



AGENDA

CITY OF RIVIERA BEACH LOCAL PLANNING AGENCY

THE PLANNING AND ZONING BOARD

Commencement - 6:30 PM
Thursday, October 27, 2011

Council Chambers – Municipal Complex
600 West Blue Heron Boulevard

I. MOMENT OF SILENCE AND PLEDGE OF ALLEGIANCE

II. ROLL CALL

S. Lashea Brooks, Chairperson
Gary Brannen, Board Member
Edward Kunity, Board Member
Julius Whigham, Sr., Board Member

Richard Baumgart, Vice Chairperson
Rena James, Board Member
Caryn St. John, Board Member
Vacant, 1st Alternate & 2nd Alternate

III. ADDITIONS AND DELETIONS TO THE AGENDA

IV. APPROVAL OF MINUTES – October 13, 2011

V. NEW BUSINESS

A. Application for Special Exception Approval: (AB-11-01)

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF RIVIERA BEACH, PALM BEACH COUNTY, FLORIDA, ABANDONING A PORTION OF EAST 20TH STREET, A PORTION OF AVENUE 'B' AND A PORTION OF AVENUE 'C' EXHIBITED ON THE "REVISED PLAT OF COCOANUT LODGE" IN GOVERNMENT LOT 4, SECTION 28, TOWNSHIP 42 SOUTH, RANGE 43 EAST, AS RECORDED IN PLAT BOOK 7, PAGE 52 OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA, AND LOCATED WITHIN THE CITY OF RIVIERA BEACH, FLORIDA, CONTAINING 25,284 SQUARE FEET, 0.6 ACRES, MORE OR LESS; PROVIDING CONDITIONS; PROVIDING FOR SEVERABILITY AND CONFLICTS; AND PROVIDING AN EFFECTIVE DATE.

1. Presentation by Staff and Applicant
2. Public Comments
3. Board Comments

VI. UNFINISHED BUSINESS

B. Florida Friendly Landscape Ordinance Amendment

AN ORDINANCE AMENDING CHAPTER 31, ARTICLE VIII, ENTITLED "LANDSCAPE REGULATIONS" IN ITS ENTIRETY, IN ORDER TO INTEGRATE FLORIDA FRIENDLY LANDSCAPE PRINCIPLES AND DESIGN STRATEGIES.

4. Presentation by Staff
5. Public Comments
6. Board Comments

VII. GENERAL DISCUSSION

- A. PUBLIC COMMENTS
- B. PLANNING AND ZONING BOARD COMMENTS
 1. Project Updates / Upcoming Projects

VIII. ADJOURNMENT

If anyone wishes to speak on any of the items presented on this agenda, please complete a pink public comment card and give the card to the Clerk of the Planning and Zoning Board. Cards must be submitted before item is discussed.

NOTICE

In accordance with the Americans with Disabilities Act, persons in need of a special accommodation to participate in this proceeding shall, within a reasonable time prior to any proceeding, contact the office of the Legislative Aide of the City of Riviera Beach, 600 West Blue Heron Boulevard, Riviera Beach, Florida 33404, Telephone 561-845-4095 or TDD 561-840-3350.

October 13, 2011 - Planning and Zoning Board Meeting

The Planning and Zoning Board for the City of Riviera Beach met in regular session on Thursday, October 13, 2011 in the City Council Chambers, Municipal Complex, 600 West Blue Heron Blvd, Riviera Beach, FL 33404. The meeting was called to order at 6:30 PM. A moment of silence was followed by the Pledge of Allegiance and roll call.

ROLL CALL

S. Lashea Brooks, Chairperson	Present
Richard Baumgart, Vice-Chair	Present
Gary Brannen, Board Member	Present
Rena James, Board Member	Absent
Edward Kunuty, Board Member	Present
Caryn St. John, Board Member	Present
Julius Whigham, Board Member	Present
Vacant, 1 st Alternate	Vacant
Vacant, 2 nd Alternative	Vacant

* Alternate given voting rights.

Also present were Planning and Zoning Administrator Jeff Gagnon, Senior Planner Mario Velasquez, Assistant City Attorney Valencia Stubbs. Police Chief, Clarence Williams and 2 members of the public attended.

ADDITIONS AND DELETIONS TO THE AGENDA

Mr. Gagnon – In front of you tonight, you have an agenda packet, a memo from staff and there was a request from a board member to distribute the document that is printed two pages per sheet, double sided. Additionally, Chief Williams is here tonight, and he wishes to offer some comments in regards to the fishing ban memo that is also with the agenda packet, so I was thinking that could be the first item under general discussion.

Ms. Brooks – Please note that Ms. St. John is in attendance.

Mr. Kunuty – I have a comment on the minutes. One thing that I did not see was that I asked how the city was going to deal with the conservation of water relative to the potential reduction in revenue as a result of that. If you could add something on that, I would appreciate it.

Mr. Gagnon – What section of the minutes?

Mr. Kunuty – Well there is just a brief mention, but I think it needs to be added to because I think is an important point, we are going to reduce water usage long term revenue to the utility district is going to go down and how is the city prepared to deal with that? Page 4 of 6 in the middle. It just says the city to increase water rates, but I think the question I asked was more than that.

Mr. Gagnon – I will make sure that updated

Ms. Brooks –How are you going to address that?

Mr. Gagnon – Staff will listen to the recording again and revise the actual statement from Mr. Kunuty.

Ms. Brooks – And they would be in this month's minutes? I'm just trying to get clarity.

Mr. Gagnon – It'll be an updated version of the minutes from the previous meeting September 8.

APPROVAL OF MINUTES – 9.8.2011

September 8, 2011 Minutes – Motion to Approve the minutes with changes by Mr. Kunuty 2nd by Mr. Brannen. Unanimous approval (6-0).

UNFINISHED BUSINESS

Ms. Brooks – Ok, we don't have any unfinished business so we move on to New Business.

NEW BUSINESS

Ms. Gagnon – Tonight we just have one item under New Business and it is very similar to the items that we have seen the past couple of meetings. This is a request from a family daycare requesting to expand to a Large Family Childcare, so that would allow from a maximum of 6 children to potentially having up to 12 children at once.

A. Application for Special Exception Approval: (SE-11-09)

AN APPLICATION FROM TIAWJANNA SWEETING DAYCARE REQUESTING A SPECIAL EXCEPTION APPROVAL TO OPERATE A LARGE FAMILY CHILD CARE HOME, AT 1668 W. 26TH STREET, WITHIN A SINGLE FAMILY STRUCTURE ON A 5500 SQ. FT. PARCEL.

a. Presentation by Staff.

Mr. Velasquez – Reviewed the applicant's request and documentation via power point.

Ms. Brooks – One question to staff. Did we just approve one on this street? Or was it 26th court?

Mr. Velasquez – The previous applicant approved by the planning and zoning board recently passed away and the item did not go to city council.

Ms. Brooks – I want to make sure we don't run into problems because the locations are so close, we would have two within 250 ft. if both were approved.

Mr. Gagnon – Right. One of the requirements is that the person that has the accreditation is present on site. Since the circumstances would prevent that from happening, they would not be able to meet all requirements, so the application was withdrawn prior to going to City Council.

Mr. Kunuty – So the application is officially withdrawn and not existent at this time.

Mr. Gagnon – Correct.

Mr. Whigham – That was the same question I had. I went by there the other day and I just want to thank the applicant for keeping the sign out in front, letting neighbors know that there will be a daycare there. I noticed that the whole neighborhood is clean, that means, you people care about your street, and I appreciate you keeping that sign out there letting them know what you are doing, your home is well kept, so I'm pretty sure that the kids that will be there will be well kept, and I just want the board to know that it is a beautiful location, thank you.

Ms. Brooks – Are we ready to vote?

Mr. Baumgart – Madam Chair, I just wanted to repeat what I have said to the previous applicants, that all of the requirements have been met and that from the exteriors, they all look like top notch operations. Like Mr. Whigham said, when you drive through the neighborhood it certainly looks like they are doing a fine job, so I have no problem. As long as the neighbors don't complaint, and we have heard nothing from any neighbors yet so I have no problems.

Mr. Kunuty – Were the neighbors noticed?

Mr. Velasquez – Yes, they were noticed within 300 feet.

Mr. Kunuty – This is a question for staff, I agree with what everybody said that the street is a nice street, the house is probably the nicest house on the block, that is all positive. My only concern is being on a dead end street, we are going to double the capacity of the property and there is only one way out. There is one way in and one way out, and when I was there looking at it, people are going to turn around at the

three neighbors to the south who have big concrete driveways, so I would just like staff to comment on the fact that is dead end and how the traffic is going to work.

Mr. Gagnon – Being that there is only one main ingress and egress point, traffic is something that has to be reviewed thoroughly. As previously stated, there were no initial concerns from the neighborhood itself. The trips per day will be somewhat increased but I don't think that it would generate the level that would cause any discomfort or safety issues in the neighborhood. I think additionally, this is a politeness item if the applicant requests that customers only use their property to turn around.

Mr. Kunuty – That could be done, in reality of life this is not always going to happen, someone is going to be running late drop the kids off, make a u-turn and go. But you said traffic needs to be studied further?

Mr. Gagnon – No, what I was saying is that during staff review phase traffic is something that is accounted for and contemplated. Staff doesn't feel as if that would impede the progress of this application.

Motion to approve the Special Exception Application from TIAWJANNA SWEETING DAYCARE by Mr. Brannen 2nd by Mr. Whigham; Approval (5-1) with Mr. Kunuty dissenting.

b. Public Comments. - None

c. Board Comments. - None

GENERAL DISCUSSION

Ms. Brooks – Are we ready for general discussion from the Chief?

A. Public Comments

Chief Clarence Williams – Good evening board members, Clarence Williams, Police Chief of the City of Riviera Beach. At your August 8th meeting, you approved a motion to ban fishing from the little bridge. I am standing before you to say that the actions taken by this board are and were consistent with the position taken by the police department for the past five years. The police department would support such a ban and would encourage whatever steps are necessary to codify such a ban and here is why.

From a public safety stance, the police department has always suggested that the mixed use, recreational use, and pedestrian use on a major artery was an accident waiting to happen. Before the barrier and the reconstruction of the new bridge, of course, there was no barrier between traffic and persons fishing and walking on the bridge, so as a consequence, pedestrian jogging, walking, had to go into the street to navigate around fishing materials, poles, and people blocking the sidewalk. The barrier is there now; it has diminished the possibility of folks being forced out into the street, but it has narrowed the navigable abilities on the sidewalk. There are alternatives for fishing, there is a beautiful park with a beautiful bridge, underneath that there is space available for parking. We had input in the design of the Phil Foster complex and it was always contemplated that recreational activities could occur at that point. The continued mixed use and the impediment of pedestrians is a concern, I understand that litter and those quality of life issues may have driven your decision and that is one of the ongoing concerns. I'm concerned about, and I'll reference my colleagues memorandum that seems to suggest that this is a law enforcement priority; well I'm standing before you to let you know that enforcing litter is way down there on my law enforcement priorities, so that is not going to be an effective solution to this problem. Should the ban not occur, I will urge that you become proactive in shaping a solution that places the onus on those persons who are there and leave the mess as opposed to taxing already overtaxed public safety and public works employees who now pick up after those persons. I don't know what that looks like, if that is a license, I don't know what it looks like, that's not my business. I just know that enforcement is not going to get the result that you desire when you came to this conclusion. So that's where we are as a department, and again, I stand in support, I don't know where your ban would move beyond this point but I can be of assistance in helping shape an outcome that's consistent with the one you described, I am

making myself available to do that. Those are our concerns, and obviously they were some of yours. Thank You.

Ms. St. John – I'm so glad you spoke tonight. I'm one of the people up here on the board that has asked for this to take place. I was appalled and embarrassed that it came back from staff saying, we're just going to make a no littering sign so that police can enforce that, it's more than just the litter, and there is no way really for anyone to enforce littering unless the police actually see somebody dropping twenty five fish from a net, that's why I was trying to be very adamant that there is no fishing, that way if someone is there with pole, it is evident what they are doing and that person gets talked to, arrested, whatever it would be, but littering is almost impossible to know who is doing that. I don't know what else we can do and I'm almost blue in the face talking to some staff members making suggestions and then being ignored, so we sent this to go on to staff, staff gave us a memo, my understanding is that this doesn't go on to Council for review, if that's the case, I don't know if we all have to show up, whoever is for this, I know not everyone on our board is, but if we have to show up at a Council meeting and talk, saying you guys didn't get a chance to see this because staff didn't think it was important to know, and they thought that no littering signs would be appropriate. I wouldn't mind some guidance from staff here tonight letting us know what we can do, I whole heartily appreciate that just to limit littering is going to be a slap on the hand and there is almost no way to know who's doing it, they are literally fishing 24/7, if we just say you can't be there, and when someone is there, that person has to be removed, now whether or not they dropped something. When we are talking litter, even the Florida Statute doesn't talk about live stock fish, you will be surprised if you have never walked that bridge, there three of us here on this board that I know walk the bridge on a weekly or daily basis, how many dead fish are left on the area, it's dangerous, it's unsightly, it smells and we just spent all this money to make that bridge safer and a beautification project and it's horrible when you walk along the sidewalk, that one sidewalk, the other one is not opened yet, so please tell us what we can do to make sure Council hears this and that it gets to, I guess channel 18 since we are obviously not allowed to be televised either.

Mr. Gagnon – What I'll first say is, my memo was in response to a specific motion, and my professional opinion in how it relates to our comprehensive plan. I'll post another question, to try to encourage further discussion, even if there was a fishing ban on the bridge, in my opinion, it would create an additional enforcement issue. I understand that the police department has many concerns and littering obviously is not a top priority, but I don't think that checking to see if people are fishing is much higher a priority than littering. There are specific sections of our comprehensive plan, that I feel speak directly to keeping access to Lake Worth available. The definition of access is debatable, but I think that one of those ways could be access as it pertains to fishing. There may be alternate motions that could be made that could yield different results. One idea, that I first saw pertaining to people holding advertising signs within right of ways, within sidewalk areas, was language that prohibits the blockage of sidewalks, prohibits access through right of way area for pedestrian purposes, bicycles, so there could be a possibility that a different motion could be made that wouldn't just outright say we don't want you to have access to fish in this location because there is another access point nearby, it would basically be focused more on public safety, rather than saying for this one location, we just don't want fishing to occur here.

Mr. Williams – Well the enforcement is currently no fishing on the large bridge and certainly from a law enforcement perspective it's much easier to enforce what is prohibited, and once you establish that generally you get the compliance as opposed to trying to regulate an ongoing daily activity such as fishing on the bridge and what's generated as a result of that, so that concern of the activity is ongoing, it's a recreational use on a major highway artery, that's an accident in my estimation waiting to occur, and that has been our position and in term of the access I agree with you and I have just a little bit of training and I read the statute and a differ with my colleagues' interpretation of that, and I don't see your ban as being restrictive or in violation of that access component and specially when we offer alternatives for the persons who choose to fish. So from the public safety stand point, that's kind of where I am, but in response to the memorandum that Mr. Gagnon produced, staff believing that it's an enforcement issue, well this staff doesn't agree that is an enforcement issue, it's broader than that, it's more than that, and if we think that we are going to get the kind of result that is going to satisfy the persons that I get calling my

department about not being able to pass by, about smells, trash cans not being picked up timely, all those kinds of things that have little or nothing to do with my operation activities but we respond to, those complaints are ongoing a lot and this activity for persons who choose to fish there in that particular spot. Now I'm not a fisherman so I don't know what the allure is for fishing off that particular spot and that would be a disruption if there was no fishing there, so I'm going to imagine that persons who wanted to fish find alternatives to fish at. Phil Foster is a beautiful park and designed to accommodate fishing and other kinds of activities, we should be encouraging folks to go there opposed to having them recreate on a major artery, on sidewalk when there is substantial pedestrian flow and traffic each and every day, so typically the things are advanced from your board through community development, and I don't know if that is going to occur, and an option may be if the police department figures a way to advance something to council but I don't see that happening as the likely approach given the internal discussions. There are and we can't be naïve about it probably some political considerations there, so it would be my recommendation and suggestion that it is now at the policy levels and you are in fact a policy board and this discussion needs to be headed over to policy makers and see where it shapes out, obviously you have two departments that have reached different results and political consideration and I am not aware of the vote that came out of your board but I got the impression from Ms. St. John that it may have not been a unanimous vote, so there are some who feel differently. I'm here as your public safety professional saying from my approach, as the person responsible for the law enforcement services in this community that that recreational mixed use given the current construct is dangerous, and we have alternatives, and the solution that has been suggested by other department is one that is not realistic and it sets my own men and women up for failure, they are never going to be able to devote the kind of attention to that ongoing problem each and every day to keep those persons that walk that bridge, run that bridge each and every morning. Thank You.

Ms. Brooks – Thank You. I was one of the one that, I did vote against the ban, I don't believe that we should ban, we have been fishing and everyone has been fishing from that bridge for years and years and years. I understand that safety part of it, I walk the bridge as well and I know now with the barrier and what they are doing is a little bit dangerous but I personally don't think that we could ban, back to what I said, I don't know if we even own the bridge, does the City own the bridge? Did we have determined that?

Mr. Gagnon – I believe that FDOT does.

Ms. Brooks – Second of all, you do have to have a permit to fish from a pier, structure or whatever, there are some exceptions such as being if you receive assistance, different types of assistance, if you are receiving food stamps, or you are veteran home, or you know, there is a lot of exception, there is a permit that you would have to get, but there a lot of exceptions. I understand that there is the safety issue and all of that but I just think that everyone fishing from that bridge is not littering, and to ban it just for a few or whatever, I just object to that ban, when you say the word ban, I object to that. Mr. Baumgart?

Mr. Baumgart – I have a whole badge of applauding with the chief just coming today, I'll just make a few comments. One, we are told that we can't do anything about the problem that there is no real jurisdiction and I know the City of Stuart, they have a river walk that run from the base of Roosevelt Bridge to their downtown area, and it's pretty much specifically a pedestrians walkway, and as the chief stated, you don't have to get into the litter avenue if you have pedestrian and fisherman that sets an impediment there, that's a bad situation, and Stuart already has a City Ordinance banning fishing from their river walk. As far as the littering goes, and I hate to bring staff as the chief said, and I don't want to be sarcastic, because it's not a big fishing your priority as far as what goes on in the City I'm sure, so I am not being silly, but as far as the littering goes, there is a difference between someone dropping a beer can or a pot can on the sidewalk and what I have to come to call the bridge THE GUT AND BLOOD'S BRIDGE because fishing is different, if you fish from shore, if you fish from a boat when you have done fishing, it requires a heck of a lot of cleaning, but that is just on the side, the big problem is what I think the chief said, the safety issue, and the other thing is the City of Stuart along with the river walk they have a designated fishing, I fish and if there wasn't somewhere else for the fisherman to fish, I'll be backing the fisherman, I'll be saying, you got to let them fish because it's access to the public, you can't just say we don't want the

litter, we don't want the safety thing. They have a fishing pier that is beautiful as the chief says, it's at Phil Foster Park, they can park there, they can walk there, and it's so obvious to the public and to the board and everyone else, why they don't take that into consideration more, and the other thing is that the City of Stuart has their designated fishing under the bridge and they also have a City Ordinance that bans cast netting, and again this isn't a crucial thing for the chief but as far as damage to the bridge goes, it's a brand new bridge with a beautiful hand rail and the damages occurring from the fisherman throwing cast nets with weight on the bottom of the net bouncing them off the top of the handrail and it's not a major concern but it's one of those things that kind of erks you when you see the other possibilities out there and there is kind of just left, and we have to let them fish, I agree with the chief, you just ban fishing, period, and it seems pretty simple, these are my many comments.

Mr. Brannen – I was absent the October 8th meeting that was discussed, however, I would like to indicate that when I first hear the word ban, there is some reluctance that I think of because I think along with the, in every situation there is two sides for everything, and I think when you hear the word ban, then you kind of say spinal is eliminated and all the good that could have come from it is eliminated as well as what you are trying to eliminate the bad, so when I initially hear that word that comes to mind, but I really think in this particular case, the situation that am really 100% in favor of, what the board deciding in banning this happening for a lot of reasons, now the chief, who is here tonight presenting several reasons but I think when you look at the bigger picture and that is we are talking about Riviera Beach we are talking about a location and it's a pathway between palm beach gear and etc, I think that you have to now look at all of the weight that is put into this bridge, what pleasant site, all money invested into this, having a Publix that is going to be there that now we want to start looking at where we are going, it's the only reason that when you look at where we've been, what has happened and it's always in, the logic behind wanting to maintain some of what you have makes sense but I think as I look at it going forward I really see it as not truly taking away from those that fish, again, I've fished and I understand the logic behind it and being that location but I think that as my colleague has mentioned, when you make the fact that you provide alternatives for it at least to me, it really is something that only helps the City become more what we are trying to become and that's the City that people recognize as being a place to be, clean place to be, and a place that you want now create that awareness, the visual of the City that people want to come to. You have to kind of start to know that we are going to be giving up some of what we have always been to get to where we are going but as we do that, I think things like this, our city needs to start to process and really think that I'm willing to go to a council meeting, I'm willing to seat down with staff, I'm definitely willing to talk to any council person that is interested in this need, but I really think that this thing is a process that has started to become that city that we want to be, and there is a lot of things that are going to come up, but this is definitely one of those things that I think, you know, you start to take those steps in the right direction and this is really one of those things that does that. I'm really in favor of what was decided for all those reason.

Ms. Brooks – We kind of got off the agenda, I have a public comment, Mr. Murphy.

