this facility has had expansions to the facility including technological upgrades and ongoing maintenance improvements. The Busch Wildlife Sanctuary provides educational exhibits, wildlife presentations, and guided tours on Florida's wildlife and natural ecosystems.

In addition to maintaining the security of the site, the applicant is also requesting the variance in order to leave the existing mature vegetation, berm, and native plantings which provide for screening and address the aesthetics of the site undisturbed. All native trees are to remain in perpetuity and the applicant is working on coordination with Palm Beach County staff and the Town of Jupiter and their impacted property on removing the exotic vegetation.

Compatibility with Surrounding Land Uses

NORTH:

FLU Designation: Residential High (HR-8) and the Town of Jupiter

Zoning District: Residential Medium (RM) and the Town of Jupiter

Supporting: Residential (Mallards Cove) and Industrial Uses in the Town of Jupiter

SOUTH:

FLU Designation: Town of Jupiter

Zoning District: Town of Jupiter

Supporting: Town of Jupiter (residential)

EAST:

FLU Designation: Town of Jupiter

Zoning District: Town of Jupiter

Supporting: Town of Jupiter (residential)

WEST:

FLU Designation: Town of Jupiter

Zoning District: Town of Jupiter

Supporting: Town of Jupiter (commercial, office and light industrial uses)

Except for the commercial, office, and light industrial uses to the west, the site is surrounded predominantly by residential uses within the Town of Jupiter. Although the use of a water treatment plant is not customarily regarded as compatible with residential uses, the site has been in existence for many decades, before most of the surrounding development and homes. Over the years the site has "blended in" with the community with the mature vegetation, berms, and native plantings. The proposed variance requests will have little to no adverse impacts on compatibility with adjacent parcels or uses as the site has been in existence since the 1970s.



Figure 2 photo of entrance of site



Figure 3 photo of existing landscaping and fence to remain



Figure 4 photo of existing landscaping and fence to remain



Figure 5 photo of old and new fence

Summary of Article 5.B.1.A.2.d. – Fences, Walls and Hedges - Dangerous Materials

The intent of Article 3.D.3.A.2.d is to recognize the need for wastewater and water treatment facilities to have barbed wire in order to secure their property and prevent trespassers while also protecting the public from dangerous materials.

Summary of Article 7.F.3.E, Chain Link Fences; 7.F.7.B, Plant Material for ROW Buffer; and Table 7.C.3, Minimum Tier Requirements

The intent of Article 7.F.3.E, and Tables 7.F.7.B, and 7.C.3, are to establish minimum landscape buffer widths adjacent to streets, thoroughfares, or other means of vehicular access, incompatible uses, and require a higher level of formal arrangements in perimeter landscape and buffers, and street tree plantings. The purpose of such landscape regulations are to ensure that adequate buffering and screening within the county is provided to accomplish a method for buffering different land uses, for providing a transition between adjacent properties, and for screening the view of any parking or storage area, reuse collection, utility enclosures or other service area visible from a public street, alley, or pedestrian area.

May 5, 2011 Zoning Commission Hearing/Subsequent meetings/Modification to request

Zoning Commission Hearing

On May 5, 2011, Staff gave a brief presentation of the project followed by a presentation by the Applicant. Two members from the public spoke in response to this project. The first member from the public was Matt Zern, Property Manager for the Jupiter Trade Center to the north of the site. Mr. Zern's main issues for objections were: 1) When Jupiter Trade Center was being developed they were subject to strict landscaping requirements and they want the subject site to be subject to equitable landscape requirements; and 2) Does not want a monolithic fence with barbed wire on top resembling a prison/institutional appearance. Mr. Zern stated that he did meet with the representatives of the site and received a proposed landscape plan the day before hearing but has not had the time to review the plan; Mr. Zern concluded with the request that the application be postponed 30 days.

The second member from the public was Frank Barnella who represents the Eagle Ridge Homeowners Association to the south. Mr. Barnella stated that they are not in opposition to the request, but wants to know what the property owner's intent is on the replacement of the fence along the south property line that abuts their community. Mr. Albrey Arrington with the Loxahatchee River District (referred to as the "District") stated that it was the District's intent to specifically omit this location from the requested variance application in order to have sufficient time to meet with the southern neighbors in a collaborated effort to work on an acceptable plan to both parties.

