

MEMORANDUM

Development Services

ADMINISTRATIVE MEMORANDUM NO. 16-450

DATE: September 27, 2016

TO: Dennis W. Beach, City Attorney

VIA: Robin M. Bird, Director of Development Services *RB*
Jennifer Gomez, Assistant Director of Development Services *JG*

FROM: Karen Friedman, Principal Planner *KBF*

RE: Proposed Text Amendments: § 96.26 Public Nuisances.
Nuisance Vacant Lots

As part of an ongoing effort between the Development Services Department and Code Compliance to eliminate nuisance properties, text amendments to §96.26 Public Nuisances have been prepared.

Background

Attached to this memo are images of poorly maintained vacant properties, including vacant undeveloped and vacant, demolished properties. As can be seen in these images, vacant properties which are poorly maintained are blighting influences on the surrounding properties and the City as a whole. In addition to the dust and other impacts caused by sand lots, these properties often attract other nuisances, most notably illegal dumping and illegal parking. These properties can also present physical hazards, especially if rebar remains on the property or holes are present.

In 2007, via Ordinance 2008-15, the City Commission adopted "site restoration" standards into the Zoning Code. These standards were applicable to properties where some or all structures have been demolished. The rationale for the adoption of the site restoration standards was to prevent demolition sites from being left as vacant sand lots which are a nuisance to the surrounding area. The standards, which remain in the Zoning Code today as §155.5203.A.3, require all construction materials and other non-natural materials be removed and the lot be refilled to the undisturbed lot level with clean soil, and that drought-resistant sod be planted on the entire demolition area.

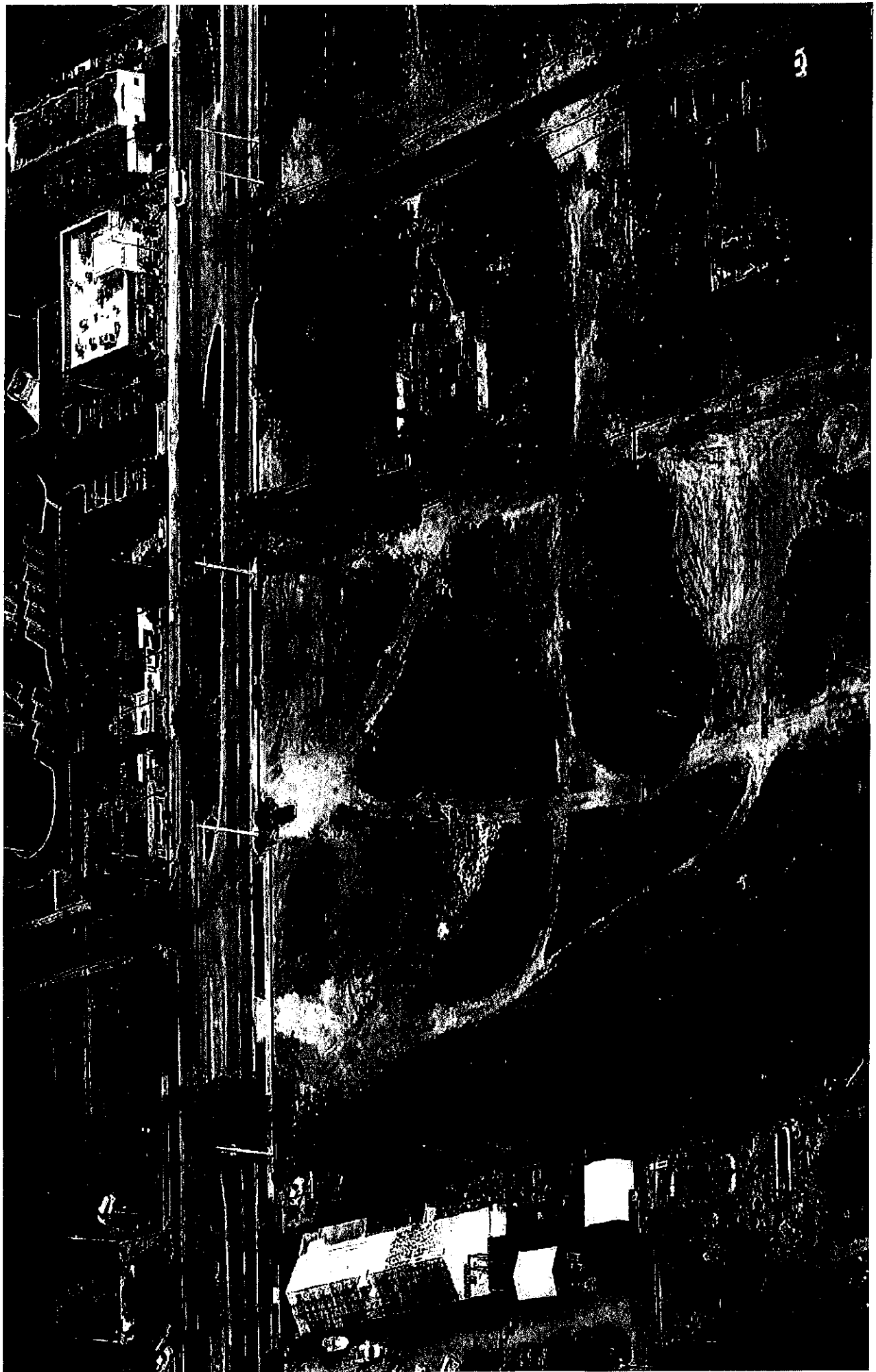
The Zoning Code's Site Restoration standards (§155.5203.A.3), however, do not address the following properties:

- Properties which had structures demolished prior to the effective date of Ord. 2008-15
- Vacant, undeveloped lots

Recommendation

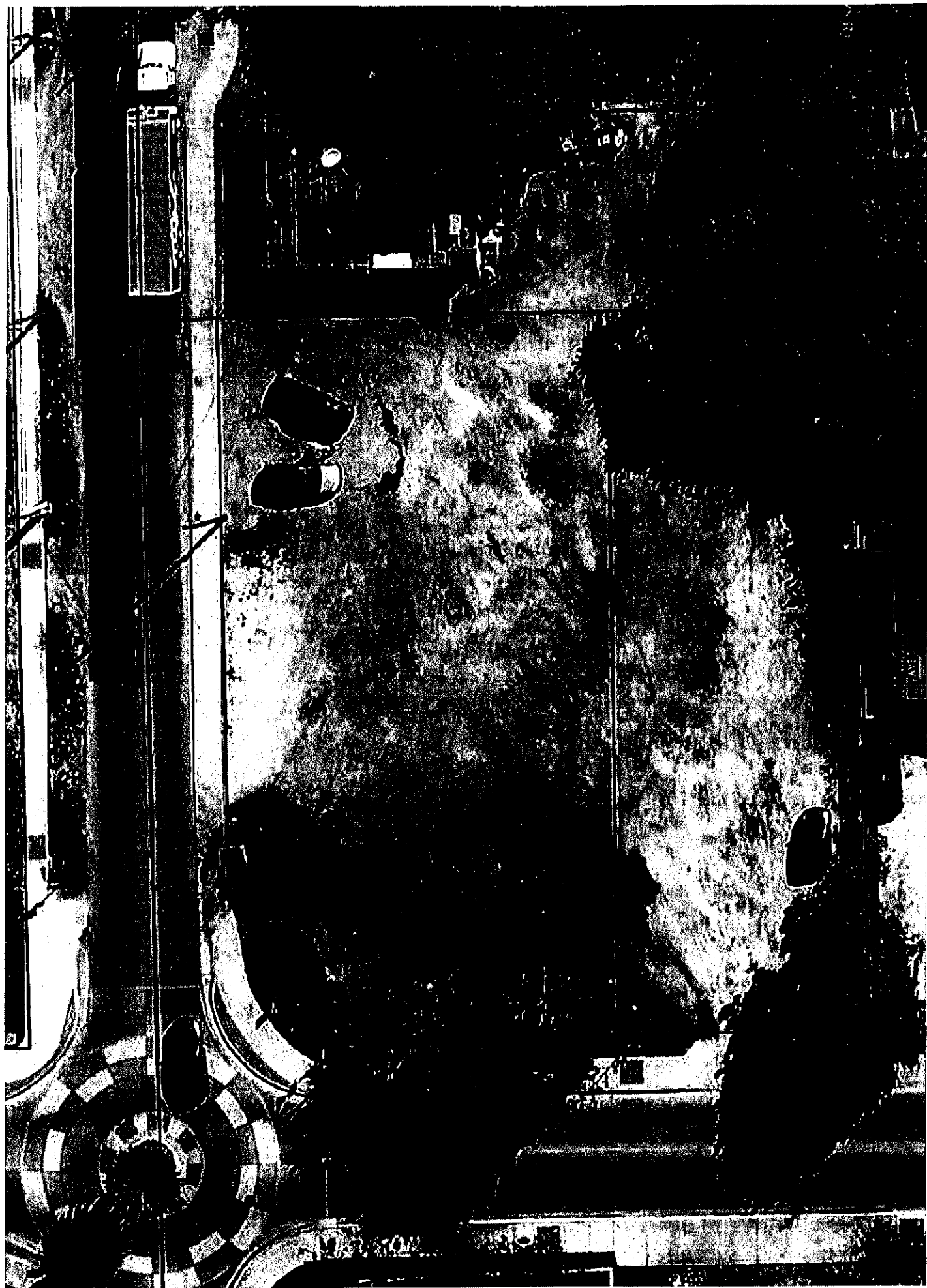
The recommended text amendments insert the site restoration standards into the City's Public Nuisance regulations. Therefore poorly maintained vacant properties which are not subject to Zoning Code §155.5203.A.3 (described above) would be required to be restored/maintained via the site restoration standards. Further, by adding the standards into the Public Nuisance code, the City will also be able to undertake abatement, when necessary.

IMAGES OF VACANT PROPERTIES









ORD. 2008-15

Meeting Date: 12/11/07

Agenda Item 30
Memorandum No. 07-607

REQUESTED COMMISSION ACTION:

 Consent x Ordinance Resolution Consideration Workshop

SHORT TITLE OR MOTION: AN ORDINANCE OF CITY COMMISSION OF THE CITY OF POMPANO BEACH,
FLORIDA, AMENDING CHAPTER 155, "ZONING CODE," OF THE CODE OF
ORDINANCES BY AMENDING SECTION 155.127, "GENERAL REQUIREMENTS,"
FOR SITE RESTORATION, INSTALLATION OF SOD, AND MAINTENANCE OF
CERTAIN LOTS WITH DEMOLISHED STRUCTURES.

Summary of Purpose and Why:

Through the redevelopment process many infill properties are demolished and left as vacant sand lots becoming a nuisance to the surrounding area. The proposed ordinance recognizes the properties as developed and requires the property be restored and maintained with sod or ground cover.

TABLED FROM 9/11/07 CITY COMMISSION MEETING AND 10/9/07
QUESTIONS TO BE ANSWERED BY ORIGINATING DEPARTMENT:

(1) Origin of request for this action: City Commission
(2) Primary staff contact: Robin M. Bird Ext. 4634
(3) Expiration of contract, if applicable: N/A
(4) Fiscal impact and source of funding: N/A

DEPARTMENTAL COORDINATION	DATE	DEPARTMENTAL RECOMMENDATION	DEPARTMENTAL HEAD SIGNATURE OR ATTACHED MEMO NUMBER
<u>Zoning Dept.</u>	<u>7/16/07</u>	<u>Approval</u>	<u>07-556</u>
<u>City Attorney</u>	<u>8/13/07</u>	<u>--</u>	<u>07-1446</u>