Mr. Murphy – Good evening, my name is Martin Murphy, I live at 1071 Grand Bahama, Riviera Beach, FL. I don't know where to start, I came here tonight after reading the memo and I wasn't going to speak because the memo pretty well covers, pretty good job, outlining this water front access, public access, but right now we are in a bad time, some don't have money to take their kids to functions that cost money and this is one of the last free things you can do with your children, grand children, so forth. I have to tell you that I was born and raised here, and I've been a bridge fisherman for more than ten years, I've also been a member of the Marine industry since association in West Palm Beach fishing club, and a member of a couple other state and federal association and we being bridge fisherman, and there is a group that would be here tonight if this was advertised, by the way, that is one of my objections, this item, it's never been on the agenda, it's just brought up under general discussion in one of the meetings, and I'm not sure which one it was, September 8, it was just brought up under general discussion by you all, a motion was made, which usually there shouldn't be a motion made, but that's all well and good and Mr. Gagnon had answered the questions, everything was good, until my good friend the chief, showed up, he and I have talked about this many times, and people about the clean up. I fish the bridge 2-3 times a month, I fish

with my grandchildren a couple of time a year, I also participate in walking the bridge, we walk the bridge, my wife and I 3-4 days a week in the morning, every morning. I understand totally what you are talking about, this is not different on this bridge than it is five bridges to the south, I would like to take you there and show you that there are people and I believe chief said that, that would do what you all been talking about. Usually when I'm there, in fact in my car I carry broom and shovel and I clean the place up, but that shouldn't have to happen. One of the things I did want to say that chief said that there was no fishing during construction, I happen to be the contractor that built the little blue heron bridge, and one of our requirements was that there would always be fishing, on one side or the other, that is how strict DOT is with specifications because of the access that is required by the public and force us contractors to do, have access so they can fish. Another point on this bridge is, that this bridge people catch fish that they can eat for dinner, and a lot of people fish that bridge and go home with a clean fish, clean up, those people clean up and respect what you are talking about, our property, it's the people with the cast nets, somebody mentioned the cast nets being banned in Stuart, that's right, Stuart passed that banning on the new walkway, Stuart owns the walkway, Riviera Beach doesn't own the bridge, DOT owns the bridge. Lastly, you need to know that there is an interlocal agreement between the DOT and the City Of Riviera Beach, and that's where the money comes from, not from the city coffers, but from DOT from state gasoline tax, the gasoline tax is from the boating tax, the people that buy gas and put gasoline on their boat pay tax just like all of us do on the roads, but DOT gets a portion of that money to clean the bridges, to clean the marinas that they own, to clean the boat ramps, to do little improvements, and to maintain the lightning and everything like that, City of Riviera Beach takes care of the lighting for the DOT, takes care of the clean up 2 or 3 times a week, I am not sure of any of the schedules, I am not sure how much money the city receives, but there is an agreement that would help you a lot, and lead you to all of the meetings that we've been in for the last 25 years. I am not here to fight but I object to the no fishing in the little blue heron bridge. If you have any questions I'll try to answer those.

Mr. Baumgart – No questions, just a few comments. If you judge the use of the bridge, I am not judging what your comments were, I'm just re-boding your comments. If you judge the use of the bridge by pure numbers, there are quiet more divers and pedestrians on the bridge that there are fisherman any given date, not that is a concern but is something that has to be brought up, that the use of the bridge is more by something that no one has brought up and it is divers, and I've had to call the Riviera Beach police about problems with fisherman and divers in the past, but that is a personal agenda on the side. I sort of see where you are coming from because you represent the marine industry association because I'm a member of it as well and it's sort of like a gun law, I can see where you don't want to give in on fishing from any bridge because if you do it here, it could bounce back and bite us in the butt some other place on a bridge, but I got to keep saying that it's such a beautiful bridge to fish from, and you can take your grandchildren, you can take anyone a block west and fish safely, as the chief said, you are not going to be bother with traffic, so that is one of those that I just can't understand why we can't ban this. The other part about Stuart, and I'm not sure, I'm not legal here, isn't there something called HOME RULE? That you can basically, you serve the power of other jurisdiction because we are Riviera Beach and this is our town and it is in our town. It seems to me that it is something that worked in other cities.

Mr. Murphy – I cannot answer that, your attorney would have to answer that. But I can answer to you the bridge to the west. The difference between the bridge to the west and the little blue heron bridge is one thing, FISH.

Mr. Baumgart – Fish, and I know because I fish, and there is a lot of fish down there.

Mr. Murphy – So everybody understands, you can go fish the west bridge and we'll fish for two hours out there, and Ms. Brooks and I would go fish to the little blue heron bridge and would be able to feed you because you won't catch anything on that bridge.

Mr. Baumgart – Trust me, we would never agree on this point.

Mr. Murphy – Fisherman know that.

Ms. Brooks – Yes we do.

Mr. Baumgart – And I don't want to be disrespectful or anything like that because I agree with you a 100%.

Mr. Murphy – It is really with signs, there is moons, there is tides, there is when the street lights are on, when they are off, there is never fish during the day, it goes on and on and on. It is a problem, the chief is right, and it shouldn't be his problem, they are busting him about his budget now, I agree with him a 100%, because he is bigger than me too, but we need a place where people use it right and we all go down I-95, do you know how much DOT spends on 95 cleaning up the paper that are thrown out of the windows? Now that is not smelly fish, I agree with Ms. St. John, it's different but millions and millions of dollars a year are spent by public that could carry a trash bag in their car. Please think about it.

Mr. Brannen – I have one question for you sir, just in your opinion, how do you feel about fishermen that utilize this bridge clean up behind themselves, in a scale of 1-10.

Mr. Murphy – Well, you only hear about the people that don't clean up. I got to agree with Ms. St. John, I walk the bridge, the trash cans they stay through one day of cooking, you cannot hardly walk by, I've been there at night when there is been fish from netting, and before I'll even fish, I'll clean the place up. Now, I can't come up with the percentage because I'm not there every day 24 hours a day, like chief mentioned, you can't do it. The Southern Blvd bridge is another one that people walk on and there is a lot of complaints in the City of West Palm Beach, I see they do just like the City of Riviera Beach, they put on new trash bags, and I saw them the other morning after I read your minutes, and I stopped and I talked to the guys, they put the new trash cans and the bag and take the old ones and they take a blower and they walk down each side and they clean all the fish guts up and they go back with a broom where they have started, those guys do a nice job, they take their shovel and put it in a garbage bag and take it away, but they don't do that every day, not every morning, and to answer your question, ten more seconds about divers, it's a haven for divers, under that bridge is an aquarium that is better than any aquarium than those that you pay money to go to look at fish, it is absolutely beautiful and the diving association, and the divers clubs and staff, park on Phil Foster, walk under the bridge and they walk across the street and we can see the steps, that were put there by DOT for people to get over to the beach on the south side, they go underwater and they swim under the bridge, if you catch it an hour after incoming tide, you stay there for an hour, there is more species of tropical fish under this bridge than there are in some aquariums, it's beautiful, and this is what attracts the bigger fish that people come and fish, so the divers are there just like you said.

Mr. Brannen – Just one question directed to staff and our attorney, if we don't own this bridge and there are probably some other steps that you can take for action to happen, is it possible to regulate a time frame, because right now is open 24/7, it's public access and hard to counter balance a time frame when we get the most people walking during day time hours compare to fishing hours when we get the most fishing time, besides, it is still going to fluctuate in reality

Ms. Brooks – Tides, the moon, there is a lot of things that affect that you look at, ask me, I got up at 3:30 in the morning to go fishing just the other night because of the tides.

Mr. Murphy – I might be able to help Mr. Gagnon on that because there have been hearings on that specific item, and it like a light switch, it is yes or no, on or off, because if you direct it to 12 hours of no fishing, then the chief is got to have people over there to enforce it, fishing wild life won't come in to enforce it because it becomes a city issue and for you, for us, to get it to where it would be a city issue, it's going to have to be a public hearing, probably two years of meetings with different fishing wild life, public meetings for the public to come in and get their input, on and on and on. I think you all know Gary Ward pretty well, he is probably the one that could answer that question the best because he is been to everyone of those meetings, if you know him, you might ring him up and just get him to answer that question for you.

Mr. Gagnon – To piggy back off of Mr. Murphy's comments, I think that the situation of the 12 hours a day used for one activity and the rest for secondary activity or however it would be distributed, I think if you try to divide specific hours vs. specific uses, the fact that the tides change, and many people prefer to

fish and dive during the day, and many people walk or ride at certain times, so it is a personal preference, so I think the idea is a good one but how it actually conceptualize or forms in practice, I think is going to be very difficult to determine.

Mr. Kunuty – It seems like everybody has identified that we have an issue on the bridge and that the solution probably is not going to be simple, so I would think I'll like to see staff come up with some ideas on how we can address and maybe work with law enforcement also, but I think things may be weak, but in the end, we really don't have a lot of balls to fire, so I mean signage on there, do that, communications of some sort to the fisherman, signage as I said, maybe volunteers, maybe some volunteers that would hang put there during pick times that would say, hey guys, you need to pick this up, and maybe a dressing with the city in fact that there is an agreement and that they are getting paid to clean it up, try to work on some schedule if we get that to happen.

Ms. Brooks – Thank you Mr. Kunuty. Do I have any more board comments? I guess we would move on to projects, project updates, unless you have another comment or information before we move on.

Mr. Gagnon – I think that Mr. Kunuty, if you want to state your comments in form of a motion, that would help staff moving forward.

Mr. Kunuty – I don't think it's a motion, I mean, it's kind of a charge, let's collect some ideas, you have access to everyone, if we board comments to you, and you collect them, talk to public works about what do they actually do and how often, so let's kind of put together pieces of puzzle so that we do come with the motion, 1, you got to advertise it, get public notices, and start picking away at this issue, maybe there is a bunch of little thing that we can do that gets quantity forwarded. I'll send you some further ideas and I'm sure that someone in the board would do that too.

Mr. Stubbs – I believe that what Mr. Gagnon is saying is that if he can have a motion then it directly is coming from the board collectively compared to an individual board member and that gives staff permission to go ahead and research and do whatever needs to be done as a directive from the board.

Motion to charge staff to come up with a series of ideas and actions to address the issues that have been discussed on Blue Heron Bridge relative to walkway, the odor, the fishing and the other issues that we have by Mr. Kunuty, 2nd by Ms. St. John; Approval (5-1) with Ms. Brooks dissenting.

Mr. Gagnon – I wanted to thank Ms. Stubbs for that clarity, that was basically why I was trying to get, that motion.

B. Planning and Zoning Board Comments

a. Project Updates / Upcoming Projects

Mr. Gagnon – I have a couple of items, let's start with ideas for that motion; I'll have that by the November 10 planning and zoning board meeting. Additionally when I distributed the agenda electronically I requested your attendance for a possible meeting on October 27, it's a really important meeting, trying to finalize the landscaping ordinance, so I don't know if you want to show hands if you can make it to that meeting. It looks like we would have the majority there. So we would say that there would be a meeting on October 27 to discuss the draft landscape that we have previously discussed. Additionally on the November 10 planning and zoning board meeting, we anticipate the city marina site plan come through so that is technically a big item and it would be good to be part of that process as well. The Publix development, judging from them recently trying to get everything completed I will say that they would not open by the end of October it will be November definitely. As update for daycare items, we have recently received one more application, which they are slowly going down. We probably won't see as many anymore. That is all updates.

Ms. St. John – What about the Florida housing stuff?

Mr. Gagnon – I anticipated a board member bringing that up.

Ms. St. John – As Mr. Kunuty walks out, this is something that Ed Kunuty and I worked on five years ago, four years ago, and it is pretty much pushed aside, and there is language within the city about resort hotels, resort condominiums, and that you pass as a board and never got presented to Council, it is my understanding, and Mr. Kunuty might be able to help a little bit.

Mr. Kunuty – Yes, we did that, the board pretty close to unanimous passed the revision to the resort hotel and it never went anywhere, and this is the second City Manager that we have since then, so I guess one of the questions that Ms. St. John is asking is what happened to it and why didn't it go forward?

Mr. Gagnon – I've been with the City for 4 years, I feel like that item was going through right when I was first here. I don't remember all the details of why it did not proceed any further. I'll have to really do more research.

Mr. Kunuty – You can start with the actual motion and approval and discussion that we had, but one of the things that there was at the time, there were resorts hotel that were in full swing and was obvious that they were not achieving what they were supposed to do and the attempt was to find tune it so that the City had all the control over it.

Ms. St. John – It included height restrictions, MEAHOP opportunities, and things that ultimate at the City.

Mr. Gagnon – There are specific sections of House Bill 883 that pertain to the RH code.

Ms. St. John – I believe it was the naming of the constituted hotel, resort hotel.

Mr. Gagnon – The specific definitions and how they were modified?

Mr. Kunuty – Yeah, I think it was different than this. I mean, it built on this, but it was not exactly the same as this. Glancing though it, there are some thing that we built on.

Ms. St. John – If there is any chance you can have it by the October 27th meeting, I know you want the landscape but the reason why is, and I'm not trying to be selfish, but my term ends in December and knowing that I worked on this 4-5 years ago, I'll like to see this resolution or at least have it go to Council. It's been really frustrating because of issues like this, you obviously were not even here then, that's how old it's been. Thank You.

Mr. Gagnon – In response to October 27th meeting, I'll do my absolute best as far as the status as the landscape goes, I have enough work to do on that to keep me busy I'll just say.

Ms. St. John – In the mean time, I'll try to look back and see if I can find it.

Mr. Gagnon – I think if anything I can do something not very comprehensive, just something preliminary for the 27th, maybe the meeting minutes.

Mr. Kunuty – I would like wise send you some stuff.

Ms. Brooks – I still have one more comment card, if you don't mind; Mr. Murphy.

Mr. Murphy – I would like, I guess it was the assistant city attorney, that said a motion to direct Mr. Gagnon on what to do and then the motion was made by Mr. Kunuty and 2nd by Ms. St. John, is this the procedure that this follows, because all of this discussion was under general discussion which is not a published item, it doesn't even have a heading.

Ms. Stubbs – A motion can be made on just about anything, it does not have to come out of the agenda, however, something to the extent that it would affect the of the city or a matter that has already been decided by city council, would go to city council to be voted as an agenda item which would have full public participation, this is the planning board, it's advisory, so it could make a recommendation and for example or ask staff, by making a motion to ask staff or request to research a matter and bring it back before the board for discussion, however, it's not a resolve of the matter, the final determination for that type of matter would be by City Council, so it is permissible.

Mr. Gagnon – I think this motion specifically provided direction from the planning and zoning board to allow staff further research the item, it wasn't a motion that was definitive saying yes, move forward.

Mr. Murphy - I understand that and I don't question at all what she just explained, I'm questioning that the motion was made on an item that wasn't even published, if it was made on an item that was further an add on, by the chief speaking, if it would have been listed under general discussion I'll agree with you a 100% that's the only reason I asked for it to be explained, well, I don't think that's right.

Ms. Brooks – Just to add to Mr. Murphy, we did not even have the chief on the agenda; the chief actually spoke under public comment.

Mr. Murphy – NO, we changed him to A.

Ms. Brooks – We didn't vote on the agenda. If there was an agenda that changed the chief and added him as A, we did not do that.

Mr. Murphy – It was discussed under additions and deletions.

Ms. Brooks – But it wasn't on the agenda, and we did not approve the agenda with that on there.

Mr. Gagnon –What happened with the agenda is an error in my part as well, Robert's Rules would require the board to act on any additions, deletions to the agenda. Staff presented the item as not an actual item, but out of respect to the chief, to acknowledge his presence I wanted to comment on the topic. Additionally the board should vote on the agenda, changes to it, on carrying an item presented to the board. I did not know how the item was going to turn out, nor did I know what the chief was going to add to discussion, so it was difficult for me to gage if it needed to be listed in general. What I will do in the future for the November 10th meeting, I'm not going to place an actual item as you see letter A, I'll add that information form staff in regards to all the vision and issues that we discussed, just make sure there is a note on the agenda so that way it would be some sort of discussion.

Ms. St. John – Why can't it be an actual item. That's what started this whole thing, where I asked the attorney how to go about this the last meeting that we wanted the discussion to take place and she said by making the motion that we did.

Ms. Brooks – In order for us to make a motion and it wasn't on the agenda, I'm still under the impression that we still have to advertise something, because if there is nothing on the agenda addressing issues about.

Ms. St. John – Absolutely because the last meeting was when I brought it up.

Ms. Brooks – Exactly, but what I'm saying is that we have responsibility to the public so we can't just seat here and bring staff up without the public being aware.

Ms. St. John – That is what I'm saying, why don't we make it an actual item so it becomes advertised.

Mr. Murphy –That's my saying, it is not publicized that the chief was going to be here as an add on, if it would have been, there would have been here more people, sort of like the item A, was published and there were no objections.

Mr. Gagnon – I'll clarify, the issue is that there is no item to act on, there is no ordinance, no draft ordinance, there's been no advertisement stating that there could be a possible change. Being that there is no item to act on.

Ms. St. John – How does one become an action item?

Mr. Gagnon – The same way that we have a draft landscape code, you would have to have something to review and either approve or deny.

Ms. St. John – That is what this board attempted to do last month to get it on that process to have 2-3 months worth of plain open discussion. At least that was my intention.

Mr. Murphy – That was my objection to motion, of course the attorney answered, because it wasn't stated it shouldn't have been a motion, you should ask for it to be posted.

Ms. Brooks – And we are going back to the meeting before when I specifically stated that we could not make that motion, I said it when we started. We just can't do that.

Mr. Gagnon – I think the procedures within the rules would allow a motion to occur at any time, the problem is there is no item to act on, no official language to adopt. If there was an item to act on, most definitely would be placed under new business. Being that it was just in a memo format tonight and no additional information was provided from the chief prior to the meeting, it is discussion still

Ms. St. John – How does an item get acted on? That was my main question when I made the motion, I asked for guidance on what to do so it could become something to be discussed and eventually present it to the public.

Mr. Murphy – Your assistant attorney should be able to tell you. I think she is wrong in her explanation under general discussion, now I'm not an attorney, I don't want practice. You could make an inquiry to him to put it on the agenda for next month and then it becomes an item that is published and people would come.

Ms. St. John – That was my intention last month.

Mr. Murphy – Well it was made last month and now again with Mr. Kunuty with his motion.

Mr. Kunuty – Let me clarify that. I think there is two different issues, one was request made of staff for to collect some information and bring it back to the board, and the advise was to put it in form of a motion in which we did, so I guess my first question is, if a member wants staff to address a specific issues, do we just make a request? Or does it have to be in form of motion.

Ms. Stubbs – My understanding is that you make a motion as the board requesting staff to do further research on the item, it's not to get approval on the item, but is to get the board with more information that they can review. That's my understanding.

Mr. Kunuty – All right, so then would you say that the procedure that we went through earlier is just getting the board approval for staff to do this work.

Ms. Stubbs – Correct.

Mr. Kunuty – The second issue was the motion from last month, so I guess to understand it, are you saying that the motion should've not been a motion to ban fishing but that the motion should have been a motion directing staff to bring an ordinance to the board that would ban fishing.

Ms. Stubbs – My understanding is that you can make a motion is almost on anything, however, once you make that motion there is a proper channel ion where that goes from that point, so for example making a motion to ban which was to ban fishing on the flat bridge, generally if a motion is made by PNZ and that motion would affect as I said before, a matter which City council has already spoken on, or we have a clear ordinance directing on, then because the motion was made by PNZ regarding something that would conflict with city council, then that would have to go through city council as agenda item to approve or disapprove, or whether city council decides to act or not on it, because this board is advisory, however, that motion that was made, could have post at the city council, however, it would have been feudal if there is law to the contrary ion that item, because all city council would have said to staff is, isn't there law or directive on that item, and so it would have been a novelty, I mean not that they advertise anything because it would have been a novelty, and in this case when staff saw that there was a contrary directive from the comprehensive plan on that bridge, staff a bricks it, and just advice the board on what the law is on that position and therefore that proceeded no further, therefore there was not an item, neither one of us was aware of the type of comments that the chief would or did make tonight, I thought he was here because he was carbon copied on the memo, so none of us were aware of any input that he would bring to the matter which at that point was just staff bringing to this board's attention, information that had found

and basically alerting at this point that it's not an item that would be voted to city council for approval or disapproval. That is my understanding, two separate issues, the motion that was made the last PNZ meeting in which we all see the results in the memo that was produced by Mr. Gagnon, as far as my understanding and I have also spoken to the city attorney in this matter, is that you can make a motion and even if you need staff to do something for you, it is better to make a motion to provide a directive but it's just a directive of telling staff what to do, it is not bringing a solution to whether you are to approve or disapprove, it's a matter that would result in public discussion, it's allowing staff to present you with some research, some information which is also public just for your review.

Ms. St. John – I would like then to make a motion to have staff prepare an ordinance to ban fishing on the bridge so that it can be discussed in full, including information that the chief has brought forward as far as the safety issues.

Ms. Brooks – Can I ask a question? If it is safety issues, now that we switch it to safety issues, because it's safety issues we can define the comp plan?

Mr. Gagnon – What I'll say is that after the September 8th meeting, staff researched the motion and according to my memo, there seems to be conflicts with the comprehensive plan, there may be alternate motions that could yield different results but I think that stating to just disallow the fishing isn't the right motion.

Mr. Murphy – Can I ask a question?

Ms. Brooks – Sure.

Mr. Murphy – What are the duties of the planning and zoning board?

Ms. Brooks – The duties of the planning and zoning board, I asked that we be given that because of that motion and my perception is that we cannot make that motion like that, so that's why I asked staff if we can get a copy so that we know.

Mr. Murphy – Because chief mentioned safety, you can tell me to see down if you want to, im just discussing, there is been as I know, and the chief is better to answer that, I know of nobody that has been hurt over there on the bridge, that I know of.

Ms. Brooks – Not fishing, walking.

Mr. Murphy – There is been people, cars that are hopping on the curve where the barrier walls, there was a terrible accident, but I don't know of anybody that was hooked by a hook or hooked a car, I still agree with Ms. St. John on the smell, and the one thing I forgot to say, is that cast netting is not allowed from bridges, the only enforcing agent that could do that and they could take away their fishing license is the fishing and water commission. I didn't know that the planning and zoning board was to led into some restriction like this, of course I'm against it, I'm sure you can do it, I'm not saying don't do it, I'm just asking.

Ms. St. John – The main thing is we are just an advisory board and we were told of our opportunities, and we appreciate that.

Mr. Murphy – This is a big big issue, and that is why I want to see it on the agenda like you do, because then we will bring all of our red shirts or whatever shirt they wear that night and still doesn't affect, you guys are going to vote, it is just going to be people telling you about the fish in there. I think also you are going to find out in the research that Mr. Kunuty asked for that the state is going to have to get it directly from the city council, then the fishing wild life is going to have to have public hearings and then they are going to decide whether is allowed or not.

Ms. St. John – I have waited 4-5 years for the RH zoning, I wouldn't bother if I had to way a few years for this to happen, but by that time, that bridge is going to be so marked because of the casting nets and the poles and the issues that had happened there, it's just going to be a mess and that is just the fallen.

Mr. Murphy – I can tell you the maintenance on the bridge for correcting that is twice a year, DOT comes, because we are involved with DOT, we do the maintenance north of Ft. Pierce and our crews just sweep those areas, so there is follow up on those questions that you would hear or again would find out. Thank you.

Ms. St. John – If there is no second?

Mr. Kunuty – Can I make a suggestion? I think we directed staff to come to us at the next meeting with some alternatives and some ideas on how to address the variety of the issues and I asked staff on the steps to take to address those issues, so maybe we should wait to see what they have to say.

Ms. St. John – If we don't get the motion, it will be another 4 years.

Mr. Kunuty – I agree but I think maybe let's get their input and then get the public about it.