After closing the "Public Comment" section of the hearing most of the discussion with the Zoning Commission and applicant focused on the following issues: inclusion of the entire property with variance requests; meeting with adjacent neighbors to address their concerns; existing landscaping conditions; and providing a landscape plan. After considerable discussion the Zoning Commission postponed the application to the June 2, 2011 Zoning Commission Hearing.

Subsequent Meetings

On April 25, 2011, prior to the May 5, 2011 ZC Hearing and after the publication of the associated staff report, Mr. Albrey Arrington, Ph.D. with the Loxahatchee River District met with the Town of Jupiter to address their concerns with the application requests. The main concerns of the Town of Jupiter were the amount of landscaping proposed. The meeting was successful as both parties later came to a private mutual agreement regarding the inclusion of additional landscaping. (see attached Letter dated April 27, 2011)

In response to the May 5, 2011 Zoning Commission hearing the applicant (D. Albrey Arrington, Ph.D.) provided staff with the following information regarding meetings held with adjacent property owners:

On Friday, May 6 I met the President and Past-President of Eagle Ridge HOA. We walked the south fence line and discussed our respective concerns and issues. This was a very productive meeting, and we reached a verbal consensus that was acceptable to both parties (LRD and HOA).

At 7 pm on Tuesday, May 10 I met with residents of the Eagle Ridge HOA and the Monterrey HOA to review our proposed variance, to hear their concerns, and to discuss the tentative consensus position reached with the President of the HOA. At the conclusion of the meeting both parties (LRD and residents from both HOAs) were supportive of the plan to move forward with the variance.

I have had email correspondence with Mr. Zern. Mr. Zern stated that his Board will meet Friday, May 13, and that he would get back to me when they have consensus. [at time of publication there is no updates on this meeting]

Modifications to Request

Based on Direction from the Zoning Commission the application request(s) has been modified to include the south property line and a new legal advertisement was published accordingly. In response to meetings with the Town of Jupiter, conditions of approval have been added to ensure compliance with commitments made by the Loxahatchee River District, as indicated in Exhibit C-1. (See attached letter from Loxahatchee River District to the Town of Jupiter)

STAFF RECOMMENDATIONS

Approval subject to 5 conditions, based upon the following application of the standards enumerated in Article 2, Section 2.D.3 of the Palm Beach County Unified Land Development Code (ULDC), which an applicant must meet before the Zoning Commission who may authorize a variance.

Since the 4 variance requests all relate to relief from the requirement of plant material, specifically hedges and shrubs, all 4 variance requests have been analyzed together addressing the seven (7) criteria:

ANALYSIS OF ARTICLE 2, SECTION 2.D.3.G.2 VARIANCE STANDARDS

1. SPECIAL CONDITIONS AND CIRCUMSTANCES EXIST THAT ARE PECULIAR TO THE PARCEL OF LAND, BUILDING OR STRUCTURE, THAT ARE NOT APPLICABLE TO OTHER PARCELS OF LAND, STRUCTURES OR BUILDINGS IN THE SAME ZONING DISTRICT:

V1-V4: Yes. The fact that most of the site is secured and closed to the public is a unique circumstance and would not necessarily apply to any other parcel of land within the PO Zoning District. Due to Homeland Security measures, wastewater and water treatment facilities have been identified as a potential security threat to the American people and must be monitored. The Government Accountability Office (GAO) notes that wastewater and water treatment facilities have made security upgrades in recent years since 9/11, that have mainly focused on controlling access to the treatment plant, enhancing visual surveillance, security lighting, and employee and visitor identification. The ability to have visibility into the site must be maintained in order to monitor and secure the site from any potential threat.

2. SPECIAL CIRCUMSTANCES AND CONDITIONS DO NOT RESULT FROM THE ACTIONS OF THE APPLICANT:

V1-V4: Yes. Water Treatment Plants must have limited access and increased security as dictated by the Office of Homeland Security and this special circumstance/condition was not created by the Loxahatchee River Environmental Control District. The increased security levels at these facilities makes maintaining the passive surveillance that is permitted by the current design even more important.