 X Advisory Board
 Public Works Administrator
 X City Manager

P&Z Bd. #07-59

ACTION TAKEN BY COMMISSION:

<u>Ordinance</u>	<u>Resolution</u>	<u>Consideration</u>	<u>Workshop</u>
<u>1st Reading</u> <u>11/27/07</u>	<u>1st Reading</u>	<u>Results:</u>	<u>Results:</u>
<u>Approved as amended</u>			
<u>2nd Reading</u> <u>12/11/07</u>			

ORDINANCE NO. 2008- 15

**CITY OF POMPANO BEACH
Broward County, Florida**

**AN ORDINANCE OF THE CITY COMMISSION OF
THE CITY OF POMPANO BEACH AMENDING
CHAPTER 155, "ZONING CODE", OF THE CODE OF
ORDINANCES BY AMENDING SECTION 155.127,
"GENERAL REQUIREMENTS," PROVIDING FOR
SITE RESTORATION, INSTALLATION OF SOD, AND
MAINTENANCE OF CERTAIN LOTS WITH
DEMOLISHED STRUCTURES; PROVIDING FOR
SEVERABILITY; PROVIDING AN EFFECTIVE DATE.**

WHEREAS, pursuant to law, ten (10) days' notice has been given by publication in a paper of general circulation in the City, notifying the public of this proposed Ordinance and of a public hearing in the City Commission Chambers of the City of Pompano Beach; and

WHEREAS, a public hearing before the City Commission was held pursuant to the published notice described above, at which hearing the parties in interest and all other citizens so desiring had an opportunity to be and were, in fact, heard; now, therefore,

BE IT ENACTED BY THE CITY OF POMPANO BEACH, FLORIDA:

SECTION 1. That Section 155.127, "General Requirements," of Chapter 155 of the City of Pompano Beach Code of Ordinances is hereby amended as follows:

§ 155.127 GENERAL REQUIREMENTS.

...

(C) Maintenance. All owners of land, or their agents, shall be responsible for the maintenance, in accordance with ANSI A300 Standards and ANSI Z133.1 Standards, as amended, of all landscaping located in areas where landscaping is required by this ordinance, including abutting portions of rights-of-way, swales, lakes, and canal banks in accordance with the following standards:

(1) Keep landscaping reasonably free of visible signs of insects and disease and appropriately irrigated to enable landscaping to be in a health growing condition.

...

(7) Site restoration. Where there has been a total demolition of all existing structure(s) on a property, the property owner shall be responsible for installing and properly maintaining drought resistant sod and/or drought resistant living ground cover on the entire property within 30 days from the completion of the demolition. All asphalt, rock and other non-natural materials shall be removed and the area refilled with clean soil prior to any planting or installation of any drought resistant sod or drought resistant living ground cover. This requirement shall not apply to properties where there is an active building permit for a new principal structure and where the construction will start within 30 days after the demolition has been completed. Any property owner who has applied and is actively seeking a building permit, must secure the building permit within 180 days of the demolition and may use a non-living material which is adequate to keep the property free from the creation of dusty conditions and the shifting, blowing and other dissemination of soil, sand, gravel or any fill from the property until the commencement of construction. All such property must also be kept free of debris during such time period. Provisions of this sub-section (7) are exempt from § 155.127(C)(2).

SECTION 2. If any provision of this Ordinance or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of this Ordinance that can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are declared to be severable.

SECTION 3. This Ordinance shall become effective upon passage.


PASSED FIRST READING this 27th day of November, 2007.

PASSED SECOND READING this 11th day of December, 2007.