Ms. St. John – There is a motion on the floor. If there is no second, then it gets dropped.

Mr. Brannen – It's amazing how much discussion we had. I just want clarity because I just want to be sure that from what I got from the attorney a motion can be presented anytime then go to discussion and the way to put it in a form of a motion is because we want to be very clear, when we start discussing I say this, and then someone else says that, you can get confused on what exactly you are asking staff, so we put it on a motion so it's very clear on what we are asking staff to, and we can get information back that we requested. I just see it as a major issue on whether it was on the agenda or not in order to put it in a motion. I'm making that clear; Mr. Murphy is thinking that if because it's in a motion that now some action would be taken that the public isn't aware of. I think if it would never be said in a motion and it was just discussion and you just ask this request to staff it probably wouldn't have gotten to this discussion in the last 30 minutes, but I think the whole purpose of the meeting and put it in a motion is for clarity purposes so there is question after on what we do, is going to have to have more than just having staff requested by the board. The last thing I want to say is that, when we talk about things I totally agree with the public needs to be involved, I wasn't here, but tonight I know there would be more people here if they knew we were discussing whether or not to ban fishing on a bridge. I don't even think we are even close to that process even taking place, we are so far away from an action being taken, all that was just discussion that came out of general comments, chief gave a lot of public safety issues, which I heard people have to get out to the street to get around fisherman, those are not issues that someone got hit, but they are public safety issues. We are so far away from where we need to be, we are getting ahead of ourselves, there are two or three steps that are involved before we get to a point where planning and zoning board decides something. Nothing is going to happen until you get all the other parties involved, DOT and all the other people that have to give input.

Ms. Brooks – Ok, there is a motion on the floor, is there a second?

Mr. Brannen – I do second Ms. St. John.

Ms. Brooks – Would you repeat the motion please?

Motion to create an ordinance to ban fishing on the little blue heron bridge so that it could become an action item, so we can discuss safety issues for that ordinance by Ms. St. John, 2nd by Mr. Brannen; Approval (4-2) with Ms. Brooks and Mr. Kunuty dissenting.

Mr. Kunuty – Question for staff and maybe the attorney. We had a motion just previous to develop some information to address all of the issues that were discussed. Does the motion to prepare the ordinance eliminate that? Or are you going to do both, prepare the information to be taken and the ordinance? The last part of the question is when you put that, my motion to devote information on the agenda and publish it, it is public notice, right?

Mr. Gagnon – Any information that is provided to the planning and zoning board, on the same day you get the email, it is posted on the online.

Mr. Kunuty – You answered my last question but my first question is: are you going to gather information as requested or are you going to publish it and come back with an ordinance?

Mr. Gagnon – The motion that Ms. St. John made was extremely similar to the last motion in which staff have already offered. Part of any ordinance process, the early stages are typically research, it think that, with respect, you feel as if your time is running short Ms. St. John, and I understand that this item is really important for you, however staff having research time, inviting the general public with adequate time to research it themselves, providing a venue which really the planning and zoning board is the best venue to discuss this items and allow for public discussion, so that way really everything is heard prior to the item going to city council, so I really feel as if the motions are really similar but as Mr. Brannen said, there are certain stages and I feel like Mr. Kunuty's motion is at an early stage and Ms. St. John's was the step after.

Ms. St. John – I'm just trying to get it to be worked on as a public matter because most people don't read and since we are not televised, so unless it becomes an agenda item, the public really has no clue unless you are in this board.

Mr. Gagnon – I think that my solution is to not have a draft ordinance or an action item that needs potential approval next meeting. I feel like the public would not have enough time to comment, however, adding language to the agenda stating that the item is going to be discussed and deliberated and really get all that public input, which would then be incorporated into the actual draft ordinance.

Ms. St. John – That is exactly what I was looking for, I was afraid that Mr. Kunuty's motion would not make it to the agenda item because it would be more discussion and general discussion.

Mr. Gagnon – I think we can do it the same way as we have done in the past, we have a workshop, so that way there is no desire for a motion, it's just work-shopped. This way we get public input but also move forward in a positive direction.

Mr. Kunuty – So we are going to act on my motion?

Mr. Gagnon – That is correct.

Ms. Brooks – Any more questions, comments?

Mr. Kunuty – One more comment, too bad the chief is gone, but I've been meaning to bring this on for a long time, but somebody wrote a letter to the editor. Can we do anything about the Schooner Inn? I mean this place is been an eye sore for I don't know, that place would not be there and any other town around here.

Mr. Gagnon – I know that there are currently discussions, and this is an item that the city is currently working on. I can provide you with all the information that we have.

Mr. Kunuty – Yeah, I mean, we are fining people for not clearing their property or cutting their lawn and we are doing nothing on Schooner, it doesn't make sense.

Mr. Gagnon – I think there are liens running on that property, I'm sure water billing liens, guessing it has code enforcement liens accumulated.

Mr. Kunuty – Thank you.

Ms. Brooks – Do we have a motion to adjourn?

ADJOURNMENT

Motion to Adjourn by Mr. Kunuty, 2nd by Ms. St. John; Meeting adjourned at 8:30 pm.

STAFF REPORT
Case No. AB-11-01
CITY OF RIVIERA BEACH

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF RIVIERA BEACH, PALM BEACH COUNTY, FLORIDA, ABANDONING A PORTION OF EAST 20TH STREET, A PORTION OF AVENUE B AND A PORTION OF AVENUE C EXHIBITED ON THE "REVISED PLAT OF COCOANUT LODGE" IN GOVERNMENT LOT 4, SECTION 28, TOWNSHIP 42 SOUTH, RANGE 43 EAST, AS RECORDED IN PLAT BOOK 7, PAGE 52 OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA, AND LOCATED WITHIN THE CITY OF RIVIERA BEACH, FLORIDA, CONTAINING 25,284 SQUARE FEET, 0.6 ACRES, MORE OR LESS; PROVIDING CONDITIONS; PROVIDING FOR SEVERABILITY AND CONFLICTS; AND PROVIDING AN EFFECTIVE DATE.

A. Applicant: Rybovich Riviera Beach, LLC.

B. Request: The applicant Rybovich has formally requested and made application for the abandonment of approximately 25,284 square feet of East 20th Street, Avenue B and Avenue C located between their properties in order to secure a contiguous facility for an expansion to a larger facility.

C. Location: The abandonment is located mostly on East 20th Street between Avenue C and Avenue B with a small portion of Avenue B and Avenue C.

D. Property Description and Uses: The subject property description and uses are as follows:

Size: ~0.58 Acres/ 25,284 square feet.

Existing Use: City Right of Way

Future Land Use: Downtown Mixed Use and Working Water Front

Zoning: General Commercial (CG)

Background: The City of Riviera Beach ("City"), the Riviera Beach Community Redevelopment Agency ("CRA"), and the Riviera Beach Utility Special District ("District") entered into lease as Lessors and Rybovich Riviera Beach, LLC ("Rybovich") as Lessee for a certain lease entitled Submerged and Upland Lands Lease ("Lease") dated September 15, 2010. Rybovich has agreed to terminate its interest in the Lease and move its proposed use of the property in the lease to other property owned by Rybovich, but needs the abandonment of certain road rights-of-way more particularly described in the Escrow Agreement (See attached Escrow Agreement) approved by the CRA Board of Commissioners on September 14, 2011 and approved by the City Council September 21, 2011.

E. Recommendation:

Staff recommends approval of the application for the abandonment of approximately 25,284 square feet of East 20th Street, Avenue B and Avenue C located between their properties in order to secure a contiguous facility for an expansion to a larger facility.

RYBOVICH

September 28, 2011

Mary McKinney, AICP
Director of Community Development
500 West Blue Heron Blvd.
Riviera Beach, Florida 33404

RECEIVED
SEP 28 2011
COMMUNITY DEVELOPMENT
DEPARTMENT

Re: 20th Street Abandonment

Dear Ms. McKinnney,

As we have been discussing for a few months with both the City of Riviera Beach and the City of Riviera Beach Community Redevelopment Agency, RBY, LLC ("Rybovich") believes that the abandonment of certain municipal right of ways will create the opportunity for marine industry related economic development in the City of Riviera Beach.

Pursuant to that certain four party Escrow Agreement dated September 21, 2011 between the City of Riviera Beach, the City of Riviera Beach Utility District, the City of Riviera Beach Community Redevelopment Agency and Rybovich Riviera Beach, LLC;

"Rybovich shall submit a complete Abandonment Application with all required fees to the City of Riviera Beach within 30 days of the execution of this agreement."

Please find enclosed two "Sketch and Legal Description" forms for the portions of 20th Street, Avenue C and Avenue B that Rybovich proposes be abandoned by the City of Riviera Beach. Please consider this letter, fees, sketches and legal descriptions as our formal Abandonment Application as required by the Escrow Agreement. We have enclosed separate checks for the Abandonment Fee and the Advertising Deposit.

Although we are aware that additional information (such as consents from utility providers and/or utility easements) may be required prior to approval, please confirm that for purposes of the Escrow Agreement, the Abandonment Application is now complete.

Sincerely,



Carlos Vidueira
RBY, LLC

Sketch and Legal Description for: Rybovich Marine Center

Surveyor's Notes

- 1) This sketch and legal description is based on office information only and does not represent a boundary survey.
- 2) This legal description shall not be valid unless:
 - A) Provided in its entirety consisting of 3 sheets, with sheet 3 being the sketch of description.
 - B) Reproductions of the description and sketch are signed and sealed with an embossed surveyor's seal.

Certification

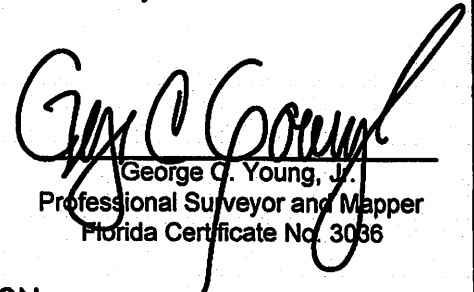
(Not valid without the signature and original raised seal of a Florida licensed Surveyor and Mapper)

I hereby certify that the Sketch and Legal Description of the property shown and described hereon was completed under my direction and said Sketch and Description is true and correct to the best of my knowledge and belief.

I further certify that this sketch and description meets the Minimum Technical Standards for Surveys set forth by the Florida Board of Professional Surveyors and Mappers in Chapter 5J-17, Florida Administrative Code, pursuant to Section 472.027 Florida State Statutes. The Sketch and Description is based on information furnished by client or client's representative.


9/26/2011

Date of Signature


George C. Young, Jr.
Professional Surveyor and Mapper
Florida Certificate No. 3036

LEGAL DESCRIPTION

NO.	REVISIONS	DATE	BY

 INCORPORATED PROFESSIONAL SURVEYORS AND MAPPERS CERTIFICATE OF AUTHORIZATION LB 4108 CORPORATE OFFICE: PO BOX 1469 • 1505 SW MARTIN HWY. • TALLAHASSEE, FL 32303 (850) 536-1055 TALLAHASSEE OFFICE: 1990 COMMONWEALTH LANE • TALLAHASSEE, FL 32303 (850) 536-8455	
---	--

LEGAL DESCRIPTION FOR:		
Rybovich Marine Center		
PALM BEACH COUNTY, FLORIDA		
Scale:	Date:	File & Drawing No.:
N/A	9/26/11	11-1058-01-01
Drawn By:	Checked:	Sheet
R.L.I.	G.C.Y.	1 of 3


Legal Description

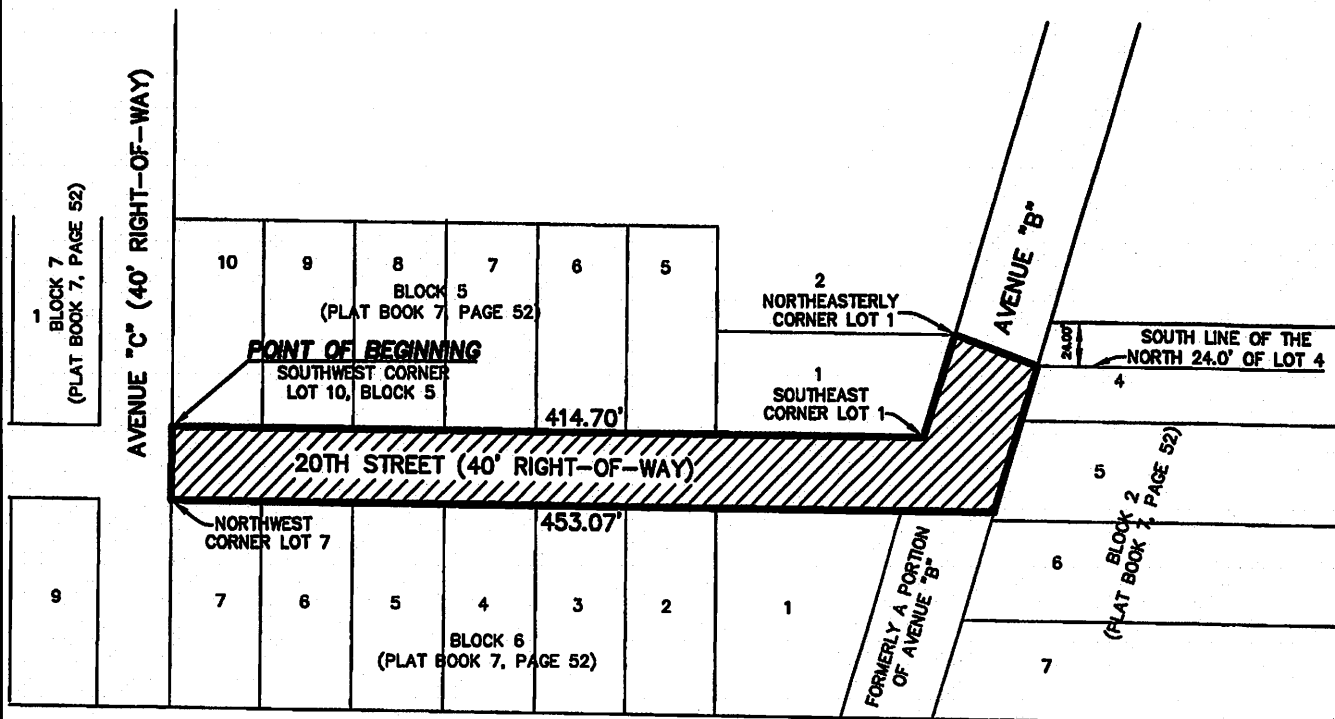
Being a portion of East 20th Street and a portion of Avenue B, as shown on the 'Revised Plat of Cocoanut Lodge' in Government Lot 4, Section 28, Township 42 South, Range 43 East, as recorded in Plat Book 7, Page 52, public records of Palm Beach County, Florida and now located within the City of Riviera Beach, Florida, more particularly described as follows, to wit:

Begin at the southwest corner of Lot 10, Block 5 of said plat, thence along the north right-of-way of East 20th Street (a 40 feet plated right-of-way) and the south line of lots 10, 9, 8, 7, 6, 5 and 1 of said Block 5 a distance of 414.70 feet to the intersection of Avenue B (a 40 feet plated right-of-way) and the southeast corner of said Lot 1; thence northeasterly along the westerly right-of-way of said Avenue B and the easterly boundary of said Lot 1 to the northeasterly corner of said Lot 1; thence on a straight line to a point of intersection with the south line of the north 24.00 feet of Lot 4, Block 2 of said Revised Plat of Cocoanut Lodge and the easterly line of said Avenue B; Thence southwesterly along the easterly right-of-way line of said Avenue B and the west line of said Lot 5, Block 2 to the intersection of the easterly prolongation of the south right-of-way line of said East 20th Street; thence westerly along said easterly prolongation and the southerly right-of-way of said East 20th Street a distance of 453.07 feet to the northwest corner of Lot 7, Block 6 of said Revised Plat of Cocoanut Lodge and the intersection of the east right-of-way of Avenue C (a 40 feet plated right-of-way); thence north along a straight line to the southwest corner of said Lot 10, Block 5 and the Point of Beginning.

Containing 20,764.0 square feet or 0.48 acres, more or less.

LEGAL DESCRIPTION

 <p>INCORPORATED PROFESSIONAL SURVEYORS AND MAPPERS CERTIFICATE OF AUTHORIZATION LB 4108</p> <p><small>CORPORATE OFFICE PO BOX 1459 • 1505 SW MARTIN HWY. TALLAHASSEE OFFICE PALM CITY, FL 34901 TALLAHASSEE, FL 32303 (850) 355-1055 (850) 535-5455</small></p>				LEGAL DESCRIPTION FOR:		
				Rybovich Marine Center PALM BEACH COUNTY, FLORIDA		
NO.	REVISIONS	DATE	BY	Scale:	Date:	File & Drawing No.:
				N/A	9/28/11	11-1058-01-01
				Drawn By:	Checked:	Sheet
				R.L.I.	G.C.Y.	2 of 3



NOT TO SCALE

NOTE:

This drawing does not represent
a boundary survey and is based
on office information only.

LEGAL DESCRIPTION



INCORPORATED
PROFESSIONAL SURVEYORS AND MAPPERS
CERTIFICATE OF AUTHORIZATION LB 4108
CORPORATE OFFICE: PO BOX 1409 • 1505 SW MARTIN HWY. • TALLAHASSEE OFFICE: 1890 COMMONWEALTH LANE
PALM CITY, FL 34901 TALLAHASSEE, FL 32303
(850) 325-1035 (850) 535-8458

LEGAL DESCRIPTION FOR:

Rybovich Marine Center
PALM BEACH COUNTY, FLORIDA

Scale: **N/A** Date: **9/28/11**
Drawn By: **R.L.I.** Checked: **G.C.Y.**

File & Drawing No.: **11-1056-01-01**
Sheet **3** of **3**

NO.	REVISIONS	DATE	BY
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Sketch and Legal Description for: Rybovich Marine Center

Surveyor's Notes

- 1) This sketch and legal description is based on office information only and does not represent a boundary survey.
- 2) This legal description shall not be valid unless:
 - A) Provided in its entirety consisting of 3 sheets, with sheet 3 being the sketch of description.
 - B) Reproductions of the description and sketch are signed and sealed with an embossed surveyor's seal.

Certification

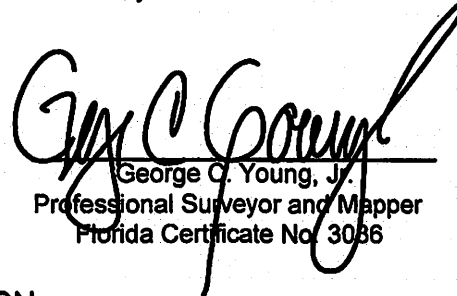
(Not valid without the signature and original raised seal of a Florida licensed Surveyor and Mapper)

I hereby certify that the Sketch and Legal Description of the property shown and described hereon was completed under my direction and said Sketch and Description is true and correct to the best of my knowledge and belief.

I further certify that this sketch and description meets the Minimum Technical Standards for Surveys set forth by the Florida Board of Professional Surveyors and Mappers in Chapter 5J-17, Florida Administrative Code, pursuant to Section 472.027 Florida State Statutes. The Sketch and Description is based on information furnished by client or client's representative.

9/26/2011

Date of Signature


George C. Young, J.
Professional Surveyor and Mapper
Florida Certificate No. 3086

LEGAL DESCRIPTION

NO.	REVISIONS	DATE	BY

 INCORPORATED PROFESSIONAL SURVEYORS AND MAPPERS CERTIFICATE OF AUTHORIZATION LB 4108	
CORPORATE OFFICE PO BOX 1403 • 1505 SW MARTIN HWY. PALM CITY, FL 34901 (888) 335-1068	TALLAHASSEE OFFICE 1900 COMMONWEALTH LANE TALLAHASSEE, FL 32303 (904) 535-8453

LEGAL DESCRIPTION FOR:
Rybovich Marine Center
PALM BEACH COUNTY, FLORIDA

Scale: N/A	Date: 9/28/11	File & Drawing No.: 11-1056-01-01
Drawn By: R.L.L.	Checked: G.C.Y.	Sheet: 1 OF 3

Legal Description

BEING A PORTION OF AVENUE C (A 40 FEET PLATTED RIGHT-OF-WAY), AS SHOWN ON THE 'REVISED PLAT OF COCOANUT LODGE' IN GOVERNMENT LOT 4, SECTION 28, TOWNSHIP 42 SOUTH, RANGE 43 EAST, AS RECORDED IN PLAT BOOK 7, PAGE 52, PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA AND NOW LOCATED WITHIN THE CITY OF RIVIERA BEACH, FLORIDA, MORE PARTICULARLY DESCRIBED AS FOLLOWS,


TO WIT:

ALL THAT RIGHT-OF-WAY OF SAID AVENUE C LYING SOUTH OF THE SOUTHERLY RIGHT-OF-WAY OF EAST 20TH STREET.

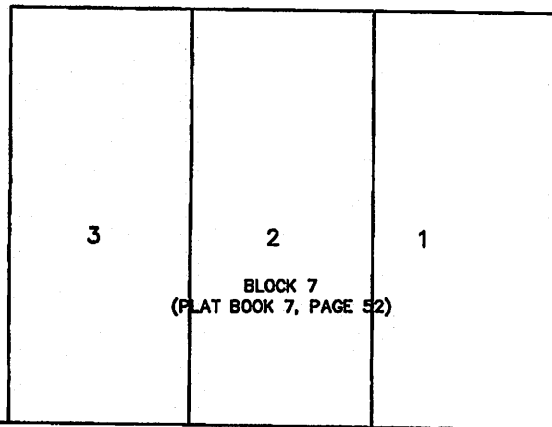
CONTAINING 4,520 SQUARE FEET OR 0.10 ACRE, MORE OR LESS.