3. GRANTING THE VARIANCE SHALL NOT CONFER UPON THE APPLICANT ANY SPECIAL PRIVILEGE DENIED BY THE COMPREHENSIVE PLAN AND THIS CODE TO OTHER PARCELS OF LAND, BUILDINGS OR STRUCTURES IN THE SAME ZONING DISTRICT:

V1-V4: Yes. Special privilege is not conferred in conflict with any other policy but a greater public purpose is served by granting the variance as it permits for improved security of the facility. The need for a variance is unique to the Water Treatment Plant use because of Article 4 requirements specific

to Water Treatment Plants and is not directly related to the requirements for other uses in the PO Zoning District. In addition, the Zoning Commission has granted similar variances for Palm Beach County Water Treatment Plants (ZV/Z/DOA 2008-456 and ZV/Z/DOA 2008-458)

4. LITERAL INTERPRETATION AND ENFORCEMENT OF THE TERMS AND PROVISIONS OF THIS CODE WOULD DEPRIVE THE APPLICANT OF RIGHTS COMMONLY ENJOYED BY OTHER PARCELS OF LAND IN THE SAME ZONING DISTRICT, AND WOULD WORK AN UNNECESSARY AND UNDUE HARDSHIP:

V1-V4: Yes. The literal interpretation of the Code will interfere with the applicant's ability to serve and secure the site as it has historically operated and will reduce the level of surveillance, which is contrary to Homeland Security and CPTED principals.

5. GRANT OF VARIANCE IS THE MINIMUM VARIANCE THAT WILL MAKE POSSIBLE THE REASONABLE USE OF THE PARCEL OF LAND, BUILDING OR STRUCTURE:

V1-V4: Yes. The request is the minimal variance needed to permit for the on-going security efforts to be maintained. The only impact on the surrounding area is maintaining better security which is important to the residents. Landscaping and screening of the site is still being provided by the existing berm native plantings.

6. GRANT OF THE VARIANCE WILL BE CONSISTENT WITH THE PURPOSES, GOALS, OBJECTIVES, AND POLICIES OF THE COMPREHENSIVE PLAN AND THIS CODE:

V1-V4: Yes. The granting of the request is consistent with design principals such as CPTED that are promoted and encourage in the code and Comp Plan. Furthermore, it is consistent with the current operations and has no added impact on the adjacent community.

7. THE GRANT OF THE VARIANCE WILL NOT BE INJURIOUS TO THE AREA INVOLVED OR OTHERWISE DETRIMENTAL TO THE PUBLIC WELFARE:

V1-V4: Yes. Granting the variance will allow for the continued surveillance of the site, as mandated by the office of Homeland Security, which reduces the threat of any potential security issues.

ZONING COMMISSION CONDITIONS

EXHIBIT C

Type II Variance - Standalone

VARIANCE

1. The Development Order for this non-concurrent variance shall be valid till May 5, 2012, a period of one year from the date of the Zoning Hearing. The property owner must secure a building permit or commence development to vest the variance pursuant to ULDC Table 2.E.3-B-1. (DATE: MONITORING - Zoning)

2. At time of application for a building permit, the property owner shall provide a copy of this variance approval along with copies of the approved site plan to the Building Division. (BUILDING PERMIT:ZONING-Landscape)

3. In addition to Code requirements and Conditions of Approval, this approval shall be subject to the commitments agreed to between the Loxahatchee River Environmental Control District and the Town of Jupiter as referenced in the letter dated April 27, 2011 (Exhibit F). (ON-GOING: ZONING-Landscape)

4. In granting this approval, the Zoning Commission relied upon the oral and written representations of the property owner/applicant both on the record and as part of the application process. Deviations from or violation of these representations shall cause the approval to be presented to the Board of County Commissioners for review under the compliance condition of this approval. (ONGOING: MONITORING - Zoning)

5. Failure to comply with any of the conditions of approval for the subject property at any time may result in:

- a. The issuance of a stop work order; the issuance of a cease and desist order; the denial or revocation of a building permit; the denial or revocation of a Certificate of Occupancy (CO); the denial of any other permit, license or approval to any developer, owner, lessee, or user of the subject property; the revocation of any other permit, license or approval from any developer, owner, lessee, or user of the subject property; revocation of any concurrency; and/or
- b. The revocation of the Official Map Amendment, Conditional Use, Requested Use, Development Order Amendment, and/or any other zoning approval; and/or
- c. A requirement of the development to conform with the standards of the Unified Land Development Code (ULDC) at the time of the finding of non-compliance, or the addition or modification of conditions reasonably related to the failure to comply with existing conditions; and/or
- d. Referral to code enforcement; and/or
- e. Imposition of entitlement density or intensity.