LAMAR FISHER, MAYOR

ATTEST:



MARY L. CHAMBERS, CITY CLERK

GBL/jrm/ds
12/5/07 (j)
I:ord/155/2007-275

§155.5203.A.3

Print

Pompano Beach, Florida Zoning Code

155.5203. LANDSCAPING**A. Applicability****1. New Development**

Except where expressly provided otherwise in this Code, the requirements in this section shall apply to all new development in the city.

2. Existing Development**a. Development Existing on or Before October 30, 1973**

i. Any development, other than a single-family dwelling, existing on or before October 30, 1973 shall comply with the following standards by August 24, 1999.

(A) Sod shall be provided within the right-of-way swale to the edge of the paved travel lane except where in areas the Development Service Director finds are developed as a loading area or provide necessary access to loading or parking areas. One street tree per 40 lineal feet of sodded swale area shall be provided. Placement of street trees is subject to prior approval of the City Engineer.

(B) A landscaped area at least five feet wide and containing a continuous hedge or one tree per 40 lineal feet of frontage shall be provided adjacent to a building wall facing a public street, except those parts of such wall providing necessary access to building entrances, loading docks, overhead doors, garages or parking spaces.

(C) A landscape strip with an average width of five feet shall be provided between any parking area or driveway and a front or street side lot line. The development shall provide the following landscaping within the planting strip:

- (1) A continuous hedge at least 24 inches in height at planting along the length of the landscape strip.
- (2) One tree per 30 lineal feet along the length of the landscape strip.
- (3) Grass or other ground cover in the remaining area of the landscape strip.

ii. No requirement in subsection a above shall apply if Development Services Director determines that compliance with the requirement will cause a property to be nonconforming or will increase an existing nonconformity with respect to the number of parking spaces or accessway requirements required under this Code.

iii. General and procedural requirements of this landscaping subchapter shall apply to the design and submittal of plans, installation of material and inspections. Submission and approval of a landscape plan shall be required for compliance with this section.

b. All Existing Development

Irrespective of the special requirements applicable to development existing before October 30, 1973, the landscaping requirements in this section may apply to existing development in accordance with the following.

i. Change in Use

Changes in use of an existing development where an existing use is replaced with a use in a more intense use classification (e.g., from a residential use to an institutional use, or from an institutional use to a commercial use, or from a commercial use to an industrial use), shall be subject to these landscaping standards to the maximum extent practicable.

ii. Expansion

Except as otherwise provided in subsection iii below, if an existing structure or use is expanded or enlarged (in terms of the number of dwelling units, floor area, number of employees, seating capacity, or other size unit), additional landscaping shall be provided in accordance with the requirements of this section to serve the expanded or enlarged part of the structure or use.

iii. Upgrading Of Nonconforming Landscaping

Nonconforming landscaping on the site of a remodeled structure or expanded structure or use area shall comply with the requirements of this section in accordance with the standards of Part 5 (Nonconforming Site Features) of Article 7: Nonconformities.

3. Demolition Sites

a. If all or any existing structures on a lot are being totally demolished drought-resistant sod or drought-resistant ground cover shall be installed on the entire demolition and/or disturbed areas before close-out of the demolition Building Permit and thereafter maintained. All asphalt, rock, and other non-natural materials shall be removed and refilled to the undisturbed lot level with clean soil before any planting or installation of the required drought-resistant sod or ground cover. Such vegetative restoration of a demolition site shall be subject to the standards of this section if conditions stated above are met; or

b. If any or all existing structures on a lot are being demolished in preparation for new development in accordance with a valid Development Order and Building Permit, and the construction of a principal structure will commence within 30 days after the demolition has been completed, the owner of the lot shall restore the lot to its pre-demolition elevation, brush-cut the lot, and keep the lot free of debris, trash, and invasive plant materials until start of the permitted construction. A nonliving material adequate to avoid the shifting, blowing, or other dissemination of dust, soil, gravel, or fill may be used until start of the permitted construction. A perimeter berm no

more than four feet high and planted with ground cover in accordance with Section 155.5203.B.2.e, Groundcover, may be installed and used during the construction period; and

c. If demolition activity is proposed to occur in the drip-line of an existing tree, a Tree Permit is required in accordance with Section 155.5204.B.1.b before start of the demolition activity.