LEGAL DESCRIPTION

NO.	REVISIONS	DATE	BY

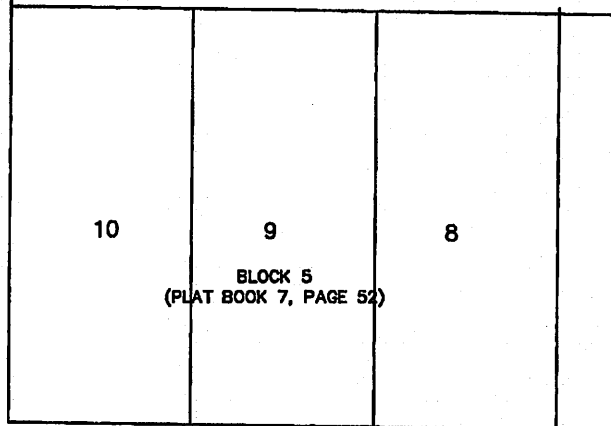
 INCORPORATED PROFESSIONAL SURVEYORS AND MAPPERS CERTIFICATE OF AUTHORIZATION LB 4108	
<small>CORPORATE OFFICE</small> <small>PO BOX 1408 • 1505 SW MARTIN HWY.</small> <small>PALM CITY, FL 34991 •</small> <small>(888) 388-1088</small>	<small>TALLAHASSEE OFFICE</small> <small>1800 COMMONWEALTH LANE</small> <small>TALLAHASSEE, FL 32303</small> <small>(850) 536-8485</small>

LEGAL DESCRIPTION FOR:		
Rybovich Marine Center		
PALM BEACH COUNTY,		FLORIDA
Scale:	Date:	File & Drawing No.:
N/A	8/28/11	11-1058-01-01
Drawn By:	Checked:	Sheet
R.L.L.	G.C.Y.	2 OF 3



BLOCK 7
(PLAT BOOK 7, PAGE 52)

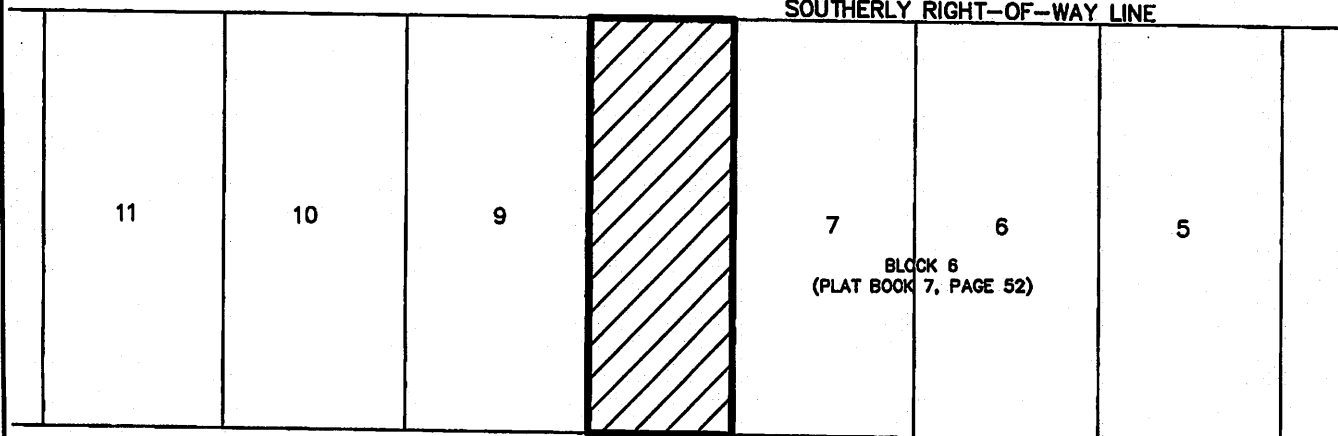
AVENUE "C" (40' RIGHT-OF-WAY)



BLOCK 5
(PLAT BOOK 7, PAGE 52)

20TH STREET (40' RIGHT-OF-WAY)

SOUTHERLY RIGHT-OF-WAY LINE



BLOCK 6
(PLAT BOOK 7, PAGE 52)



NOT TO SCALE

NOTE:

This drawing does not represent a boundary survey and is based on office information only.

LEGAL DESCRIPTION



INCORPORATED
PROFESSIONAL SURVEYORS AND MAPPERS
CERTIFICATE OF AUTHORIZATION LB 4106
CORPORATE OFFICE: PO BOX 1403 • 1505 SW MARTIN HWY. TALLAHASSEE OFFICE: 1890 COMMONWEALTH LANE
PALM CITY, FL 34901 TALLAHASSEE, FL 32303
(850) 398-1088 (850) 536-5453

LEGAL DESCRIPTION FOR:

Rybovich Marine Center

PALM BEACH COUNTY,

FLORIDA

Scale:

N/A

Date:

9/28/11

Drawn By:

R.L.L.

Checked:

G.C.Y.

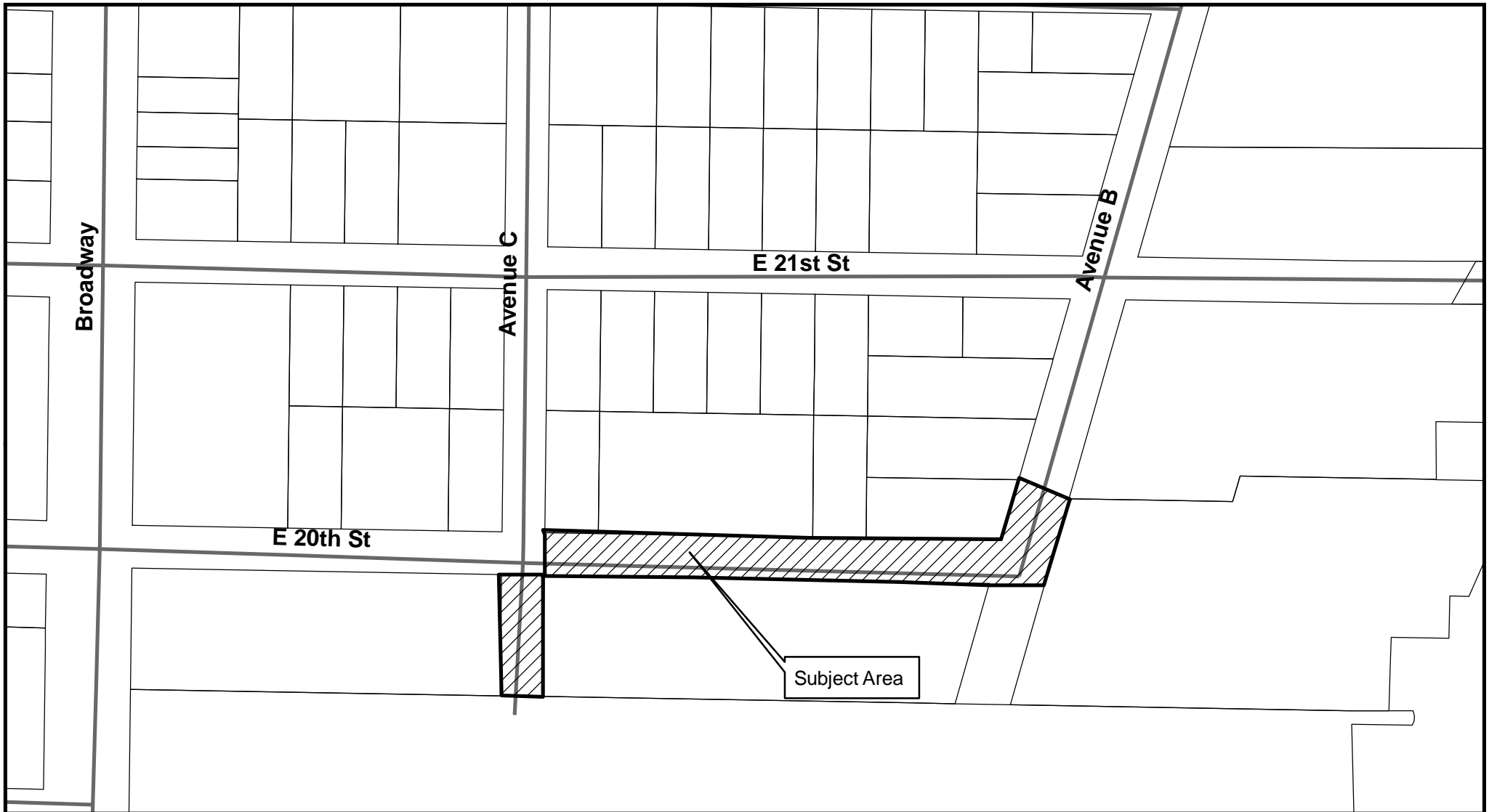
File & Drawing No.:

11-1056-01-01




Sheet

3 of 3

NO.	REVISIONS	DATE	BY
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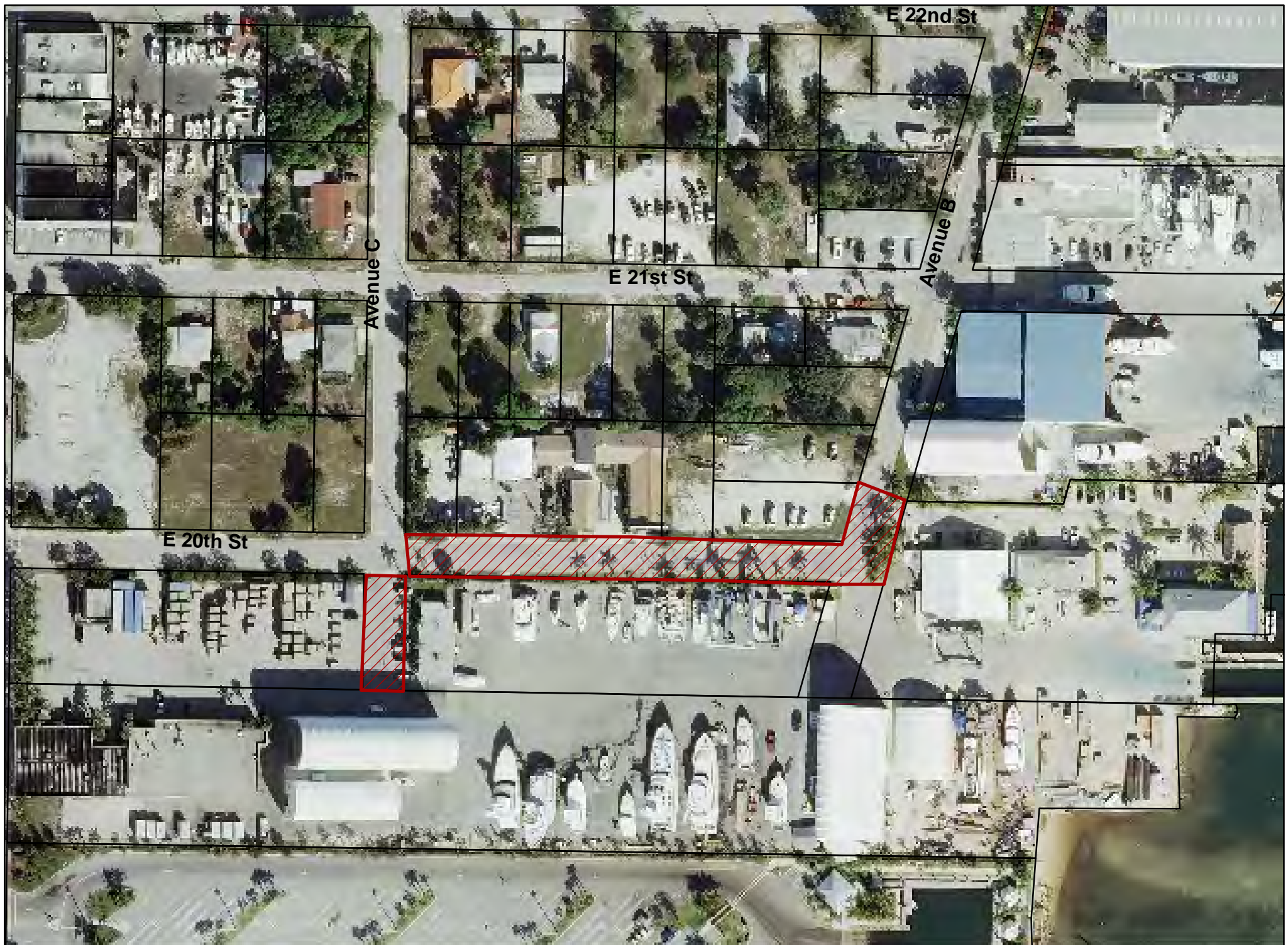
0 100 200 400 Feet

-  Subject Area
-  Parcels
-  Roads



20th St , Avenue B and Avenue C Abandonment





E 22nd St

E 21st St

E 20th St

Avenue C

Avenue B

RESOLUTION NO. 134-11

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF RIVIERA BEACH, PALM BEACH COUNTY, FLORIDA, AUTHORIZING THE EXECUTION OF AN ESCROW AGREEMENT BY AND AMONG THE CITY OF RIVIERA BEACH, THE RIVIERA BEACH COMMUNITY REDEVELOPMENT AGENCY, THE RIVIERA BEACH UTILITY SPECIAL DISTRICT, RYBOVICH RIVIERA BEACH LLC, AND HAYGOOD & HARRIS, LLC, AS ESCROW AGENT, REGARDING DISPOSITION OF THAT CERTAIN SUBMERGED AND UPLAND LANDS LEASE ENTERED INTO BY THE PARTIES; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Riviera Beach ("City"), the Riviera Beach Community Redevelopment Agency ("Agency"), and the Riviera Beach Utility Special District ("District") own certain properties located within the City of Riviera Beach; and

WHEREAS, the City, Agency, and District, as Lessors and Rybovich Riviera Beach LLC ("Rybovich") as Lessee, entered into that certain lease entitled Submerged and Upland Lands Lease dated September 15, 2010 (hereinafter the "Lease"); and

WHEREAS, the Lease provides the terms and conditions for the lease of the certain uplands and submerged lands owned by the City and the District and an option to lease certain property owned by the Agency; and

WHEREAS, Rybovich has agreed to terminate its interest in the Lease and move its proposed use of the property in the lease to other property owned by Rybovich, but needs the abandonment of certain road rights-of-way more particularly described in the Escrow Agreement; and

WHEREAS, Rybovich has agreed to tender a termination agreement to be kept in escrow and not delivered to Lessors unless and until the City approves an abandonment application for certain rights-of-way; and

WHEREAS, staff recommends approval of the Escrow Agreement to be held by Haygood & Harris, LLC.


NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF RIVIERA BEACH, PALM BEACH COUNTY, FLORIDA, as follows:

SECTION 1. That City Council authorizes the Mayor and City Clerk to execute the Escrow Agreement attached hereto as Attachment 1.

RESOLUTION 134-11
PAGE 2

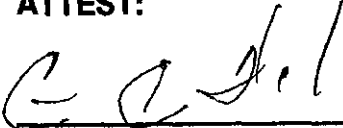
PASSED AND APPROVED this 21ST day of SEPTEMBER, 2011.

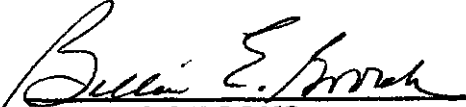
APPROVED:



THOMAS A. MASTERS
MAYOR



JUDY L. DAVIS
CHAIRPERSON


ATTEST:


CARRIE E. WARD
MASTER MUNICIPAL CLERK
CITY CLERK


BILLIE E. BROOKS
CHAIR PRO TEM


CEDRICK A. THOMAS
COUNCILPERSON


DAWN S. PARDO
COUNCILPERSON


SHELBY L. LOWE
COUNCILPERSON

MOTIONED BY: D. PARDO

SECONDED BY: B. BROOKS

J. DAVIS AYE

B. BROOKS AYE

C. THOMAS AYE

D. PARDO AYE

S. LOWE NAY

REVIEWED AS TO LEGAL SUFFICIENCY

PAMALA H. RYAN, CITY ATTORNEY

DATE: _____

RESOLUTION NO. 2011- 34

A RESOLUTION OF THE BOARD OF COMMISSIONERS OF THE COMMUNITY REDEVELOPMENT AGENCY ("AGENCY") AUTHORIZING THE EXECUTION OF AN ESCROW AGREEMENT BETWEEN THE AGENCY, THE CITY OF RIVIERA BEACH ("CITY"), CITY OF RIVIERA BEACH UTILITY DISTRICT ("UTILITY DISTRICT"), RYBOVICH RIVIERA BEACH LLC ("RYBOVICH") AND HAYGOOD & HARRIS, LLC ("ESCROW AGENT") REGARDING DISPOSITION OF THAT CERTAIN SUBMERGED AND UPLAND LANDS LEASE; AND PROVIDING AN EFFECTIVE DATE.

* * * * *

WHEREAS, the Agency, City, and Utility District own certain property located in the City of Riviera Beach; and

WHEREAS, the Agency, City, and Utility District, as Lessors and the Rybovich as the Lessee entered into that certain lease entitled Submerged and Upland Lands Lease dated September 15, 2010 (hereinafter the "Lease"); and

WHEREAS, the Lease provides the terms and conditions for the lease of the certain uplands and submerged lands owned by the City and the Utility District and an option to lease certain property owned by the Agency; and

WHEREAS, Rybovich has agreed to terminate its interest in the Lease and move its proposed use of the property in the lease to other property, but needs the abandonment of certain road rights of way more particularly described herein ("Abandonment Application"); and

WHEREAS, Rybovich has agreed to tender a termination agreement ("Termination Agreement") to be kept in escrow and not delivered to the Lessors until the approval of Rybovich's Abandonment Application; and

WHEREAS, staff recommends approval of the Escrow Agreement attached hereto as Exhibit "A".

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COMMISSIONERS OF THE RIVIERA BEACH COMMUNITY REDEVELOPMENT AGENCY THAT:

SECTION 1 The Community Redevelopment Agency authorizes the execution of the Escrow Agreement attached hereto as Exhibit "A".

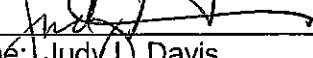
SECTION 2. Should any one or more of the provisions of this Resolution or Exhibit be held invalid, such provision shall be null and void, and shall be deemed separate from the remaining

provisions and shall in no way affect the validity of any of the remaining provisions of the Resolution.

SECTION 3. This resolution shall be effective immediately upon its adoption.

PASSED AND ADOPTED this 14th day of September, 2011

RIVIERA BEACH COMMUNITY
REDEVELOPMENT AGENCY

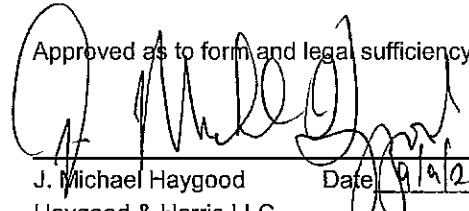
By: 
Name: Judy L. Davis
Title: Chairperson

ATTEST:


Executive Director

MOTION BY: Dawn Pardo
SECONDED BY: Billie Brooks

D. PARDO	<u>AYE</u>
J. DAVIS	<u>AYE</u>
B. BROOKS	<u>AYE</u>
C. THOMAS	<u>AYE</u>
S. LOWE	<u>NAY</u>

Approved as to form and legal sufficiency

J. Michael Haygood Date: 9/14/2011
Haygood & Harris LLC
General Counsel to CRA

ESCROW AGREEMENT

THIS ESCROW AGREEMENT (this "Agreement") is made and entered into this _____ day of September, 2011, by and between CITY OF RIVIERA BEACH, a Florida municipal corporation (hereinafter referred to as "City"), CITY OF RIVIERA BEACH UTILITY SPECIAL DISTRICT (hereinafter referred to as "Utility District"), RIVIERA BEACH COMMUNITY REDEVELOPMENT AGENCY, a body corporate and politic created pursuant to Part III, Chapter 163, Florida Statutes (hereinafter referred to as "Agency"), (the City, Utility District and Agency maybe collectively be referred to as "Lessors"), and RYBOVICH RIVIERA BEACH, LLC, a Florida limited liability company (hereinafter referred to as "Rybovich" or "Lessee") and J. MICHAEL HAYGOOD, P.A. (hereinafter referred to as "Escrow Agent").

WITNESSETH:

WHEREAS, the Lessors own certain property located in the City of Riviera Beach; and

WHEREAS, the Lessors and the Lessee have entered into that certain lease entitled Submerged and Upland Lands Lease dated September 15, 2010 (hereinafter the "Lease"); and

WHEREAS, the Lease provides the terms and conditions for the lease of the certain uplands and submerged lands owned by the City and the Utility District and an option to lease certain property owned by the Agency; and

WHEREAS, Rybovich has agreed to terminate its interest in the Lease and move its proposed use of the property in the lease to other property, but needs the abandonment of certain road rights of way more particularly described herein ("Abandonment Application"); and

WHEREAS, Rybovich has agreed to tender the termination agreement ("Termination Agreement") attached as Exhibit "A" to be kept in escrow and not delivered to the Lessors until the approval of Rybovich's Abandonment Application; and

WHEREAS, the City, Utility District, Agency, Rybovich and Escrow Agent desire to set forth the terms pursuant to which the Termination Agreement is to be held and disbursed.

NOW THEREFORE, in consideration of the mutual covenants, promises and benefits contained herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

1. Recitals. The parties acknowledge and agree that the recitals set forth above are true and correct and are hereby made a part of this Agreement as if fully set forth herein.

2. Defined Terms. Any capitalized terms which are not separately defined in this Agreement shall have the meaning ascribed thereto in the Lease or Termination Agreement.

3. Delivery of Termination Agreement in Escrow. Upon execution of this Agreement, Rybovich shall deliver the fully executed Termination Agreement to the Escrow Agent which shall be held in trust by the Escrow Agent pursuant to the terms set forth herein.

4. Delivery of Termination Agreement. The Escrow Agent shall hold said Termination Agreement in escrow, and shall release and deliver the Termination Agreement only under the following conditions:

(a) The Termination Agreement shall be held in escrow by Escrow Agent until the City of Riviera Beach approves the Abandonment Application, which proposes the City's abandonment of approximately 450 lineal feet of East 20th Street between Avenue C and Avenue B, and approximately 60 feet of Avenue B starting at E 20th St and proceeding north. Rybovich shall submit a complete Abandonment Application with all required fees to the City of Riviera Beach within 30 days of the execution of this agreement. City staff shall process and review the abandonment request and the City Council shall render a decision within 120 days of the submission of the Abandonment Application. Upon the approval of the Abandonment Application and delivery of an executed ordinance approving the same to Rybovich and the Escrow Agent, the Escrow Agent shall deliver the Termination Agreement to the City, Utility District and the Agency.

(b) In the event that Rybovich has not submitted the Abandonment Application and all fees to the City within 30 days of the execution of this agreement, the Escrow Agent shall deliver the Termination Agreement to the City, Utility District and the Agency. The delivery of the Termination Agreement pursuant to this provision shall not prejudice Rybovich from applying for an abandonment of the specified streets.

(c) This Agreement shall not affect the City's right, duty, obligation, authority and power to act in its governmental police power or regulatory capacity in accordance with applicable laws, ordinances, codes or other building regulations. Notwithstanding any other provision of this Agreement, the consideration of the application for abandonment shall be subject to the established procedures and requirements of the City with respect to review and approval of similar applications. In no event shall the City, due to any provision of this Agreement, be obligated to take any action concerning regulatory approvals except through its established processes and in accordance with applicable provisions of law. In the event, the City does not approve the Abandonment Application, the Termination Agreement shall be returned to Rybovich.

