

**VILLAGE OF NORTH PALM BEACH
COMMUNITY DEVELOPMENT DEPARTMENT**

TO: Honorable Mayor and Council

THRU: Chuck Huff, Village Manager

FROM: Caryn Gardner-Young, Community Development Director

DATE: May 9, 2024

SUBJECT: **ORDINANCE 2nd Reading** – An Ordinance of the Village Council amending Division 3, “Site Plan and Appearance Review” of Article III “Appearance Code” of Chapter 6, “Building and Building Regulations” to Adopt a new Section 6-61 “Expiration of Site Plan and Appearance Approval

Background

The Village Code does not currently address the expiration of the Site Plan and Appearance approvals. The only current limitation is related to traffic concurrency.

A site plan is a comprehensive drawing that shows the proposed construction and improvements on a particular lot. It includes the layouts of buildings, landscaping, driveways, parking lots, utility improvements, detention ponds, and other necessary features. The Planning, Zoning, and Adjustment Board (Board) reviews and decides on Site Plans and Appearance petitions. If the Board approves the petition, the Site Plan and Appearance becomes effective permanently.

Most municipalities have regulations that require construction to begin within a specific timeframe after obtaining the initial Site Plan and Appearance approval. If the Site Plan and Appearance petition expires without any work initiated, it becomes invalid, and the property owner must file a new petition. However, extensions for the Site Plan and Appearance petition are usually allowed in case of unforeseen construction delays.

To address this issue, the Village Staff has proposed new regulations that would render Site Plan and Appearance petitions invalid two years after their approval date unless either (1) a building permit has been obtained for a principal structure, or (2) installation of infrastructure improvements and the approval of the first inspection of the improvements. A one-year extension can be requested if needed, but it must be requested no later than three months before the expiration of the two years. Any extension beyond three years will require approval from the Village Council.

The proposed ordinance was discussed at the Planning, Zoning, and Adjustment Board meeting on February 6, 2024. Board Member Hogarth motioned to recommend its approval, but no second was made. As a result, the proposed Ordinance was presented to the PZAB for a second vote.

On April 2, 2024, the PZAB unanimously approved the proposed Ordinance with two changes which are:

1. The expiration of the Site Plan and Appearance Review will be connected to building permit activity instead of completion of inspection or when a certain percentage of the total infrastructure cost is completed.
2. To change the Community Development Director's standard to allow a one-year extension from "a good faith effort by the applicant to complete" to "good cause."

The proposed Ordinance reflects the PZAB's recommendations.

On April 25, 2024, the Village Council unanimously approved the Ordinance on first reading and requested Staff to determine how many approved Site Plans have not been implemented and for the Village Attorney to determine if the expiration can be applied retroactively. Staff has reviewed the Village files and located four site plans which were approved and have not been developed since 2004: Sprinter Facility (2015), Wild Papaya Nursery and Garden (2015), International Spine Institute (2016), and 200 Yacht Club Drive (2023). The Wild Papaya property was sold and is currently occupied by Precision Landscape Co., and the Spine Institute property is included within the approved 200 Yacht Club Drive project.

The Village Attorney has advised that land development regulations cannot be applied retroactively if they impose new obligations or impair vested rights. Because the site plans "vested" under the regulations in place at the time of approval and the proposed Ordinance imposes a new requirement, the Ordinance cannot apply retroactively to approved site plans. The traffic concurrency for the 200 Yacht Club Drive project currently requires that all building permits be issued prior to the build-out date of December 31, 2027.

Legal Review

The attached Ordinance has been prepared/reviewed by the Village Attorney for legal sufficiency.

Fiscal Impacts

N/A

Recommendation:

Village Staff recommends Village Council consideration and adoption on the second reading of the attached Ordinance.

1
2 (b) No later than three (3) months prior to the expiration of the two (2) year
3 period, the applicant may request an extension of up to one (1) year to commence
4 development. Such extension may be granted by the community development director
5 for good cause shown.

6
7 (c) Any additional extension beyond three (3) years shall only be granted by
8 the village council.

9
10 (d) An extension pursuant to this section shall not be available with respect to
11 any extension period authorized by state law or action of the Governor which extends the
12 effective date of the site plan and appearance approval. Extensions under state law reduce
13 the time period for extensions available pursuant to this section on a one (1) day for one
14 (1) day basis.

15
16 (e) The village may approve a phasing plan for a development that includes
17 multiple principal structures and provide expiration dates for each phase.

18
19 Section 3. The provisions of this Ordinance shall become and be made part of the Code of
20 Ordinances for the Village of North Palm Beach, Florida.

21
22 Section 4. If any section, paragraph, sentence, clause, phrase, or word of this Ordinances is for any
23 reason held by a court of competent jurisdiction to be unconstitutional, inoperative, or void, such holding
24 shall not affect the remainder of the Ordinance.

25
26 Section 5. All ordinances and resolutions, or parts of ordinances and resolutions, in conflict herewith
27 are hereby repealed to the extent of such conflict.

28
29 Section 6. This Ordinance shall be effective immediately upon adoption.

30
31 PLACED ON FIRST READING THIS 25th DAY OF APRIL, 2024.

32
33 PLACED ON SECOND, FINAL READING AND PASSED THIS _____ DAY OF _____,
34 2024.

35
36
37 (Village Seal)

MAYOR

38
39
40 ATTEST:

41
42 _____
43 VILLAGE CLERK

44
45 APPROVED AS TO FORM AND
46 LEGAL SUFFICIENCY:

47
48 _____
49 VILLAGE ATTORNEY