Staff may be directed by the Executive Director of PZ&B or the Code Enforcement Special Master to schedule a Status Report before the body which approved the Official Zoning Map Amendment, Conditional Use, Requested Use, Development Order Amendment, and/or other zoning approval, in accordance with the provisions of Section 2.E of the ULDC, in response to any flagrant violation and/or continued violation of any condition of approval. (ONGOING: MONITORING - Zoning)

Exhibit D: Disclosure Form

None required Governmental Entity

**Loxahatchee River Environmental
Control District
JUSTIFICATION STATEMENT
Type II Variance
~~February 16, 2011~~
March 17, 2011**

Introduction:

On behalf of Loxahatchee River Environmental Control District, Gentile Holloway O'Mahoney & Associates, Inc. has prepared and hereby respectfully submits this application for a Type II Variance for relief from the landscape code associated with the installation of perimeter fences. The variance relief is being requested to eliminate required hedge and shrubs along the north, west and east property lines to provide for the continued security practices of the operation. This facility has operated since the mid-seventies at this location.

The subject site is located on the south side of Jupiter Park of Commerce Drive, .52 miles from the intersection of Indiantown Road and Central Boulevard in the unincorporated area of Palm Beach County. The subject site is 161.55 acres of land with PO – Public Ownership District and U/T – Utility Land Use Designation.

Proposal:

The applicant is requesting relief from the portions of the ULDC that require perimeter buffer hedges and shrubs along with the use of chain link fence with barbed wire on top and when adjacent to R-O-W. The existing fencing is located on the Right-Of-Way along the east and north side and industrial area on the west.

Security in part is maintained with drive-by surveillance from both the local law enforcement and department security officers. The existing fence condition with minimal landscaping permits visual access around the property. The applicant is requesting to be able to maintain this design and not be required to install hedge material. The request for barb wire is specifically provided for in the code for consideration for just such a facility. Security for such facilities has been elevated and anything that detracts from the current security efforts is considered detrimental to the operation of the facility. The current design also is supported by CPTED principals.

The purpose of this application is to request relief from the following sections of the ULDC:

1. Article 5.B.1.A.2 – Fences, Walls and Hedges
 - c. Dangerous Materials
 - 2) Barbed Wire Exceptions
 - d) In conjunction with a wastewater or water treatment plant, if limited to the top portion of a fence, and located behind any required perimeter buffer **hedges and shrubs.**

2. Article 7.F. – Section 3 Walls and Fences
 - E. Chain Link Fences –Vinyl coated chain link fences are permitted only if used in the R-O-W buffer, installed behind an opaque six foot high **hedge** or approved by the BCC, or ZC.
3. Table 7.C.3 – Minimum Tier Requirements – Layers of Shrubs and Ground Cover Landscape Design shall comply with the relevant MGTS characteristics in both plant material selection and overall landscape composition.
4. Table 7.F.7.B – Shrub Hierarchy – R-O-W buffers shall include each of the shrub types listed in Table 7.F.7B.

Besides the security oriented justification of the request, the unique existing nature of the site lends itself to support this request. Existing today is a berm and native plantings which provide for screening and address the aesthetics of the site.

It is important to note that all native trees are to remain in perpetuity. In coordination with Palm Beach County staff, the applicant is in the process of removing exotic vegetation which requires coordination with the Town of Jupiter and their impacted property.

History

Currently on site is the Wastewater Treatment Plant which was approved in 1974 with Resolution No R-74-283 on April 16, 1974. On December 16, 1980 the Board of County Commissioners approved the rezoning of the subject site from AG-Agricultural District to PO-Pubic Ownership District with Resolution No. 80-1730.

The Busch Wildlife Sanctuary is also located on the subject site. Over time this facility has had expansions to facility including technological upgrades and ongoing maintenance improvements. The Busch Wildlife Sanctuary provides educational exhibits, wildlife presentations, and guided tours on Florida’s wildlife and natural ecosystems. Over the years the facilities have been enhanced and well received within the community.

The following is a timeline of events regarding the perimeter fence permitting:

The subject of the variance is the requirement of the perimeter fence. Specifically the request is for relief from the code to allow the existing condition to remain. There has been some confusion as to how the current condition was approved. as the approved plan was missing for a period of time, improvements were made to the facility in conjunction with staff direction. Attempts to maintain an accounting of the changes on the plan was made by our office in conjunction with staff for changes our office was involved with, however we cannot address all the changes as we were not a party to these events.

With regard to the fence, the existing condition, the fence with barb wire and alternative planting/berm screening has developed over time but still addresses the general intent while not jeopardizing the security operations of the facility.