(d) In the event that a party makes a demand or request for delivery of the Termination Agreement, the Escrow Agent shall send a copy of such request or demand to the other parties. In the event that Escrow Agent does not receive a written objection to the disbursement requested or demanded within five (5) business days of the receipt of the demand request by a party, the Escrow Agent shall disburse the Termination Agreement. In the event that Escrow Agent receives a timely objection to any disbursement, the Escrow Agent shall continue to hold the Termination Agreement until either (i) the parties deliver the Escrow Agent joint or mutual written instructions as to the disbursement of the Termination Agreement (ii) until directed to disburse the Termination Agreement by a court of competent jurisdiction.

4. General Conditions of Escrow. Except as specifically modified by written instruction executed by all parties and accepted by Escrow Agent, the following conditions shall apply to this escrow, and the documents received hereunder.

(a) Limitations of Liability: Without limitation, Escrow Agent shall not be liable for any loss or damage resulting from the following:

The financial status or insolvency of any other party, or any misrepresentation made by any other party.

Any legal effect, insufficiency, or undesirability of any instrument deposited with or delivered by or to Escrow Agent or exchanged by the Parties hereunder, whether or not Escrow Agent prepared such instrument.

The default, error, action or omission of any other party to the escrow.

The expiration of any time limit or other consequence of delay, unless a properly executed Closing Instructions, accepted by Escrow Agent has instructed the Escrow Agent to comply with said time limit.

Escrow Agent's compliance with any legal process, subpoena, writ, order, judgment or decree of any court, whether issued with or without jurisdiction and whether or not subsequently vacated, modified, set aside or reversed.

(b) Completion of Duties: Upon completion of the disbursement of the Funds, in accordance with terms and conditions of this Agreement and the Closing Instructions of the Parties, Escrow Agent shall be automatically released and discharged of its escrow obligations hereunder.

(c) Agents: These conditions of escrow shall apply to and be for the benefit of agents of the Escrow Agent employed by it for services in connection with this escrow, as well as for the benefit of Escrow Agent.

(d) Attorney's Fees: In the event that litigation is initiated relating to this escrow, the Parties hereto agree that Escrow Agent shall be held harmless from any reasonable attorney's fees, court costs and expenses relating to that litigation to the extent that litigation does not arise as a result of the Escrow Agent's fault hereunder or under the Closing Instructions of the Parties. In the event that conflicting demands are made on Escrow Agent, or Escrow Agent, in good faith, believes that any demands with regard to the Funds are in conflict or are unclear or ambiguous, Escrow Agent may bring an interpleader action in an appropriate court. Such action shall not be deemed to be the "fault" of Escrow Agent. To that end, the Parties hereto, other than Escrow Agent, agree to indemnify Escrow Agent from all reasonable attorney's fees, court costs and expenses in connection with same, through final appellate review.

(e) Duties of Escrow Agent: Escrow Agent is authorized and agrees by acceptance of this Agreement to hold and deliver the same or the proceeds thereof in accordance with the terms hereof. In the event of doubt as to its liabilities or duties, Escrow Agent may, in his sole discretion (i) continue to hold the Termination Agreement until the Parties mutually agree in writing to the disbursement thereof, or until a judgment of a court of competent jurisdiction shall determine the rights of the Parties thereof. In the event of any suit wherein Escrow Agent is made a party by virtue of acting as agent, or in the event of any suit initiated by

or against Escrow Agent, Escrow Agent may interplead any money held by Escrow Agent. Escrow Agent shall be entitled to recover reasonable attorneys' fees and costs incurred in negotiation, at trial and upon appeal, said fees and costs to be charged and assessed as court costs in favor of Escrow Agent and immediately paid by the non-prevailing party. The Parties agree that Escrow Agent shall not be liable to anyone for misdelivery or monies unless such misdelivery shall be due to willful breach of this Agreement or gross negligence on the part of Escrow Agent. Escrow Agent is held harmless from any and all compliance with its obligations hereunder. Escrow Agent shall not be liable for any loss resulting from any default, error, action or omission, loss or impairment of funds in the course of collection or while on deposit result from failure or suspension of the depository institution or Escrow Agent's compliance with any legal process, order or judgment of any court, whether or not subsequently vacated or modified.

5. Notice. Any notices which may be permitted or required hereunder shall be in writing and shall be deemed to have been duly received as of the date and time the same are personally delivered, when actually received pursuant to transmission by facsimile or telecopier, or when delivered by overnight courier, or three (3) business days after deposited with the United States Postal Service, postage prepaid by registered or certified mail and addressed as follows:

If to City:	The City of Riviera Beach 600 W. Blue Heron Boulevard Riviera Beach, Florida 33404 Attention: City Manager and City Attorney
If to Utility District:	City of Riviera Beach Utility District 600 W. Blue Heron Boulevard Riviera Beach, Florida 33404
If to Agency:	Riviera Beach Community Redevelopment Agency 2001 Broadway, Suite 300 Riviera Beach, Florida 33404 Attention: Executive Director
With a copy to:	J. Michael Haygood, P.A. 1551 Forum Place Suite 400-B West Palm Beach, Florida 33401
It to Rybovich:	Rybovich Riviera Beach, LLC 450 East Las Olas Boulevard, Suite 1500 Fort Lauderdale, Florida 33301 Attention: Carlos Viduera, Senior VP
With a copy to:	Bruce Loren & Associates 2000 Palm Beach Lakes Blvd, Suite 501 West Palm Beach, Florida 33409

If to Escrow Agent: J. Michael Haygood, P.A.
1551 Forum Place, Suite 400-B
West Palm Beach, Florida 33401

6. Binding Effect. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective devisees, personal representatives, successors and assigns.

7. Waiver; Modification. The failure by any party to insist upon or enforce any of their rights shall not constitute a waiver thereof and nothing shall constitute a waiver of any party's right to insist upon strict compliance with the terms of this Agreement. Any party may waive the benefit of any provision or condition for its benefit which is contained herein. No oral modification of this Agreement shall be binding upon the parties and any modification must be in writing and signed by the parties.

8. Governing Law. This Agreement shall be governed by and construed under the laws of the State of Florida.

9. Capitalized terms. Capitalized terms in this Agreement have the same meanings as defined in the Purchase Agreement.

10. Headings. The paragraph headings set forth in this Agreement are for convenience of reference only and shall not be deemed to vary the content of this Agreement or limit the provisions or scope of any paragraph herein.

11. Attorneys' Fees. In the event that it becomes necessary for any party to bring suit to enforce the terms of this Agreement, then the prevailing party(ies) shall be entitled to recover all costs, including reasonable attorneys' fees incurred in connection with such litigation (including appellate proceedings) against the non-prevailing party.

12. Time. Time is of the essence of this Agreement and of the covenants and provisions hereof.

13. Severability. If any provision of this Agreement or the application thereof to any person or circumstances shall be invalid or unenforceable to any extent, the remainder of this Agreement and the application of such provisions to other persons or circumstances shall be affected thereby and shall be enforced to the greatest extent permitted by law.

14. Counterpart Execution. This Agreement may be executed in counterparts, each of which shall constitute an original, but all taken together shall constitute one and the same Agreement.

[Signatures to follow]

IN WITNESS WHEREOF, the parties hereto have executed this Escrow Agreement as of the day and year first above written.

Attest:

By: _____
Carrie E. Ward, MMC, City Clerk

"CITY"

CITY OF RIVIERA BEACH

By: _____
Thomas A. Masters, Mayor

As to Form and Legal Sufficiency

By: Pamela H. Ryan
Pamala H. Ryan, Attorney for City &
Utility District

"UTILITY DISTRICT"

CITY OF RIVIERA BEACH UTILITY
DISTRICT

By: _____
Judy L. Davis, Chairperson

"AGENCY"

CITY OF RIVIERA BEACH
COMMUNITY REDEVELOPMENT
AGENCY

By: _____
Judy L. Davis, Chairperson

"RYBOVICH"

RYBOVICH RIVIERA BEACH, LLC

By: _____
Carlos E. Vidueria, Vice President

"ESCROW AGENT"

Haygood & Harris, LLC

By: _____
J. Michael Haygood, Manager

Amended Landscape Ordinance Outline
Planning and Zoning Board Meeting
10.27.2011 @ 6:30 PM, City Council Chambers

Florida Friendly Landscape Regulations

- Purpose
- Definitions
- Applicability
- Exemptions
- General provisions
- Appropriate plant selection, location, and arrangement
- Landscape plan and irrigation plan requirements
- Installation and maintenance guarantee
- Standards for preservation of native vegetation areas
- Plant material standards and installation requirements
- Plant Material - Continued
- Landscape maintenance
- Landscape maintenance Continued
- Buffers for multifamily development, commercial and other nonresidential
- Development landscape requirements
- Parking areas for multifamily and nonresidential developments
- Turf areas
- Efficient irrigation
- Soils
- Yard waste management, composting and use of mulches
- Fertilizer and pesticide management
- Shoreline considerations
- Volunteer plants
- Violations, enforcement and penalty
- Hardship Relief
- Informational Material
- Conflicts and relationships to other laws

Section 1. Chapter 31, Article VIII, "Landscape Regulations", is hereby repealed in its entirety and a new Article VIII is adopted to read as follows:

ARTICLE VIII. FLORIDA FRIENDLY LANDSCAPE REGULATIONS

Purpose.

- (a) The provisions of this section shall be known as the "Riviera Beach Landscape Code" and "landscape code." The provisions of this Article shall be a minimum standard for landscape requirements within the municipal limits. The following items encompass the purpose of this article:
 - (1) To establish minimum standards for the development, installation, and maintenance of landscaping that incorporate Florida Friendly landscape principles within the City limits without inhibiting creative landscape design, construction and management.

- (2) To provide minimum standards for landscaping new development or redevelopment, including parking areas and required buffers.
- (3) To promote the establishment and maintenance of diverse, functional and sustainable landscapes and plant communities that maximize the storage of sequestered carbon, aide in stormwater management, improve air quality, and conserve energy while reducing greenhouse gasses and additional watering requirements.
- (4) To protect and enhance local aesthetic character while increasing biodiversity and wildlife.
- (5) To provide economic and social benefits by incorporating plant material as a function of sustainability and as an integral part of urban development and community within the City.
- (6) To promote water conservation, water quality improvement, and vegetation protection objectives by providing for:
 - (a) The implementation of Florida-Friendly Landscaping™ principles as identified by the Florida Yards and Neighborhoods program operated by the University of Florida's Institute of Food and Agricultural Services Extension ("UF/IFAS Extension") and Best Management Practices ("BMPs") identified in the *Florida-friendly Best Management Practices for Protection of Water Resources by the Green Industries* (2008), and as provided by law.
 - (b) The use and proper placement of site-appropriate plant materials.
 - (c) The preservation of existing native plant communities.
 - (d) The reestablishment of native plant communities.
 - (e) The elimination of invasive plant species.
 - (f) The use of guidelines to minimize negative secondary and cumulative environmental effects associated with the misuse of fertilizers and pesticides.

Definitions

For the purpose of this ordinance, the following words and phrases shall have the meanings respectively ascribed to them by this section.

All words used in the present tense include the future; all words in the singular number include the plural and the plural the singular; the word "building" includes the word "structure"; the word "shall" is mandatory and the word "person" includes a firm, corporation, county, municipal corporation, or natural person. The term "Council" shall mean City Council of the City of Riviera Beach, and the word "City" shall mean the City of Riviera Beach. The word "used" shall be deemed to include the words "arranged", "designed", or "intended to be used", and the word "occupied" shall be deemed to include the words "arranged", "designed", or "intended to be occupied". Any word or term not interpreted or defined by this section shall be used with a common dictionary meaning of common or standard utilization.

- (1) *Appeal* means any request for a review of a decision of an administrative determination of the community development director to the zoning board of adjustment.
- (2) *Aquascape* means the planting of aquatic and wetland plants in the enhancement, restoration, or creation of freshwater, estuarine, or marine systems.
- (3) *Automatic Controller* means a mechanical or electronic device, capable of automated operation of valve stations to set the time, duration and frequency of a water application
- (4) *Best Management Practices (BMPs)* means a practice or combination of practices based on research, field-testing, and expert review, determined to be the most effective and practicable on-location means, including economic and technological considerations, for improving water quality, conserving water supplies and protecting natural resources.

- (5) *Bioretention* means an engineered process to manage stormwater runoff, using the chemical, biological and/or physical properties found in a natural, terrestrial-based community of plants, microbes and soils.
- (6) *Buffer* means a landscape area that may include walls, fences, berms, trees, shrubs, hedges, ground cover and other plant materials.
- (7) *Buffer screen* means a portion of a buffer which includes a six foot high, opaque vegetative landscape screen designed and maintained to visually screen a development or portion thereof from adjacent property within one year of construction and planting.
- (8) *Canopy* means one or more plant crowns growing in a given area.
- (9) *Champion tree* means the largest tree of a species which has been designated by the State Department of Agricultural and Consumer Services, Division of Forestry.
- (10) *Clear trunk* means the distance between the top of the root ball along the vertical trunk(s) of a tree to the point at which lateral branching or fronds begin.
- (11) *Constant Pressure/Flow Control* means a device that maintains a constant flow, or pressure, or both.
- (12) *Crown* means the upper portion of a tree consisting of limbs, branches and leaves. (see canopy)
- (13) *Crown Spread, Average* is determined by taking the widest horizontal distance (spread) of the crown and averaging it with a crown spread measurement taken at right angles to the widest measurement.
- (14) *Developed landscape area* means that portion of the property where pre-development vegetation is to be removed.
- (15) *Diameter at breast height (DBH) circumference or caliper* means the trunk diameter of a tree measured at 4½ feet above ground level from the base of the tree. If the tree trunk forks below 4½ feet above ground level, the city shall consider each trunk to be a tree.
- (16) *Drip line* means a vertical line extending from the outermost branches of a tree to the ground, provided that the same shall not be less than a ten-foot diameter circle, drawn through the center of the trunk of a tree.
- (17) *Ecosystem* means a characteristic assemblage of plant and animal life within a specific physical environment, and all interactions among and between species and their environment.
- (18) *Endangered species, threatened or rare species, and species of special concern* means a species listed as endangered, threatened or of concern by one or more of the following agencies: U.S. Fish and Wildlife Service; Florida Game and Fresh Water Fish Commission; Florida Department of Agricultural and Consumer Services; Florida Committee on Rare and Endangered Plants and Animals.
- (19) *Emitter* means the device used to control the applications of irrigation water. This term is used to refer to the low flow rate devices used in micro-irrigation systems.
- (20) *Environmentally sensitive land* means land which has unique ecological characteristics and/or functions, rare or limited combinations of geological formations, and/or features of rare or limited nature constituting habitat suitable for fish, plants or wildlife.
- (21) *Exempt tree or unprotected tree* means a category 1 invasive tree recognized by the Florida Exotic Pest Plant Council (FLEPPC), which is free from any tree protection requirements of this article, listed in Appendix A.1, or other specifically noted species found in Appendix A.2 of this landscape code. This list may be amended from time to time by the FLEPPC, and most recently updated list shall substitute for any outdated appendix found in this landscape code.

- (22) *Evergreen* means those trees, including broad-leafed and conifer evergreens that maintain their leaves year round.
- (23) *Excessive lifting or lion-tailing* means improperly pruning a tree in a manner that removes or thins all or most of the tree's lower and interior branches resulting in a clump of terminal foliage at the ends of branches. This results in a top-heavy tree, disfigures the tree's natural form and increases the chance for branch breakage and the likelihood of a tree to fall during a storm event.
- (24) *Filter* means a device in irrigation distribution systems that separates sediment or other foreign matter.
- (25) *Florida Friendly* means practices, materials, or actions that help to preserve Florida's natural resources and protect the environment.
- (26) *Florida Friendly Landscape*. A landscape that incorporates the BMPs and philosophies promoted by programs such as Florida Yards and Neighborhoods/Environmental Landscape Management. Quality landscapes that conserve water, protect the environment, are adaptable to local conditions, and are drought tolerant. The principles of such landscaping include planting the right plant in the right place, efficient watering, appropriate fertilization, mulching, attraction of wildlife, responsible management of yard pests, recycling yard waste, reduction of stormwater runoff, and waterfront protection. Additional components include practices such as landscape planning and design, soil analysis, the appropriate use of solid waste compost, minimizing the use of irrigation, and proper maintenance; see Sec. 373.185(1)(b) "Florida-friendly landscaping" for statutory definition.
- (27) *Groundcover* means low growing plant species other than turf grass, used to cover the soil, that forms a continuous, low mass of foliage, normally reaching an average maximum height of 24 inches at maturity. Ground cover must present a finished appearance and reasonably complete coverage at time of planting if used in lieu of grass.
- (28) *Grubbing* means the removal of vegetation from land by means of digging, raking, dragging or otherwise disturbing the roots of vegetation in soil in which such roots are located.
- (29) *Hardscape* means areas such as patios, decks, driveways, paths and sidewalks that do not require irrigation.
- (30) *Hatracking or tree topping* means to improperly prune a tree in order to permanently maintain growth at a reduced height. It also means to flat-cut a tree, severing the leader or leaders. Hatracking involves pruning a tree by stubbing off mature wood larger than one inch in diameter; or reducing the total circumference or canopy spread not in conformance with National Arborists Society standards.
- (31) *Hedge* means a row of closely and evenly spaced shrubs or other vegetation planted to form a dense, continuous, unbroken visual screen.
- (32) *High Water Use Plants* means plants that require irrigation to provide supplemental water on a regular basis in addition to natural rainfall, or are so identified by a regulatory agency having jurisdiction. When placed in a naturally high water table area appropriate to the plant such that irrigation is not required, such plants shall not be considered high water use for the purposes of this ordinance.
- (33) *Hydrozone* means a distinct grouping of plants with similar water needs and climatic requirements.
- (34) *Impervious area* means a surface not allowing the passage of air and water to the root system of trees and other vegetation. Runoff is water applied to the soil or landscape that is not absorbed and flows from the area. A pervious area is a permeable surface area allowing passage of surface water and air to the root system of a tree. A pervious area shall be free of significant amounts of clay, shell, marl, limestone or other road-base material unless expressly permitted in the context thereof but the owner may surface it with turf blocks or similar nontoxic products.
- (35) *Infiltration Rate* means the rate of water entry into the soil expressed as a depth of water per unit of time (inches per hour).

- (36) *Installation and maintenance guarantee* means a document which binds the developer or property owner of a development to guarantee the proper installation and maintenance of required landscape and irrigation materials for a set period of time, at 110 percent of the initial cost of obtaining and installing all landscaping elements.
- (37) *Invasive*
- (38) *Irrigated landscape area* means all outdoor areas that require a permanent irrigation system.
- (39) *Irrigation System* means artificial watering systems designed to transport and distribute water to plants.
- (40) *Irrigation Zone* means a grouping of soakers, sprinkler heads, bubblers or microirrigation emitters operated simultaneously by the control of one valve.
- (41) *Land clearing* means any development, vegetation removal, scrubbing, grading or other activity that alters the land it is located on.
- (42) *Landscape* means any combination of living plants (such as grass, ground cover, shrubs, vines, hedges, palms or trees) and non-living landscape material (such as rocks, pebbles, sand, mulch, walls, fences), but excluding paving. Decorative statues or sculptures are permissible but shall not substitute for any requirement.
- (43) *Landscape Construction Documents or Landscape Plan* may include a planting plan, a landscape layout plan, an irrigation plan, a grading and drainage plan, detail sheets and written specifications. Plans shall be numbered, dated, North arrow indicated, scaled, and sealed by an appropriately licensed professional where required by Florida Statutes Chapter 481, Part II.
- (44) *Landscape Design* means consultation for and preparation of planting plans drawn for compensation, including specifications and installation details for plant materials, soil amendments, mulches, edging, gravel, and other similar materials. Such plans may include only recommendations for the conceptual placement of tangible objects for landscape design projects. Construction documents, details, and specifications for placement of tangible objects and irrigation systems shall be designed or approved by licensed professionals as required by law.
- (45) *Landscape Layout Plan* means plans and drawings showing the location of buildings, structures, pedestrian, transportation, or environmental systems, and the detail for placement of site amenities, accessibility components, plantings and other tangible objects. Plans shall be numbered, dated, North arrow indicated, scaled, and sealed by an appropriately licensed professional where required by Florida Statutes Chapter 481, Part II.
- (46) *Landscape strip* means a strip containing trees, barriers, ground cover or other plant material as required by this Article.
- (47) *Landscaped Area* means the entire parcel; less the building footprint, driveways, hardscapes such as decks and patios, and non-porous areas. Water features are included in the calculation of the landscaped area. This landscaped area includes Florida-friendly landscaping as defined in Chapter 373.185(1)(b), F.S.
- (48) *Lawn grass* shall include all species normally grown as permanent lawns in the county. Grass may be sodded, plugged, sprigged or seeded, except that solid sod shall be used in areas subject to erosion. In areas where other than solid sod or grass is used, nurse grass seed shall be sown for immediate effect and protection until coverage is otherwise achieved. Grass sod shall be clean and reasonably free of weeds and noxious pests or diseases.
- (49) *Light pollution* means any adverse effect of artificial lighting including but not limited to skyglow, glare, light trespass, and light clutter.
- (50) *Low-flow Point Applicators* means irrigation applicators with output less than 60 gallons per hour (gph).
- (51) *Low Maintenance Area (AKA No-Mow-Zone)* means a designated area within a landscape that is planted and managed in order to minimize or eliminate the need for mowing, watering and fertilization.