4. Conflict with CPTED Guidelines

The Development Services Director may waive all or part of the standards in this section, 155.5203, if it is demonstrated that the implementation of the standard result in a conflict with the city's adopted CPTED guidelines.

5. Landscape Plan Required

Uses subject to the standards in this section shall include a landscape plan as a part of any application for a Special Exception (Section 155.2406), Site Plan Approval (Section 155.2407), or Zoning Compliance Permit (Section 155.2413), as appropriate. Landscape plans shall be prepared by a Landscape Architect registered in Florida and shall show replacements trees for any trees missing from previously approved landscape plans.

B. General Requirements for Landscaping

1. Plant Material

a. General

i. All required plant materials shall be Florida Grade # 1 or better, in accordance with *Grades and Standards for Nursery Plants* (Florida Division of Plant Industry).

ii. All plant materials shall, to the greatest extent possible:

(A) Be based on the plant's adaptability to the landscape area, desired effect, color, texture, and ultimate plant size;

(B) Be frost and drought tolerant, and grouped in accordance with their respective water and maintenance needs;

(C) Be appropriate for the ecological setting in which the materials are to be planted, including the shielding of buildings from the sun (where possible) and from radiating surfaces such as parking areas, and as a screen for noise abatement;

(D) Be commercially available;

(E) Not have invasive growth habits, as identified in *List of Invasive Plant Species* (Florida Exotic Pest Plant Council); and

(F) Comply with crime prevention through environmental design (CPTED) principles.

b. Native Vegetation and Diversity

i. All landscaped areas shall include placement of native vegetation in substantial conformity with the principles outlined in *The Florida-Friendly Landscaping Guide to Plant Selection & Landscape Design* (University of Florida) and the Administrative Manual.

ii. Where 20 or more trees are required on a site, at least 50 percent of the required trees shall be native species, no more than 20 percent of the required trees shall be palm trees, and the required trees shall consist of at least four different species.

iii. Plant species identified as invasive species in *List of Invasive Plant Species* (Florida Exotic Pest Plant Council) are prohibited.

2. Installation

a. General

i. All required landscaping and landscape areas shall be installed in a sound, workmanlike manner and in accordance with landscaping BMPs, Florida-friendly landscaping principles, and the standards in this section.

ii. Special Landscaping regulations for all properties abutting the east right-of-way line of Harbour Drive (NE 26th Avenue)

On all properties abutting the east right-of-way line of Harbour Drive (NE 26th Avenue) a site visibility area shall be provided as follows:

(A) The sight visibility area shall be that private property which lies 25 feet north and 25 feet south of the centerline of a canal and east of the east right-of-way line of Harbour Drive (NE 26th Avenue) to the edge of the permitted seawalls as they exist on November 25, 2003.

(B) No plant material shall be installed or maintained above 3 feet in height. This includes, but is not limited to, trees, palms, shrubs, hedges, and ground cover.

b. Planting Soil

i. Planting soil shall be clean and reasonably free of construction debris, weeds, rocks, noxious pests, and diseases.

ii. Planting soil for all planting areas shall be amended with horticulturally acceptable organic material.

c. Turf Grass

i. Turf grass shall be drought tolerant, as described in the Administrative Manual.

ii. Turf grass shall not be treated as fill-in material, but consolidated and placed so it can be irrigated separately from other types of landscape plants.

iii. Use of turf grass shall be limited to use as a design unifier and in areas that receive pedestrian traffic, provide for practical or recreational use, or provide soil erosion control (e.g., on slopes or in swales).

iv. The Development Services Director may authorize large grassed areas not subject to soil erosion, such as playfields, to be grassed by other methods.

d. Groundcover