This is what we know generally with regard to the situation:

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September 2010 – Early in the month, the fence contractor is denied a permit to build a fence along the west property line. PR2010-16278 - Contractor meets with Zoning On-Call Planner of the day. Planner advises him to go through Administrative Variance Review process.

September 28th, 2010 – PBC Landscape Staff and Architectural Review Staff meet to discuss permit request. Their conclusion is:

- Barbed wire may be used per Article 5 if placed on top of the fence only, and any required shrubs or hedge are planted;
- The site plan would need to be Administratively Amended to revise the “no barb wire” note.

November 4th, 2010 – Meeting on-site with PBC Staff to review the existing conditions. Staff recommends going through variance process and expressed support for elimination of required hedge material.

November 16th, 2010 – Administrative Amendment was made to the approved plan to revise the section notes to allow for barbed wire on top of fence.

November 30th, 2010 – Meeting with PBC Architectural Review staff to discuss what type of variance request to be applied for. Staff responded in an email that it would be a Type II Variance to be processed through the CDR section. They suggested that we schedule a pre-application meeting with the CDR section and contact was made with the CDR Secretary to arrange that meeting. Arch. Review staff requested we hold off until internal meetings were held to discuss project more fully. There was discussion to examine if there were any provisions for the public safety under National Security mandates that would supersede the County’s code. None were found.

December 2010 – Building Department released permit for fence along west property line (B2010-016278-0000).

December 13th, 2010 – Meeting with PBC Arch. Review and Landscape Staff to discuss what ULDC Articles will need to be referenced in the Type II Variance Request.

January 2011 – PBC Arch. Review Staff visits site and determines that existing conditions fulfill Article 4 screening requirements. Applicant is to improve screening along approximately 1,200 s.f. in the northwest corner.

February 16th, 2011 - Type II Variance Application submitted.

February 20th/21st, 2011 - PBC Zoning Staff questions Application and purpose.

February 25th, 2011 – Insufficiency notification issued.

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March 8th, 2011 – New zoning project manager assigned to project and meeting held with PBC Arch. Review, Landscape, Original and New Zoning Project Manager, and Agent. Project direction clarified.

March 17, 2011 – Resubmittal of insufficiency items.

As noted there are existing conditions, with minor adjustments, like addressing some exotics (which are technically located on Town of Jupiter property) and some additional hedge material along with existing native trees, that staff has confirmed generally address the landscape screening requirements under Article 4.

No provisions for special consideration of this kind of facility under National Security considerations in known to permit relief from the code, thus the variance is being requested.

Adjacent Properties:

This site is located within unincorporated Palm Beach County. The surrounding land is located within the Town of Jupiter with industrial zoning and land use to the north and west of the subject site; and residential to the south of the subject site; to the east of the subject site is Central Boulevard.

Concurrency:

Not Applicable.

Pre-Application Meeting:

A meeting was held on February 14, 2011 to discuss the variances being requested.

Variance Type II – Since the four (4) variance requests all relate to relief from the requirement of the hedge, the applicant has combined the reasons in addressing the seven (7) criteria:

1. SPECIAL CONDITIONS AND CIRCUMSTANCES EXIST THAT ARE PECULIAR TO THE PARCEL OF LAND, BUILDING, STRUCTURE, THAT ARE NOT APPLICABLE TO OTHER PARCELS OF LAND, STRUCTURE OR BUILDING IN THE SAME DISTRICT: **The nature of the use in this location dictates consideration because of the particular security concerns for this site. The ability to have visibility into the site has historically provided a means of increased security. There is no history of problems associated with the lack of landscaping material at this location.**
2. SPECIAL CIRCUMSTANCES AND CONDITIONS DO NOT RESULT FROM THE ACTIONS OF THE APPLICANT: **Overtime, the condition of perimeter without the specific landscaping per code has been permitted to exist. The increased security levels at these facilities makes maintaining the passive surveillance that is permitted by the current design even more important.**
3. GRANTING THE VARIANCE SHALL CONFER UPON THE APPLICATION SPECIAL PRIVILEGE(S) DENIED BY THE COMPREHENSIVE PLAN AND

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THE CODE TO OTHER PARCELS OF LAND, BUILDING, OR STRUCTURE, IN THE SAME DISTRICT: **No special privilege is conferred in conflict with other policy but a greater public purpose is served by granting the variance. The granting of the variance permits for improved security of this public facility. The intent of the landscaping is being addressed.**