- (52) *Low Maintenance Riparian Zone* means an area that is at least ten feet wide adjacent to a water body which is planted and managed in order to minimize the need for maintenance such as mowing, watering, fertilizing, etc.
- (53) *Low Water Use Plants* means plants that do not need supplemental water beyond natural rainfall, or are so identified by a regulatory agency having jurisdiction.
- (54) *Microclimate* means the climate of a specific area in the landscape that has substantially differing sun exposure, temperature, or wind, than surrounding areas or the area as a whole.
- (55) *Microirrigation (low volume)* means the application of small quantities of water directly on or below the soil surface, usually as discrete drops, tiny streams, or miniature sprays through emitters placed along the water delivery pipes (laterals). Microirrigation encompasses a number of methods or concepts including drip, subsurface, bubbler, and spray irrigation, previously referred to as trickle irrigation, low volume, or low flow irrigation, that deliver water directly to plant root zones with a high degree of efficiency, no runoff, and little to no evaporation.
- (56) *Moderate Water Use Plants*. Plants that need supplemental water during seasonal dry periods.
- (57) *Moisture Sensing Device or Soil Moisture Sensor*. A device to indicate soil moisture in the root zone for the purpose of controlling an irrigation system based on the actual needs of the plant.
- (58) *Mulch* means non-living, organic, materials used in landscape design to impede erosion, retain moisture, control weeds, enrich the soil and reduce soil temperature.
- (59) *Native Vegetation* means any plant species with a geographic distribution indigenous to South Florida, specifically all or part of Palm Beach County, as shown in South Florida Water Management District's "WaterWise: South Florida Landscapes" (listed as Appendix B), or alternative scientifically recognized publication or peer reviewed journal such as: Wunderlin, R. P. 1998. Guide to the Vascular Plants of Florida. University Press of Florida, Gainesville.
- (60) *New development* means the construction of a building or structure on unimproved real property.
- (61) *Nuisance species* means an exotic invasive species recognized as such by the Florida Exotic Pest Plant Council, Florida Department of Environmental Protection, Florida Department of Agriculture & Consumer Services, U.S. Department of Agriculture or similar, which include but are not limited to Australian Pine (*Casuarina equisetifolia*), Brazilian Pepper (*Schinus terebinthifolius*), and Melaleuca (*Melaleuca quinquenervia*).
- (62) *No-Mow Zone* see definition for *Low-Maintenance Area*.
- (63) *Palm* means a plant belonging to the monocot order, of the family *Palmae*, distinguished by having unbranched single or multi-trunks crowned by large, compound pinnate or palmate leaves/fronds.
- (64) *Parking area* means all property used for off-street parking, vehicular aisles and access ways, loading zones, interior and perimeter landscaping, and other outdoor vehicular use areas.
- (65) *Pervious Paving Materials* means a porous asphaltic, concrete or other surface and a highvoid aggregate base which allows for rapid infiltration and temporary storage of rain on, or runoff delivered to, paved surfaces.
- (66) *Plant Bed* means a grouping of trees, shrubs, ground covers, perennials or annuals growing together in a defined area devoid of turfgrass, normally using mulch around the plants.
- (67) *Plant Communities* means an association of native plants that are dominated by one or more prominent species, or a characteristic physical attribute.
- (68) *Point of Connection (POC)* means the location where an irrigation system is connected to a water supply.

- (69) *Planting Plan* means specifications and installation details for plant materials, soil amendments, mulches, edging, gravel, and other similar materials.
- (70) *Pop-up Sprays* means spray heads that pop up with water pressure and provide a continuous spray pattern throughout a given arc of operation.
- (71) *Pressure Tank* means a pressurized holding tank for irrigation water coming from wells to minimize cycling of the water pump.
- (72) *Pruning* means the proper cutting or trimming of tree limbs or palm fronds in accordance with national arborists standards or American National Standards Institute (ANSI) A300 Standard for tree care operations. Proper pruning results in improved tree health and appearance. Improper pruning can result in branch and trunk decay and also leave a tree more susceptible to disease and harmful insects (see hatracking).
- (73) *Pruning, directional* means a pruning technique that reduces the crown of a tree without topping or hat tacking branches. This technique utilizes proper cuts, does not leave a stub, and does not disturb the branch collar and the branch bark ridge. This technique is most often used when a tree is or has the potential to interfere with a utility line or other obstruction.
- (74) *Pump Cycling* means an irrigation pump coming on and shutting off frequently during operation of irrigation systems.
- (75) *Rain Sensor Device*. A low voltage electrical or mechanical component placed in the circuitry of an automatic irrigation system that is designed to turn off a sprinkler controller when precipitation has reached a pre-set quantity.
- (76) *Remove or removal* means actual or effective removal through killing, damaging, or destroying of any trees that are not exempt trees.
- (77) *Renovation development* means a development that includes:
- a. Additions to existing buildings or structures totaling 25 percent or more of the total gross floor area of all existing buildings or structures on the site inclusive of any additions made during the previous three years; or
 - b. Improvements to existing buildings and site improvements consisting of any combination of repairs, reconstruction and alteration to a building or site the cumulative costs of which, according to most current edition of the Southern Building Code valuation (updated annually), equal or exceed \$25,000.00.
- (78) *Replacement tree or replacement vegetation* means any number of trees or vegetation noted in Appendix B of this landscape code deemed acceptable by the community development director as substitute/mitigation for any number of trees or vegetation removed.
- (79) *Restoration plan* means a landscape plan required to address violations of this landscape code and prepared in accordance with the requirements outlined herein.
- (80) *Runoff* means water that is not absorbed by the soil or landscape and flows from the area following irrigation or a storm event.
- (81) *Shade tree* means a tree that locally reaches a minimum height of 30 feet at maturity, providing relief from direct sunlight for at least six months of the year. (See *accent tree*).
- (82) *Shrub* means any woody perennial plant of low height, characterized by multiple stems and branches continuous from the base. Shrubs shall be a minimum of 24 inches in height and have a minimum 12-inch spread or be a 3-gallon container size at planting.

- (83) *Site Appropriate Plant* means a plant that after establishment will thrive within the environmental conditions that are normal for a specific location without artificial supplements such as irrigation.
- (84) *Skyglow* means the illumination of the night sky or parts of it, most commonly created by artificial light sources. See *Light pollution*.
- (85) *Soil Moisture Sensor* see *Moisture Sensing Device*.
- (86) *Soil Texture* means the classification of soil based on the percentage of sand, silt, and clay in the soil.
- (87) *Spread* see crown.
- (88) *Tree* means a self-supporting, long-lived, perennial woody plant, often having many secondary branches supported clear of the ground on a single main stem or trunk with clear apical dominance. Mature height varies depending on species type. Planting requirements for all trees required by the City and/or denoted on a landscape plan shall meet the following criteria; minimum height of 12 feet, average spread of 5 feet, minimum 6 foot clear trunk. (See shade tree, exempt tree).
- (89) *Tree abuse* means improperly pruning, cutting, hat-racking, or shaping a tree to the extent that more than 25% of the canopy is removed within a year. Visual indications of tree abuse are stub cuts, ripping or tearing of bark below fresh cuts.
- (90) *Turf and/or Turfgrass* means a mat layer of monocotyledonous plants such as Bahia, Bermuda, Centipede, Paspalum, St. Augustine, and Zoysia.
- (91) *Understory* means the vegetative layer, especially smaller accent trees and shrubs, between the canopy and ground cover of a landscape.
- (92) *Urban tree canopy (UTC)* means the layer of leaves branches and stems of trees that cover the ground when viewed from above.
- (93) *Vacant development* means a building or buildings comprising a single development and having remained unoccupied for not less than 180 days.
- (94) *Valve* means a device used to control the flow of water in the irrigation system.
- (95) *Vine* means any plant with a long slender stem that trails or creeps on the ground or climbs by winding or attaching itself on a support such as walls, poles and trees. They shall be a minimum of 36 inches in height at planting and may be used in conjunction with fences, screens or walls to meet physical barrier requirements.
- (96) *Visibility triangle* means the area of land described as either of the following:
- a. The triangular area of property on each side of a driveway formed by the intersection of the driveway and the public right-of-way line with two sides of each triangle being ten feet in length from the point of intersection and the third side being a line connecting the ends of the two other sides; or
 - b. The triangular area of property located at a corner formed by the intersection of two or more public rights-of-way. Two sides being 25 feet in length along the abutting public right-of-way lines and pavement edges, measured from their point of intersection, and the third side being a line connecting the ends of the two other sides. Refer to the landscaping exhibit A for a visual representation of a visibility triangle.
- (97) *Volunteer plant* means a plant that has been naturally deposited and germinated which was not intentionally planted or contemplated as part of a landscape plan. Unlike weeds, which are unwanted plants, a volunteer may be encouraged and cared for once it appears.

(98) *Water Use Zone* see Hydrozone.

(99) *Xeriscape* see Florida-friendly landscape.

Applicability

(a) Specific application of the provisions of this Article shall include, but not be limited to:

- (1) All new, redeveloped, or rehabilitated landscapes for public projects and private development projects, including, but not limited to, industrial, commercial, residential, and recreation projects, including new single-family and two-family homes;
- (2) Developer-installed landscapes at entrances into and common areas of single-family and multi-family projects; and
- (3) Any development approved prior to the Effective Date of this Article if the approved site plan is amended through the site plan review process and not administratively.

(b) This chapter shall apply to all new residential and nonresidential development or to the expansion or redevelopment of existing development. Existing single family dwellings and duplexes shall be exempt from the provisions of this chapter with the following exceptions:

- (1) Swales, visibility at intersections, pruning of trees, turf and weed heights, edging of curbs, sidewalks and roadways, exempt or prohibited species, native trees, tree canopy clearance, vegetation removal as it applies to street trees and/or trees required as part of a site and/or landscape plan approval or required to satisfy minimum landscaping requirements.

(c) The provisions of this Article shall apply to the development, redevelopment, rehabilitation, and maintenance of all property within present or future incorporated areas of the City, which are subject to the City's Land Development Regulations and Code of Ordinances. All buildings, structures and changes of use requiring Site Plan Review shall require a submittal of a landscape plan. Landscape plans shall be prepared by a registered landscape architect, or other person authorized pursuant to Sections 481.301 through 481.329, F.S., as amended. Landscape plans for single-family and duplex dwellings may be prepared by the property owner instead of a landscape architect.

(d) No department shall issue a permit provided for herein in violation of this chapter. Compliance with this chapter will be confirmed via permit application/landscape plan. The standards and requirements contained in this chapter are continuing and do not expire upon issuance of the final certificate of occupancy or certificate of completion.

(e) No permit shall be issued for building, paving, grading or tree removal unless the construction documents comply with the provisions hereof.

(f) No new Certificate of Occupancy or Certificate of Use shall be issued until the requirements herein are met to the fullest extent possible, as determined by the Director of Community Development.

(g) All City facilities shall be managed in accordance with these principles within one year of the Effective Date of this Article. All City landscape service contractors will adhere to the practices outlined within. All new bid specifications and contracts will reflect this requirement beginning one year after the Effective Date of this Article.

(h) All new and renovated City facility landscapes will be designed in accordance with these principles and be constructed and installed utilizing Florida Friendly landscape methods and materials.

(i) The following activities or uses are explicitly exempted from the provisions of this Article:

- (1) Bonafide agricultural activities, as defined by Florida Statute;
 - (2) Turf grass and/or play areas associated with golf courses and specialized athletic fields;
 - (3) Any development that is governed by an approval, final site development plan or a valid building permit issued prior to the Effective Date of this Article is exempted from retrofitting or meeting the specific provisions related to efficient irrigation. Existing development is not exempted from those provisions affecting management or maintenance;
 - (4) Rights-of-way for public utilities, including electrical transmission and distribution lines, and natural gas pipelines;
 - (5) Turf grass in stormwater management areas;
 - (6) Community recreation and play areas;
 - (7) Historically recognized community landmarks;
 - (8) Cemeteries; and
 - (9) Environmental restoration projects.
- (j) If the provisions of this Article conflict with other Ordinances or Regulations, the more stringent limitation or requirement shall govern or prevail to the extent of the conflict.

Exemptions.

- (e) The following are exempt from the permitting and review process of this landscape code:
- (1) The removal of trees or other landscape element severely damaged by fire, windstorm, lightning, or other acts of nature, which pose imminent danger to life or property;
 - a. Pruning or removal of damaged trees after a natural disaster or act of nature, such as a hurricane, shall be done according to current best management practices (ANSI A300 or similar).
 - i. If the vital structural elements of a tree have been compromised, the tree shall be removed and replaced with same or similar tree species.
 - ii. If a lightly damaged tree maintains the necessary structural stability to regenerate, it is not to automatically be removed, as it may recover and obtain a desirable form with future maintenance and supervision. If said tree shows signs of deterioration, the tree shall be removed and replaced with same or similar tree species.
 - (2) The removal of landscaping specifically grown as landscape material for resale, including all licensed nurseries and botanical gardens;
 - (3) The removal of exempt trees (prohibited vegetation/invasive species), as defined in Appendix A of this landscape code;
 - (4) The removal of damaged or hazardous trees in conjunction with a declared emergency.

General Provisions.

- (1) Low impact site design practices, such as preserving existing native trees and vegetation, shall be used whenever feasible. Where established vegetation is incorporated into the landscape design, irrigation of those areas shall not be required. Vegetation preserved in this manner may be counted towards the total number of required plants needed

for site plan approval, at a ratio depending on the quality of the vegetation on site, but shall not substitute for landscaping required within buffer areas or parking areas elsewhere onsite.

- (2) The plant palette and irrigation system shall be appropriate for site conditions, which include but are not limited to soil quality and type, elevations, available shade, and proximity to water bodies (fresh/salt water), taking into account that, in some cases, berms and soil improvement may enhance water use efficiency and plant health.
- (3) All landscapes must be designed and planted in accordance with Florida-Friendly landscaping principles. The percentage of landscaped area, excluding turfgrass areas, incorporating the use of high water use hydrozones shall be minimized to no more than twenty (20) percent of the total non-turf grass landscaped area.
- (4) Plant material shall be grouped together by irrigation demand. The percentage of landscaped area requiring high water use irrigation hydrozones should be minimized, and substituted with plants requiring lower amounts of water to survive and thrive whenever feasible.
- (5) High water use hydrozones and turfgrass areas should be located away from impervious surfaces such as parking areas and sidewalks to avoid water runoff and wastage. Narrow strips of turfgrass shall be minimized or eliminated from landscape designs and replaced with low-maintenance ground covers or shrubs.
- (6) Site plans and landscape plans shall be prepared in accordance with the requirements of all applicable Florida and local laws, rules, regulations and ordinances. All landscape and irrigation system designs shall be consistent with the standards required by Section 373.228, F.S., as amended.
- (7) The landscape plan shall consider natural drainage features that minimize runoff and maximize on-site infiltration. The use of pervious surfaces and areas is preferred; therefore impervious surfaces and materials within the landscaped area shall be limited to walkways, step stones, small decorative features or garden accents and other similar materials. Use of pervious paving materials, where appropriate, is encouraged. Refer to the City's Comprehensive plan for appropriate pervious/impervious ratios.
- (8) The landscape plan should consider the soil requirements for trees based on their size at maturity and their distance from adjacent paved/hardscape areas and utility infrastructure. Larger soil volumes lead to greater tree size, better tree health, longer tree life, greater environmental benefits, and fewer costs, such as those associated with tree replacement and damage by roots to property improvements and infrastructure.
- (9) Reclaimed or non-potable water should be used for irrigation if an acceptable source is determined to be available by the water provider. The use of cisterns and rain barrels for irrigation shall be encouraged when deemed appropriate.
- (10) Landscaped areas shall be located on a site in such manner as to maximize preservation of existing trees with priority given to specimen trees and native shade tree species.
- (11) The property owner shall not place impervious/hardscape areas within five feet of the base of an existing tree.
- (12) The property owner shall properly maintain mulch within all planting areas and around all trees to a depth of three inches. The type of mulch shall be specified on the landscape plan. The use of Cypress mulch is discouraged in order to protect natural cypress wetlands and should be substituted with mulch comprised of eucalyptus, melaleuca, pine bark or pine straw or with recycled mulch. Inorganic materials, such as rock, and gravel absorb and re-radiate heat from the sun, increasing water loss from plants and soil and are not a viable substitute for organic mulch.
- (13) The maximum percentage of gravel or decorative rocks used at landscape elements shall be a maximum of 25% of the total required landscape area.
- (14) Not less than 85 percent of a required shoreline buffer shall consist of native vegetation.

- (15) An opaque, minimum six-foot high masonry wall or fence shall screen the storage area for all trash receptacles, including dumpsters. A hedge shall be installed around the perimeter of this screen. Dumpsters shall be sited so as not to be visible from the public right-of-way. Metal gates or similar, shall be used to screen trash receptacles from view from the public right-of-way. All dumpsters must be screened (to greatest extent possible) within one year after the adoption of this code.
- (16) The owner shall exhibit all lighting details on or included with all landscape plan submittals. Efforts shall be made to reduce light pollution, which include light trespass, and skyglow through the use of shielding and proper lighting elements. Proposed elements that will mitigate light pollution shall be described and noted on the plan. Lightning details shall be reviewed for public safety concerns by the Director of Community Development or designee, in accordance with site plan review procedures. Standards for coastal lightning as described in Palm Beach County's Unified Land Development Code, Environmental Standards (Article 14) shall be incorporated when applicable.
- (17) So long as the parking area remains screened from the public right-of-way and adjacent private property, landscape materials may be clustered, and hedges may be replaced or interrupted in areas, which provides for decorative wall, berms and other creative landscape features. This allows for flexibility and creativity in design standards. The Director of Community Development or designee, must approve of such modification in accordance with site plan review procedures, and it must be consistent with the intent of this landscape code.
- (18) The required landscaping (not less than 20 percent of the total gross area) shall be increased by ten (10) square feet for each additional parking space exceeding the minimum number of parking spaces required by the City of Riviera Beach Land Development Code. The additional landscaping shall be designed in accordance with the standards of these regulations. For each additional 100 square feet of impervious areas or fraction thereof, the owner shall provide one shade tree in addition to shrubs, ground cover, grasses and mulch. Additional turf grass areas are not allowed.
- (19) Landscaped areas shall be protected from vehicular encroachment by curbing and wheel stops where appropriate.
- (20) The base of each permitted freestanding sign shall be surrounded by a three foot landscape area around the perimeter of the sign. This three foot area shall be planted with low-growing plant material in a manner that will present a full and finished appearance within a six month period from planting. Completion of this requirement is mandatory prior to the final inspection and approval of any new freestanding sign or sign face change.
- (21) The owner shall eradicate and remove all category 1 exotic nuisance vegetation as defined by the Florida Exotic Pest Plant Council as part of the site preparation process before a certificate of occupancy or certificate of completeness shall be issued.
- (22) The owner shall retain all native vegetation not located in areas requiring their removal as part of the development plan, in an undisturbed state. At minimum, 20 percent of the total gross area of the development site shall be landscaped and the landscaped areas shall be located in such manner as to maximize preservation of existing trees. Such areas of native vegetation shall be screened using a protective barrier during construction. The type of screening shall be approved by the community development director before a permit to clear the property will be issued. The fee shall be the minimum charged by the city for permits.
- (23) Vegetation that is set aside for preservation shall be protected from all on-site construction. Protective barriers shall be installed along the perimeter of all preserve areas and constructed at such intervals to prevent machinery from passing between them. No equipment or materials shall be permitted within set-aside areas, and dumping of excess soil, liquids, or other construction debris into preserved areas is prohibited. Removal or re-grading of soils within preservation areas is prohibited. Any damaged vegetation within the set-aside areas shall be replaced with vegetation equivalent to the vegetation that was destroyed. Protective barriers shall be established and remain around all preserve areas and trees until final landscape inspection approval.
- (24) Existing healthy trees which have a caliper of one and one half inch DBH, or larger, and which are not prohibited trees, may be credited toward meeting the minimum number of required trees. However all buffers and parking areas are required to comply with the parking area landscape requirements.

- (25) A tree removal permit or land clearing permit must be obtained from the city before removing any tree of three inches DBH or greater, unless the tree has been determined to be an invasive or noxious species which can be removed without a permit.
- (26) Please refer to Sec. 30-37 Natural features preservation, for additional preservation requirements for subdivisions.

Appropriate plant selection, location, and arrangement

- (a) Plant selection should be based on the plant's adaptability to the existing conditions present at the landscaped area and native plant communities, particularly considering appropriate hardiness zone, soil type and moisture conditions, light, mature plant size, desired effect, color and texture. Plant species that are drought, wind and/or salt tolerant with some cold tolerance are preferred. Additionally, plants that have a high ecological value, (plants providing important or unique food sources or habitat for animals and/or insects) shall be incorporated into plant selection strategy.
- (b) For purposes of determining prohibited and controlled plant species refer to the Department of Agriculture and Consumer Services rule, Chapter 5B-57 Florida Administrative Code. Plants named in this rule may not be used except as allowed in Chapter 5B-57. Additionally, the Florida Exotic Pest Plant Council's (FLEPPC) list of invasive species shall be used to determine the invasive status of any plant species. Customarily, FLEPPC's list is available online and is updated every two years.
- (c) Plants shall be grouped in accordance with their respective water and maintenance needs. Plants with similar water and cultural (soil, climate, sun, and light) requirements shall be grouped together. The water use zones (hydrozones) shall be shown on the irrigation, layout, and planting plans (where required). Where natural conditions are such that irrigation is not required, the presence of site appropriate plants shall not be considered a high water use hydrozone.
- (d) The combined size of all high water use hydrozones shall be limited to 20% of the total landscaped area. In landscapes irrigated with recycled water, the allowable size of all high water-use zones shall be limited to 75% of the total landscaped area. These high water-use limits do not apply to landscaped areas requiring large amounts of turf for their primary functions, e.g., ballfields and playgrounds.

Landscape plan and irrigation plan requirements.

- (a) Prior to any lot clearing, or the development or redevelopment of any open space, vehicular use area, multifamily or nonresidential development, a permit from the Building Division shall be required. A landscape plan shall be submitted and must be approved as part of the site plan review process, before the issuance of a building permit. All landscape plans shall be prepared in accordance with the requirements set forth in this landscape code.
- (b) The following information is required on all landscape plans:
- (1) Plans shall be signed and sealed as per Florida Statutes, Chapter 481.321 'Seals; display of certificate number.', which states "All final plans, specifications, or reports prepared or issued by the registered landscape architect and filed for public record shall be signed by the registered landscape architect, dated, and stamped or sealed electronically with his or her seal. The signature, date and seal constitute evidence of the authenticity of that to which they are affixed". Additionally, the parcel control number and address of the property location as well as the name, address, and telephone number of the applicant, and the Florida Registered Landscape Architect, Architect, Engineer or other applicable professional shall appear on the plan.
- (c) Landscape plans shall meet the following standards:
- (1) A minimum scale of one (1) inch equals fifty (50) feet;
 - (2) Location of all trees, vegetation, or ecological communities to be preserved, and tree survey if applicable;

- (3) Location of all landscape material to be used with identification coding, including location and specifications of all inanimate materials, such as mulch, rocks, stepping stones and gravel;
 - (4) Landscape material schedule/table listing all plants being used with their scientific and common name and where applicable, cultivar name; spacing of plants, quantities and container size of each type of plant, height and spread of plant material at time of planting, and typical mature height and spread of landscape material.
 - (5) Indicate if plant material is native to South Florida, growth rate and list the following categories as low, medium or high; drought tolerance, salt tolerance, light requirements, nutritional requirements, wind resistance and ecological importance (recognized as an important or unique food or shelter source for animals and/or insects) and include source of information.
 - (6) Typical planting illustration/details for trees, palms, shrubs, groundcover and sod.
 - (7) Location of existing and proposed water bodies and retention areas.
 - (8) Location and outline of existing buildings and site improvements to remain in addition to any proposed buildings and site improvements, including but limited to structures such as sheds, pools, fountains, fences and retaining walls, pad-mounted units, green roof areas, planters;
 - (9) Existing and Proposed elevations;
 - (10) Location of existing and proposed hardscape features such as driveways, sidewalks, vehicular use areas, parking spaces, cross-lot driving corridors;
 - (11) Location and type of site lighting;
 - (12) Location and dimensions of any freestanding signage;
 - (13) Location of all underground and overhead utilities and easements;
 - (14) Any other factors affecting the proposed use of the property.
- (d) Irrigation plans shall meet the following standards;
- (1) A minimum scale of one (1) inch equals fifty (50) feet;
 - (2) Location of existing trees, vegetation and ecological communities to remain, if applicable;
 - (3) Location of existing buildings, paving and site improvements to remain or proposed;
 - (4) Irrigation points of connection (POC) and design capacity;
 - (5) Water service pressure at irrigation POCs;
 - (6) Water meter size;
 - (7) Major components and location of the irrigation system, including all pumps, filters, valves, and pipe sizes and lengths;
 - (8) Reduced-pressure-principle backflow-prevention devices for each irrigation POC on potable water systems and specifications;
 - (9) Controller locations and specifications, with location of rain shut-off devices or soil moisture sensors;
 - (10) The irrigation legend will have the following elements: Separate symbols for all irrigation equipment with different spray patterns and precipitation rates and pressure compensating devices; general description of equipment; manufacturer's name and model number for all specified equipment; recommended operating pressure per nozzle and bubbler and low-flow emitter; manufacturer's recommended overhead and bubbler irrigation nozzle rating in gallons per minute or gallons per hour for low flow applicators; minimum (no less than 75% of maximum spray radius) and maximum spray radius per nozzle; and manufacturer's rated precipitation rate per nozzle at specified psi; and
 - (11) Zone layout plan (minimum scale 1" = 20') which indicates the following;
 - i) Head type, specifications and spacing;
 - ii) Methods used to achieve compliance with landscape irrigation design standards and required irrigation zones as required by this Article and Section 373.228, F.S., as amended.
- (c) For all lot clearing, development and redevelopment that may remove protected trees or plant communities as determined by the Director of Community Development:
- (1) The owner shall submit a vegetative analysis describing the vegetative cover existing on site, along with a tree survey identifying all native and protected trees with a caliper equal to or greater than one and one half inches DBH. Additionally, all native and protected palms with more than five feet of clear trunk shall be noted on the tree survey. Finally, any rare or unique vegetation, rock structures, natural formations or plant communities shall be incorporated into the tree survey and vegetative analysis.

Installation and maintenance guarantee.

- (1) The owner or lawful occupant shall provide an installation and maintenance guarantee and security totaling 110 percent of the cost of the landscape and irrigation, in a form acceptable to the community development director, typically in the form of a landscape bond for a period of two years.
 - a. The owner shall do this before the city performs a landscape inspection or issues a certificate of occupancy for any portion of a landscaped development. This security is to guarantee that the installation and maintenance of all required landscaping and irrigation systems are done in accordance with this landscape code and all other applicable ordinances of the city.
 - b. This guarantee shall list all required landscape materials and describe the irrigation system to which it pertains and or reference the approved development plans it relates to.
 - c. If the owner does not maintain the landscaping for two years following initial landscape inspection, the city shall use the security deposit to maintain or replace unacceptable plant materials and irrigation components.
 - d. Once a two year period has passed from the date of the initial landscape inspection and approval, and the owner has demonstrated required maintenance of all irrigation systems and has kept plant material in a healthy, growing condition, the city shall release and return any remaining security to the owner upon request following a final landscape inspection.
- (2) Once a maintenance guarantee has been released, it is the property owner's responsibility to properly maintain all landscape elements, living and inorganic, according to all applicable City Codes, in perpetuity. If a property owner fails to do so, code enforcement procedures may occur as required, in order to correct these inconsistencies.

Standards for preservation of native vegetation areas

- (1) This section shall apply to all new developments of five acres or more permitted after approval of this regulation that meet the following criteria:
 - a. Parcels or lots independent of larger developments that are less than five (5) acres in size shall not be subject to these set-aside requirements. Tree preservation ordinances and all other landscape requirements shall remain applicable to all development as described within the landscape regulations.
 - b. This section mandates a total of 10% percent of a site planned for development be set aside for preservation if that site is five acres or greater. When clearing, 10% of the native vegetation on the site shall be preserved. If vegetation is not present on site, established open space zoning and landscape ordinance criteria shall be followed.
 - c. Vegetation that is set aside for preservation shall be protected from all on-site construction. Protective barriers shall be installed along the perimeter of all preserve areas. Protective barriers shall be constructed at such intervals to prevent machinery from passing between them. No equipment or materials shall be permitted to be stored within the set-aside areas, and dumping of excess soil, liquids, or any other construction debris within the preservation areas is prohibited. Removal or re-grading of soils within preservation areas is prohibited. Any damaged vegetation within the set-aside areas shall be replaced with vegetation equivalent to the vegetation destroyed before any certificates of occupancy or other approvals may be issued. Utilities, stormwater easements and right-of-ways are exempt but should avoid preserved areas. Although not specifically required, creative alternatives to common practice in these areas may be eligible for incentives.
 - d. Areas that are considered to be of high ecological importance should be given highest priority for protection. These areas include, but are not limited to, areas that have occurrences of federal and state listed species of flora and fauna, areas of high biological diversity, and areas that are in aquifer recharge zones.

- e. If more than one native terrestrial plant community is present on the site, areas representing all existing plant communities shall be preserved onsite unless preserving more of one particular community is more ecologically beneficial.
- f. High-quality areas placed in preservation shall be retained in entirety, in their current or improved natural state, and protected into perpetuity regardless of ownership. This requirement may be negotiated to create contiguous preservation among plant communities. The developer shall prove to the reviewer, through exhibits provided during the site approval process, that the highest ecologically valued land is being retained first in order to satisfy the set-aside requirement. If the preservation of the highest ecologically valued land produces undue burden on the development of the property, it is also the developer's responsibility to prove such hardship and provide an acceptable alternative for approval.
- g. Areas set aside for preservation should be contiguous parcels of land that are interconnected and considered viable habitat for wildlife to the extent practical. Small fragmented areas of preservation should be avoided when possible.
- h. Rights-of-way and areas determined to be future rights-of-way in the comprehensive plan, and utility or drainage easements shall not be allowed as designated set-aside areas.

Plant material standards and installation requirements

(a) Plant material standards.

- 1. At least 70 percent of all required landscaping in the form of trees, shrubs, ground cover, and grasses shall collectively consist of native vegetation, excluding turfgrass. The owner may select site appropriate native vegetation from the most current edition of South Florida Water Management District's "WaterWise: South Florida Landscapes" or similar, native Florida species plant lists (Appendix B), available at www.sfwmd.gov or through the Department of Community Development.
- 2. At least 60 percent of all required trees shall consist of a native, shade tree species. At least 10 percent of all required trees shall consist of a native, accent tree species. Not more than 20 percent of all required trees shall be of a palm species. When palm species are used, they shall have a minimum of eight feet of clear trunk at time of planting.
- 3. At least 25 percent of all required landscaping shall consist of plant material that is recognized as being ecologically significant (plants providing significant food sources or habitat for desirable wildlife; animals, birds and/or insects).
- 4. All required shade trees shall meet the following requirements prior to planting:
 - (a) Minimum trunk diameter of 2 inches DBH.
 - (b) Minimum height of twelve feet.
 - (c) Minimum of five feet clear trunk space.
 - (d) Minimum average crown spread of five feet.
- 5. All required accent trees shall meet the following requirements prior to planting:
 - (a) Minimum trunk diameter of 1½ inches DBH.
 - (b) Minimum height of ten feet.
 - (c) Minimum of five feet clear trunk space.
 - (d) Minimum average crown spread of five feet.

Newly installed plant material that fails to meet the above mentioned criteria will not be considered a tree and will not count towards the required number of trees during landscape inspection. If this should occur, the material shall either

be replaced or, at the discretion of the Director of Community Development, additional plant material may be installed on site to mitigate for any lack of plant material.

6. To increase landscape biodiversity and to minimize potential impacts of species-specific diseases or insects, it is important to have multiple shade tree species planted on a site. If more than 5 shade trees are required, the minimum number of shade tree species planted shall be in accordance with the following table.

Required Number of Shade Trees	Minimum Number of Shade Tree Species
1-5	1
6-15	2
16-30	3
31-50	4
51-75	5
Over 75	6

7. Any landscape plan proposing more than 5 shade trees shall ensure that a mixed composition of tree species is planted. At no time shall a landscape plan proposing more than 5 shade trees recommend a single species to comprise more than 65 percent of the trees required.
8. Plant materials used in accordance with this article shall conform to the standards for Florida Grade One, or better, as provided for in the most current edition of Grades and Standards for Nursery Plants, by the Division of Plant Industry, Department of Agriculture and Consumer Affairs, State of Florida. Sod shall be clean and visibly free of weeds and noxious pests or diseases. Grass seed shall be delivered to the job site in bags with Florida Department of Agriculture tags attached indicating the quality control program.
9. The owner shall plant turf areas with species locally grown as permanent lawns. The owner may sod, plug, sprig, or seed grass areas, provided he or she uses solid sod in swales or other areas subject to erosion. In areas where solid sod or grass seed is not used, nurse grass seed shall be sown for immediate effect and protection until coverage is otherwise achieved.

(b) Installation.

- (1) All required landscaping installed pursuant to this landscape code shall be installed according to accepted good planting practices and best management practices identified by the International Society of Arboriculture (ISA) or similar. All plants shall be installed so that the top of the root ball remains even with the soil grade. All trees, palms and shrubs shall be hosed in with water at the time of installation to eliminate any air pockets. Trees and palms shall be properly braced or staked at the time of planting. Stakes and braces shall remain for a minimum of 12 months.
- (2) Trees shall be properly installed braced and mulched according to best management practices.
- (3) The owner shall not plant closer than 12 feet to tree species identified by the community development director as likely to cause damage to public roadways, public facilities or building foundations. The owner may only plant them if the tree root system is completely contained within a container or barrier five feet square and five feet deep. The construction requirements shall be four inch thick concrete reinforced with #6 road mesh (six X six X six) or equivalent.
- (4) Trees of species whose canopy could be damaged by or could cause damage to overhead power lines shall not be planted closer than a horizontal distance of 15 feet from such overhead power lines. Right tree right place guidelines, which have been demonstrated by the Arbor Day Foundation and others, shall be used as guidelines for ensuring proper tree placement.

- (5) If groundcover is used, it shall be installed to present coverage of 50% and ensure reasonably complete coverage within six months of installation.
- (6) Vines shall be a minimum of 30 inches in height at planting. The owner may use them in conjunction with fences, screens, or walls to meet physical barrier requirements.
- (7) Barricades shall be established and remain around protected areas until final landscape inspection approval. Protected existing trees and landscape areas shall remain free of construction debris and vehicles, stored material and chemicals or similar.
- (8) For multifamily residential development and for all other nonresidential development, the owner must install all required landscaping according to the landscape plan and the requirements of this landscape code. The city will not issue a certificate of occupancy, certificate of use or similar authorization until the Director of Community Development has verified that the required landscaping has been properly installed.

Plant material Continued.

- (a) No more than 25 percent of all trees required or proposed to be planted in perimeter landscape buffers may be palms (all species). When palms are chosen as satisfying buffer requirements, the clustering of three palms shall be required and equal to one canopy tree, pursuant to buffer area requirements. No more than 50 percent of the total trees required or proposed on-site may be palms (all species). Fifty percent or more shall be native plant material as recognized by the Xeriscape Plant Material Guide I or II, published by the South Florida Water Management District.
- (c) Ground cover shall be placed or planted on all portions of exposed ground or earth not occupied by other landscape materials. Ground cover consists of low level plant material, grass or other permeable organic material capable of absorbing run-off. Ground cover may include wood chips, pine straw, bark and mulch, and similar approved materials only when used in conjunction with living ground cover. Native ground cover is encouraged where possible.
- (d) Berming or earth mounds shall be physical barriers which block or screen the view similar to a hedge, fence or wall. Such berms shall be constructed not to exceed a three to one slope and adequate ground cover and plant material shall be installed to prevent erosion.
- (e) All new vegetation shall be located so as to provide unrestricted flow or access to drainage swales or utility easements or areas where frequent pruning is required to avoid interference with overhead power lines.
- (f) All new landscaping shall meet the minimum acceptable standards of Florida Number One or better represented by the Florida Department of Agriculture and Consumer Services.
- (g) Shrub planting, when required to be planted by ordinance, shall be spaced accordingly to plant size and type of hedge material used. Hedges, where required, shall form a solid continuous visual screen one year after planting.
- (h) Tree planting, pursuant to the requirements, may be grouped upon meeting the overall intent of this chapter to provide visual buffers, breaking of monotony and positive influence on microclimate of area. The use of walls, berming, and fencing may be utilized in conjunction with grouping trees. Grouping of trees shall be subject to the Department of Community Development review and approval.
- (i) All plant materials of each type and quantity, including trees, shrubs and ground cover, shall at least be 50 percent native. Native material shall consist of natural plant material listed with the Xeriscape Plant Guide I or II, published by South Florida Water Management District.
- (j) Substitutions of an approved plant material may be approved by the Director of Community Development or designee; however, such substitution shall only incorporate additional native material in excess of the 50 percent native materials as required.

(k) Staking of all trees shall be required to ensure healthy, stabilized plant and root growth occurs. The staking shall be as follows: guy and stake tree three directions with black guying system or two strands of 14 gauge twisted galvanized wire and turnbuckle through flexible hose chafing guards, with wooden stake anchors immediately after planting. The staking shall remain until the plant is established. The staking may be required to remain until the end of an upcoming hurricane season, if it is determined to be appropriate by the Director. Staking shall be replaced or removed prior to causing girdling or damage to the plant at the discretion of the Director.

Landscape maintenance.

(a) General.

- (1) A regular irrigation maintenance schedule shall include but not be limited to checking, adjusting, and repairing irrigation equipment; and resetting the automatic controller according to the season to reduce water and energy wastage.
- (2) To maintain the original performance and design integrity of the irrigation system, repair of the equipment shall be done with the originally specified materials or their equivalents.
- (3) Landscape maintenance for hire should be performed in accordance with recommendations in the *Florida Green Industries Best Management Practices for Protection of Water Resources in Florida*.
- (4) Landscape maintenance by homeowners should be performed in accordance with recommendations of the University of Florida Cooperative Extension Service and Florida Yards & Neighborhoods publications.
- (5) The owner or lawful occupant of real property landscaped as new development, renovation development, or vacant development pursuant to this landscape code are responsible for the maintenance of required landscaping in a healthy, growing condition.
- (6) The owner or the lawful occupant of real property landscaped prior to the effective date of this landscape code are each responsible for the maintenance of all installed landscaping in a healthy, growing condition.
- (7) The owner or lawful occupant shall maintain in a neat and orderly appearance, and keep free from refuse and debris all landscaped areas. All walls and fences shall be maintained in good condition so as to present a neat and orderly appearance and shall be kept free from graffiti.
- (8) The owner or lawful occupant of real property shall prune trees only as necessary to promote healthy growth or to avoid buildings, power lines or other structures. The owner shall not severely prune or "hatrack" trees to permanently maintain growth at a reduced height. Pruning shall be accomplished in accordance with current best management practices in accordance with the American National Standards Institute (ANSI) A300 Standards for Tree Care Operations, or similar. Directional pruning is currently recognized as a best management practice for avoidance of overhead power lines.
- (9) All required landscaping relocated or replaced, or existing landscaping, within the terms of this landscape code shall be replaced in the event said landscaping expires. If the new development, renovation development, or vacant development otherwise contains landscaping which meets the minimum requirements of this landscape code, the community development director may waive the replacement tree requirements.

Maintenance of sidewalk areas as public right-of-way:

- a. It shall be the responsibility of all property owners to maintain turf and landscaping which existing in street right-of-way swales and easements adjoining their properties. Turfgrass in such areas shall not be allowed to exceed five inches in height. If another form of groundcover is utilized it shall meet the requirements of this Article.

- b. Sidewalk areas shall be maintained by adjoining property owners and kept free of grass and weeds and shall be cleaned frequently enough to prevent accumulation of sand, dirt and trash.

Landscape maintenance Continued.

(a) The owner, tenant and their agent, if any, shall be jointly and severally responsible for the continued regular maintenance of all landscaping materials and shall keep them in healthy, neat, and orderly appearance, free from disease, pests, weeds, refuse and debris at all times. Property maintenance shall include:

(1) Periodic watering to maintain healthy flora, more drought tolerant material, minimize fungus growth and stimulate deep root growth;

(2) Pruning shall be in accordance with good horticultural standards as defined in the ANSI A300 Standards (or most current standards) as set forth by the Tree Care industry Association (f.k.a. the National Arborists Association) and approved by the American National Standards Institute (with the exception of Section 2.3.1 of the ANSI A300 Standards, which requires that pruning be performed only by arborists or arborist trainees). A copy of the ANSI A300 Standards shall be maintained by the Department of Community Development and shall be available during regular business hours. Trees and shrubs shall not be severely pruned, hat raked, "hacked" or "headed back". A maximum of one-fourth of a tree canopy may be removed from a tree within a one year period, provided that the removal conforms to the standards of crown cleaning, crown thinning, crown raising, vista pruning, and crown restoration techniques. At the discretion of the Department and based on the severity of the violation, a tree which is pruned in excess of these requirements shall either be replaced in accordance with section 26-96 of the Town Code or shall be subject to corrective pruning by a certified arborist. Nuisance and exotic species as identified in section 26-100 shall be exempt from the pruning requirements of this Chapter.

(3) Turf and weeds shall be mowed as required and shall not exceed six inches in height for developed nonresidential areas and eight inches in height in developed residential areas. Grasses and weeds shall not exceed 12 inches in height on vacant undeveloped properties;

(4) All roadways, curbs and sidewalks shall be edged by the party responsible for installing and maintaining the grass adjacent to the roadway, curb and/or sidewalk when necessary to prevent encroachment of grasses;

(5) All lawns and planted areas shall be fertilized periodically to ensure continued healthy growth;

(6) Replacement of dead plant material under the provision of this chapter;

(7) Removal of unprotected, prohibited, harmful and illegal plant species shall occur as outlined in Chapter 26; and

(8) All tree canopies that are planted on private property and overhang onto a public and/or private right-of-way shall remain clear from the ground level up to a height of seven feet over sidewalks or drainage areas, and to a height of eight feet over public alleys, streets or highways.

(b) Landscaping shall be inspected on a periodic basis by the Department of Community Development to determine compliance with landscape installation standards. If the owner, tenant or their agent do not maintain the property in conformance with the above provisions, the above individuals shall be notified in writing via certified mail indicating noncompliance and the owner, tenant or their agent shall within 30 calendar days from receipt of the notice rectify the deficiency. If the owner, tenant or their agent fail to progress or comply within the 30 day time frame, the Department of Community Development shall initiate under the provisions of the Code enforcement citation system appropriate action.

(c) Landscaping may be inspected as needed, of which the standards established above are maintained. Such inspections shall be enforceable through the issuance of the Town's business tax receipt. The owner, tenant or

their agent shall be notified in writing via certified mail by the Town of any areas which are not being properly maintained and shall, within 15 calendar days from time of notification, address and rectify the deficiency.

(d) Trees on single family lots unless pruned by a commercial tree service business, landscape company, lawn service business or other related businesses shall be exempt from this section.

(e) Any commercial tree service business, landscape company, lawn service business or other similar or related businesses violating the provisions of this section shall be subject to penalty as provided by section 1-15, or other such remedies as are available by law.

Buffers for multifamily development, commercial and other nonresidential.

(a) *Generally.*

(1) In order to reduce visual, light, and noise impacts, a required buffer shall be located along the length of adjacent private property.

(2) The owner shall provide buffers for all developments seeking site plan approval as required by this landscape code.

(b) *Buffer width requirements.* Except where the side or rear yards are smaller than the outlined buffer width requirements, the buffer width requirements for one-story developments are:

Abutting single-family or two-family zoning district.

Type of Use	Side Yard (Ft.)	Rear Yard (Ft.)
Multifamily, 0.5 acre or less	15	20
Multifamily > 0.5 acres	25	25
Commercial and other nonresidential (other than industrial)	25	25
Industrial	30	30

Where the side or rear yards are smaller than the outlined buffer width requirements:

(1) Multifamily residential uses shall have buffers consisting of 40 percent of each of the side and rear yard widths;

(2) Commercial and other nonresidential uses (other than industrial) shall have buffers consisting of 75 percent of each of the side and rear yard widths; and

(3) Industrial uses shall have buffers consisting of 90 percent of each of the side and rear yard widths.

For multi-story developments, the buffer width is an additional ten feet for each additional or upper story, where applicable.

(c) *Buffer landscaping.*

(1) A buffer shall consist of landscaping to include a buffer screen.

(2) The width of a buffer screen shall be 25 percent of the width of the required buffer.

(3) A fence or wall included in a buffer shall be constructed to present a finished appearance to neighboring uses looking onto the site.

- (4) The owner may provide an opening through a buffer area to facilitate pedestrian or vehicular traffic between developments subject to the approval of the community development director.
- (5) Excluding the buffer screen area, a dry retention area may be located in a buffer. Existing plant material within a dry retention area shall not be credited toward meeting the landscape requirements of this landscape code.

Development landscaping requirements.

- (a) *Single-family and two-family development.* Single-family and two-family development, newly constructed, shall include, at a minimum, one existing or planted tree for every 2,500 square feet of lot area or fraction thereof. A minimum of six shrubs and at least one shade tree in the front yard and at least one tree in the rear yard shall be located on the property. The owner shall show trees on a site plan submitted for building permit approval.
- (b) *Multifamily residential development.*
 - (1) Multifamily development shall provide a landscaped strip of land not less than ten feet wide between building walls and parking areas. Landscape materials shall be provided as follows:
 - a. The greater of one tree for every 20 linear feet of required landscape perimeter area, or one tree for every 200 square feet of planting area or a major portion thereof. Not less than 50 percent of trees, located between the building walls and parking areas shall be shade trees; and
 - b. A hedge or other durable landscape barrier not less than 24 inches in height at installation placed in a continuous manner along the building walls.
 - (2) A landscaped strip of land, not less than ten feet in depth, shall be located between the abutting right-of-way and parking areas. Landscape materials shall be provided as follows:
 - a. The greater of one tree for every 20 linear feet of required landscape perimeter area, or one tree for every 250 square feet of planting area or major portion thereof. No less than 75 percent of the trees, located between the abutting right-of-way and parking area shall be shade trees;
 - b. A hedge, wall, berm or other durable landscape barrier not less than three feet in height at installation placed in a continuous manner along the building walls; and
 - c. A combination of grass, ground cover, or other landscape treatment excluding paving shall cover the remainder of the landscaped strip.
 - (3) The owner shall landscape all property, excluding the required landscape strip lying between the building and parking area, and the right-of-way and parking area, with grass or other ground cover.
 - (4) Multifamily residential development shall provide not less than one tree for each 1,500 square feet or fraction thereof, of development site.
 - (5) The owner shall landscape not less than 20 percent of the development site.
 - (6) The city will credit existing native vegetation and trees toward landscaping requirements.