4. LITERAL INTERPRETATION AND ENFORCEMENT OF THE TERMS AND PROVISIONS OF THIS CODE WOULD DEPRIVE THE APPLICANT OF RIGHTS COMMONLY ENJOYED BY OTHER PARCELS OF LAND IN THE SAME, DISTRICT, AND WOULD WORK AN UNNECESSARY AND UNDUE HARDSHIP: **The literal interpretation actually interferes with the applicants ability to serve the site as it has historically operated and reduces the level of natural surveillance that occurs which is contrary to CPTED principals. To permit the variance will be advantageous to the greater community.**
5. GRANTING THE VARIANCE IS THE MINIMUM REQUIRED TO MAKE REASONABLE USE OF THE PARCEL OF LAND BUILDING OR STRUCTURE AND: **The request is the minimal variance needed to permit for the on-going security efforts to be maintained. The only impact on the surrounding area is maintaining better security which is important to the residents. There is still a berm and landscaping to address screening on the site.**
6. GRANTING OF THE VARIANCE WILL BE CONSISTENT WITH THE COMPREHENSIVE PLAN AND THE ULDC AND: **the granting of the request is consistent with design principals like CPTED that are promoted and encourage in the code and Comp Plan. Furthermore, it is consistent with the current operations and has no added impact on the adjacent community.**
7. GRANTING OF THE VARIANCE WILL NOT BE INJURIOUS TO THE AREA INVOLVED OR OTHERWISE DETRIMENTAL TO THE PUBLIC WELFARE. **To the contrary it provides for the public welfare and promotes good design principals for public safety. No new impacts are created by this request.**

Conclusion:

On behalf of Loxahatchee River Environmental Control District, Gentile Holloway O'Mahoney & Associates, Inc. has submitted this application and respectfully requests favorable consideration and approval of this Type II Variance application for the 161.55 acre site. Project Managers for Gentile Holloway O'Mahoney & Associates are George G. Gentile, Dan Siemsen and Patricia Lentini. Please feel free to contact any of these project representatives with any questions or for additional information in support of this Type II Variance application. Thank you.

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Loxahatchee River District

Water Reclamation | Environmental Education | River Restoration

2500 Jupiter Park Drive, Jupiter, Florida 33458-8964

Telephone (561) 747-5700 • Fax (561) 747-9929 • www.loxahatcheeriver.org



D. Albrey Arrington, Ph.D., Executive Director
April 27, 2011

Stephanie Thoburn
Town of Jupiter - Planning & Zoning
210 Military Trail
Jupiter, FL 33458

Dear Ms. Thoburn,

This letter is in response to the meeting we had on April 25, 2011. I understand the Town's desire for the Loxahatchee River District (LRD) to provide additional vegetation to screen unscreened segments of our fence along Central Boulevard and to provide additional screening of structures on LRD property along Central Blvd. Based on the mutual understanding reached at our productive meeting on April 25, the LRD commits to the following:

1. LRD will establish a three foot tall vegetative hedge composed of native plant species in the following two areas:
 - a. Approximately 100 feet along the eastern most extent of our fence line adjacent to Jupiter Park Drive (i.e., from the existing gate to the corner); and
 - b. Approximately 775 feet along the northern most extent of our fence line adjacent to Central Blvd (i.e., from the northern corner to the existing cabbage palms south of Toney Penna Drive).
2. LRD will plant approximately twelve fifteen gallon live oaks internal to our fence along Central Blvd. Approximately four of them will be planted west of the western terminus of Toney Penna Dr. in order to further screen the partial view of our equalization tanks. LRD will work closely with Shawn Nieman on the placement of these trees to optimize screening provided by these trees.
3. Finally, we will plant approximately 100 feet of saw palmetto internal to our fence north of our IQ Water Pump Station.

In order to contain costs, we will establish the vegetative hedge using 1 gallon container size hedge material, and we will plant approximately 100 feet of hedge at a time. By planting the hedge in a phased approach, over four years, we will be able to use and reuse temporary irrigation facilities, which should allow us to significantly contain our costs arising from establishing this new vegetation.

I trust this letter accurately characterizes the compromise we reached at our meeting. Please inform me at your earliest convenience if you feel it does not. If this satisfies the Town's concerns, I request you write a letter stating the Town does not object to the exemption we are seeking from the County.

Sincerely,

D. Albrey Arrington Ph.D.

Joseph O. Ellis
Board Member

Stephen B. Rockoff
Board Member

Gordon M. Boggie
Chairman

Dr. Matt H. Rostock
Board Member

Harvey M. Silverman
Board Member