Refer to landscaping exhibit D, example of multifamily development.

- (c) *Commercial and other nonresidential development.* A commercial or other nonresidential development being new development, renovation development or vacant development shall include one existing or planted tree for every 1,500 square feet, or fraction thereof, of development site. The owner shall landscape not less than 20 percent of the developed site.

Parking areas for multifamily and all nonresidential developments.

- (a) *Parking area landscaping adjacent to streets.* The owner shall install landscaping on the site of a multifamily or nonresidential development including a parking area not entirely screened visually by an intervening building from abutting streets, as follows:
- (1) A landscaped strip of land not less than 10 feet in width shall be located between the parking area and the abutting street.
 - (2) The landscaping provided within the landscaped strip shall include:
 - a. One tree for every 20 linear feet of required landscape strip planted singly or in clusters, not to be more than 50 feet apart, located between the property line and the parking area;
 - b. A hedge, wall, berm or other durable landscape barrier of not less than 24 inches or three gallon containers at installation placed along the outside perimeter of the landscaped strip;
 - c. Other landscaping, such as shrubs or vines, planted three feet on-center along the street side of a wall; and
 - d. Grass, ground cover, or other landscape treatment and mulch.
 - (3) The owner shall plant shrubs comprising a hedge in the landscaped strip at 24 to 30 inches on-center.
 - (4) Not less than 25 percent of the strip shall be ground cover.
 - (5) At a minimum, the owner shall also landscape property located between the strip and parking area with grass or other ground cover.
- (b) *Parking area landscaping adjacent to private property.* On the site of multifamily or a nonresidential development including a parking area not entirely screened visually by an intervening building from abutting private property, the owner shall install landscaping as follows:
- (1) A landscaped strip of land not less than five (5) feet in width shall be located between the parking area and the abutting private property.
 - (2) The landscaping provided within the landscaped strip shall include:
 - a. One tree for every 20 linear feet of required landscape strip planted singly or in clusters, not to be more than 50 feet apart, located between the common lot line and the abutting private property;
 - b. A hedge, wall, berm or other durable landscape barrier of not less than 24 inches or 3 gallon containers at installation placed along the outside perimeter of the strip;
 - c. Other landscaping, such as shrubs or vines, planted five feet on-center along the street side of a wall; and
 - d. Grass, ground cover, or other landscape treatment.
 - (3) The owner shall plant shrubs comprising a hedge in the landscaped strip at 24 to 30 inches on-center.
 - (4) Not less than 25 percent of the strip shall be ground cover.

- (5) At a minimum, the owner shall also landscape property located between the strip and parking area with grass or other ground cover.

(c) *Parking area interior landscaping.*

- (1) For multifamily residential and all other nonresidential development, not less than 50 percent of the required landscaping shall be interior landscaping exclusive of required buffers. Interior landscaping shall be located around the periphery of structures and interspersed throughout parking areas.
- (2) The owner shall provide a landscaped area not less than five feet wide, consisting primarily of shrubbery, along the sides of the building which abut a parking area. A landscaped area not less than two feet in width shall be provided along the sides and rear of a building where abutting an on-site service or access driveway. The landscaping located along the sides and rear of buildings, which abut a parking area or driveway(s), shall include a hedge, one tree for every 20 linear feet, and ground cover. The owner may cluster this landscaping to allow for creativity and flexibility in design, with the approval of the community development director.
- (3) Interior landscaping shall include not less than one tree for every 50 square feet or fraction thereof of interior landscaped area. Interior landscaped areas shall be located in such a manner as to divide and break up the expanse of paving.
- (4) Vehicles may not encroach into any interior landscaped area.
- (5) The owner shall provide interior landscaped islands between every ten parking spaces. Each interior island shall be not less than six feet in width. Each interior island shall contain not less than one shade tree and a combination of shrubs, ground cover, grass, and mulch.
- (6) The owner shall provide terminal landscaped islands at the end of each parking row. Terminal landscaped islands shall be not less than ten feet in width and one parking space in length. Each terminal island shall contain not less than one shade tree and a combination of shrubs, ground cover, grass and mulch.
- (7) The owner shall provide interior landscaped medians not less than six feet in width between every interior row of parking spaces. The owner shall landscape interior medians with not less than one shade tree every 20 linear feet thereof planted singly or in clusters. No trees shall be located more than 50 feet apart and a combination of shrubs, ground cover, grass and mulch.
- (8) Not less than 50 percent of trees used in parking area interior landscaping shall be shade trees.
- (9) The owner shall not use interior and terminal landscaped islands and medians for surface water storage. All interior and terminal landscaped islands and medians must be filled or crowned, and curbed.
- (10) Underground parking structures and multi-level parking structures shall have a landscaped buffer 20 feet in width on the front lot line. The owner shall measure the landscaped buffer at right angles to the property line unless parts of the district regulations specify a wider area.

Refer to landscaping exhibit C, example of commercial development.

- (d) *Visibility triangles.* All landscaping within a visibility triangle shall provide unobstructed cross-visibility at a level between 2½ feet and six feet. It shall comply with the most current edition of the Florida Department of Transportation Roadway and Traffic Design Standards, Index 546, regarding visibility triangles. The city shall allow trees or palms having limbs and foliage trimmed so no limbs or foliage extends into the cross-visibility area provided the location does not itself create a traffic hazard. The owner shall not locate landscaping, except grass or ground cover closer than three feet from the edge of any driveway pavement. Refer to landscape exhibit A, visibility triangle.

Turf Areas

- (a) Irrigated turf shall not be treated as fill-in material but rather a planned element of the landscape. All turf areas shall utilize grass species suitable as permanent lawns in South East Florida. Turf shall be placed so that it can be irrigated using separate zones. While turf areas provide many practical benefits in a landscape, how and where it is used can result in a significant reduction in water use.
- (b) Turf grass areas are excluded from the high water use hydrozone designation (a maximum of 20% of the total landscaped area may be installed with a high water use designation), however, turf areas shall be identified on the landscape plan and shall meet the maximum coverage percentages required below:
 - a. Single-family and duplex dwellings are allowed to incorporate a maximum of sixty (60) percent total landscape coverage consisting of turfgrass.
 - b. Multiple family dwellings are allowed to incorporate a maximum of fifty (55) percent total landscape coverage consisting of turfgrass.
 - c. Commercial, retail and office developments are allowed to incorporate a maximum of forty-five (50) percent total landscape coverage consisting of turfgrass.
 - d. Industrial development are allowed to incorporate a maximum of fifty (45) percent total landscape coverage consisting of turfgrass.
 - e. Other uses are allowed to incorporate a maximum of fifty (45) percent total landscape coverage consisting of turfgrass.
- (c) Irrigated turfgrass areas shall be consolidated and limited to those areas on the site that receive pedestrian traffic, provide for recreation use, provide cover for septic tank drainfields and required drainfield reserve areas, or provide soil erosion control such as on slopes or in swales; and where turfgrass is used as a design unifier, or other similar practical use. No turfgrass that requires mowing shall be allowed on slopes greater than 4:1 or within 6 feet of the waters edge, except where adjacent to seawalls and bulkheads or needed to control erosion.
- (d) One of the most common reasons for turf failure is over-irrigation. Irrigation systems shall be designed in accordance to this Article and operated in accordance with Sec. 20-124 Water use restrictions.

Efficient Irrigation

- (a) If an irrigation system is desired, water can be conserved through the use of a properly designed and managed irrigation system. Irrigation scheduling information, with instructions for seasonal timer and sensor changes, shall be provided to the owner at the time of installation. An irrigation valve site map detailing valve locations, gallons per minute demands, precipitation rates, plant types within valve circuits, and operating pressure requirements for each valve shall be developed. This map shall be attached inside each irrigation controller or be kept in another readily available location if it is not practical to insert it in a small controller.
- (b) The irrigation system shall be designed to correlate to the organization of plants into hydrozones. The water use zones shall be shown on the Irrigation Plan (where plan is required). All plants (including turf) require watering during establishment. Temporary equipment may be installed to facilitate establishment.
- (c) Irrigation must also be conducted in accordance with South Florida Water Management District restrictions.
- (d) Moisture sensing and/or rain shut-off switch equipment shall be required on automatic irrigation systems to avoid irrigation during periods of sufficient soil moisture. Said equipment shall consist of an automatic mechanical or electronic sensing device or switch that will override the irrigation cycle of the sprinkler system when adequate rainfall has occurred.
- (e) The installation of tracer wire along main lines and laterals is strongly encouraged to permit easy location and prevent inadvertent cutting of pipes.

- (f) If the water supply for the irrigation system is from a well, a constant pressure flow control device or pressure tank with adequate capacity shall be required to minimize pump "cycling".
- (g) Check valves must be installed at irrigation heads as needed to prevent low head drainage and puddling.
- (h) Nozzle precipitation rates for all heads within each valve circuit must be matched to within 20% of one another.
- (i) No water spray from irrigation systems shall be applied under roof overhangs.
- (j) Irrigated areas shall not be less than 4 feet wide, except when using micro or drip irrigation.
- (k) A pressure-regulating valve shall be installed and maintained if static service pressure exceeds 80 pounds per square inch. The pressure-regulating valve shall be located between the meter and the first point of water use, or first point of division in the pipe, and set at not more than 50 pounds per square inch when measured at the most elevated fixture in the structure served. This requirement may be waived if satisfactory evidence is provided that high pressure is necessary in the design and that no water will be wasted as a result of high-pressure operation.

Soils.

- 1) Where landscape plans are required, applicants are encouraged to seek a soil analysis performed by a reputable soil testing lab to determine the soil texture, indicating the percentage of organic matter; measurement of pH, and total soluble salts; and estimated soil infiltration rate.
- 2) Existing horticulturally suitable topsoil shall be stockpiled and re-spread during final site grading.
- 3) Any new soil required shall be similar to the existing soil in Ph, texture, permeability, and other characteristics, unless evidence is provided that a different type of soil amendment approach is justified.
- 4) The use of solid waste compost as a soil amendment is encouraged when and where deemed appropriate.

Yard Waste Management, Composting and Use of Mulches

- (a) Yard wastes, and vegetative debris shall not be intentionally or accidentally washed, swept, blown, disposed of or stored by wetlands, shorelines, into ditches or swales, near stormwater drains, or onto sidewalks or roadways.
- (b) Shredded yard clippings and leaves should be used for mulch or be composted for use as fertilizer. However, diseased plant material should not be mulched and should be properly disposed of to avoid spreading disease.
- (c) Composting of yard wastes provides many benefits and is strongly encouraged. The resulting materials are excellent soil amendments and conditioners. Other recycled solid waste products are also available and should be used when appropriate.
- (d) Grass clippings are a benefit to lawns, replacing nutrients drawn from the soil and as mulch that helps retain moisture, lessening the need to irrigate. Grass clippings should be left on your lawn. Mulching mowers are recommended, because the grass clippings are chopped very finely by special blade and shroud configurations. If a conventional mower equipped with a side discharge chute is used, the following practices should be employed: When mowing near the shoreline, direct the chute away from the waterbody. When mowing upland areas, direct the chute back onto the yard, not onto the road or driveway.
- (e) Mulches applied and maintained at appropriate depths in planting beds assist soils in retaining moisture, reducing weed growth, and preventing erosion. Mulch can also be used in places where conditions aren't adequate for or conducive to growing quality turf or ground covers. Mulches are typically wood bark chips, wood grindings, pine straws, nut shells, and shredded landscape clippings.
- (f) A layer of organic mulch 3" deep shall be specified on the landscape plans in plant beds and around individual trees in turfgrass areas. Use of byproduct or recycled mulch is recommended. Mulch is not required in annual beds. Mulch rings

should extend to at least 3 feet around freestanding trees and shrubs. All mulch should be renewed periodically as needed to maintain a depth of 3". Mulches should be kept at least 6 inches away from any portion of a building or structure, or the trunks of trees. Plastic sheeting or other impervious materials shall not be used under mulched areas.

- (g) No compost bin or pile shall be established within 5 feet of any property line or easement.

Fertilizer and Pesticide management:

The provisions of this section shall apply to all fertilizer applications within the City of Riviera Beach with the following exceptions:

1. Bona fide farm operations as defined in the Florida Right to Farm Act, Section 823.14, F.S., as amended, provided that fertilizers are applied in accordance with the appropriate best management practices manual adopted by the Florida Department of Agriculture and Consumer Services, Office of Agricultural Water Policy for the crop in question; and
2. Fertilizer applications for golf courses, parks, and athletic fields shall follow the provisions as indicated in Rule 5E-1.003(2)(d), F.A.C, as amended.

a) Fertilizer Management

- (1) All applications of fertilizer, other than by private homeowners on their own property, should be made in accordance with the most current version of the *Florida Green Industries Best Management Practices for Protection of Water Resources in Florida* and recommendations of the University of Florida Cooperative Extension Service.
- (2) Private homeowners are encouraged to utilize the recommendations of the University of Florida IFAS *Florida Yards and Neighborhoods* program and the University of Florida IFAS Fact Sheet ENH-860.
- (3) Fertilizers applied to turf and/or landscape plants shall be formulated and applied in accordance with requirements and directions as provided on the fertilizer bag and by Rule 5E-1003(2), F.A.C. Nitrogen or phosphorus fertilizer shall only be applied to turf or landscape plants during growth periods, not during dormant periods. These fertilizers shall not be applied except as provided for by the directions on the fertilizer bag unless a soil or plant tissue deficiency has been verified by UF/IFAS Extension or another accredited laboratory or test.
- (4) No applicator shall apply fertilizers containing nitrogen and/or phosphorus to turf and/or landscape plants during times which a flood, tropical storm, or hurricane watch or warning issued by the National Weather Service is in effect for any portion of Broward County.
- (5) Fertilizer shall not be applied within ten feet, or three feet if a deflector shield or drop spreader is used, of any pond, stream, watercourse, lake, canal, or wetland or from the top of a seawall. Newly planted turf and/or landscape plants may be fertilized in this zone only for the first sixty day establishment period, but caution shall be used to prevent direct deposition of nutrients into the water.
- (6) A voluntary ten (10) foot low maintenance zone is strongly recommended, but not mandated, from any pond, stream, water course, lake, wetland or from the top of a seawall. A swale/berm system is recommended for installation at the landward edge of this low maintenance zone to capture and filter runoff. No mowed or cut vegetative material should be deposited or left remaining in this zone or deposited in the water. Care should be taken to prevent the over-spray of aquatic weed products in this zone.
- (7) Spreader deflector shields are required when fertilizing via rotary (broadcast) spreaders. Deflectors must be positioned such that fertilizer granules are deflected away from all impervious surfaces, fertilizer-free zones and water bodies, including wetlands.
- (8) Fertilizer shall not be applied, spilled, or otherwise deposited on any impervious surfaces.

- (9) Any fertilizer applied, spilled, or deposited, either intentionally or accidentally, on any impervious surface shall be immediately and completely removed to the greatest extent practicable. Fertilizer released on an impervious surface must be immediately contained and either legally applied to turf or any other legal site, or returned to the original or other appropriate container.

b) Pesticide Management

- (8) All landscape applications of pesticides for hire should be made in accordance with State and Federal Law and with the most current version of the *Florida Green Industries Best Management Practices for Protection of Water Resources in Florida*.
- (9) Property owners and managers are encouraged to use an Integrated Pest Management Strategy as currently recommended by the University of Florida Cooperative Extension Service publications.
- (10) When utilizing pesticides, all label instructions are state and federal law and must be adhered to. The Florida Department of Agriculture and Consumer Services is responsible for enforcement of pesticide laws.

Shoreline Considerations

Grading and design of property adjacent to bodies of water shall conform to Federal, State and Local regulations which may include but is not limited to the use of berms or retention ditches to intercept surface runoff of water and debris that may contain fertilizers or pesticides.

No grasses that require mowing shall be allowed within 6 feet of the water's edge, except where seawalls and bulkheads exist or where needed for erosion control. When mowing near the shoreline, direct the chute away from the water body. Riparian or littoral zone plants that do not require mowing or fertilization should be planted in these areas. See the Florida Waterfront Property Owners Guide for more information. Where water levels vary considerably, care must be taken in the selection of these plants.

Volunteer plants.

Volunteer plants are part of a natural succession found within plant communities and help to provide shade, clean air and water management benefits. Any identified noninvasive plant, growing in a suitable location, without interfering or potentially interfering with utilities, lines-of-sight, or structures, shall be allowed to grow. A volunteer plant meeting the aforementioned description shall be maintained according to this Article.

Violations, Enforcement and Penalty

The community development director or designee shall issue a stop work order to any person found in the act of cutting down, destroying, damaging, or removing vegetation or landscaping in violation of this landscape code. The steps involved are listed:

- (1) A stop work order is issued by the city;
- (2) The city imposes applicable fines;
- (3) The city requires a restoration plan or the correction of the violation(s), per the discretion of the community development department director, in accordance with this landscape code;
- (4) The community development director or designee accepts a restoration plan and/or the violation correction(s);
- (5) Work resumes, and permits can be issued.

(a) *Violations for damaging, destroying or improperly pruning trees.*

(1) Fines will be assessed for all violations of this landscape code, as provided below.

- (a) If a protected tree is improperly pruned severely enough to be classified as tree abuse, a maximum fine of \$1000 per tree may be assessed to the owner and/or individual responsible for the infraction. Correcting improper pruning cuts on a tree may be required, if long-term benefits are expected.
- (b) If a protected tree, with a DBH greater than three inches is removed without permit, a fine of \$100 for each inch of tree trunk measured at DBH will be assessed to the property owner.

(b) *Violations for removal of trees without a permit.*

- (2) Fines will be assessed if a protected tree, or tree required by a landscape plan, with a DBH greater than three inches is removed without permit, a fine of \$100 for each inch of tree trunk measured at DBH will be assessed to the property owner.
- (3) Fines will be assessed if any protected palm or palm tree required by a landscape plan is removed without a permit. A fine of \$25 will be assessed for each foot of clear trunk and will be assessed to the property owner.

- a. If the community development director is unable to determine the number of protected trees removed, the owner shall correct the violation by paying a civil fine of up to \$10,000.00 per acre, or fraction thereof, of the land cleared. The Director of Community Development in combination with the Code Enforcement Division shall assess this fine. No work shall proceed on the property until a restoration plan has been approved and the fine has been collected.
- b. A person aggrieved by an administrative order, determination or decision of the community development director regarding the provisions of this section may appeal the order, determination or decision to the city manager. The aggrieved person must notify the city manager, in writing, within five days of the order, decision, or determination.
- c. The city shall deem a separate offense to have been committed for each tree removed, damaged, or destroyed contrary to the provisions of this section.
- d. In addition to other remedies and notwithstanding the existence of an adequate remedy at law, the City of Riviera Beach may seek injunctive relief in the circuit court to enforce the provisions of this section. The city shall be entitled to reasonable attorney's fees and costs, including applicable fees and costs in action where the city is successful in obtaining affirmative relief.

- (4) A restoration plan is required. All violations of this landscape code involving the unauthorized removal of trees and vegetation shall require the landowner to file a restoration plan as provided for below. The primary consideration of the restoration plan shall be to return the affected portion of the site to its natural state. If this is impossible, it shall mitigate the negative effects of the violation over the entire site to the greatest extent possible. The community development director shall inspect the implementation of the plan, which may require any guarantees deemed necessary to insure the maintenance and survival of the implemented restoration plan.
- (5) A stop work order shall be issued for all sites in violation, upon which construction has been authorized. The City of Riviera Beach shall issue no further city permits for the subject property or project, or attendant inspections completed, until the owner corrects such violations, or the community development director has accepted a restoration plan. This shall include the certificate of occupancy for the attendant structure.
- (6) This landscaping code outlines criteria for the restoration plan. When the unauthorized removal of landscaping has occurred, the owner or developer shall submit a restoration plan within 30 days after the city has cited him

or her for such violation. In evaluating a proposed restoration plan, the community development director shall consider the following:

- a. The cross-sectional area of trees removed, at DBH;
- b. The specific aesthetic character of the materials removed;
- c. The amount of native vegetation the owner has removed without the authorization of the community development director;
- d. Any special function of the material carried out as a screen or buffer; and
- e. The amount of other natural materials preserved on the site and the opportunities for planting additional landscaping.

Any person found in violation of any of the provisions of this article shall be punished as prescribed in section 1-11, and further may be subject to revocation of building permit.

Hardship relief.

An administrative waiver may be granted by the Director of Community Development, or his or her designee, for specific uses in addition to those listed above if the applicant can demonstrate particular hardships and acceptable reasons for the requested waiver.

An administrative waiver in accordance with Sec. 20-127 of the City's Code of Ordinances may be granted by the utility district director, or his or her designee, for individual water use requests if the applicant can demonstrate particular hardships and acceptable reasons for the requested waiver.

Where a landowner is unduly burdened by the strict application of this landscape code, said landowner may apply to the Director of Community Development for hardship relief.

- 1. Hardship.** The design and development of a renovation development, a vacant development, or any other parcel exhibiting a hardship may preclude a literal compliance with all the landscape design, installation and irrigation requirements of this Article.
- 2. Reduction in Landscaping Permitted.** The Director may allow a reduction in required landscaping that may reasonably and economically accommodate a particular hardship.
- 3. Criteria for Reduction.** A reduction in required landscaping may be allowed, subject to one or more the following criteria being applicable to a property or development:
 - (A) that existing property improvements, including buildings, parking or similar items, preclude complete compliance with required landscaping; or
 - (B) the reduction in required landscaping represents the smallest reduction possible; or
 - (C) the site, when vacant, possesses irregular boundaries, restrictive easements or similar circumstances that restrict the ability to install landscaping; or
 - (D) the site has been adversely affected by prior governmental action, such as expansion of public road right-of-way; or
 - (E) the hardship is not caused by the action of the property owner; or
 - (F) the reduction in landscaping is not based solely or principally on economic reasons.

Informational material.

From time to time, staff shall prepare and distribute informational material which is designed to educate the general public of the requirements set forth in this Article.

Conflicts and relationships to other laws.

- a. Whenever regulations or restrictions imposed by this ordinance conflict with other ordinances or regulations, or are either more or less restrictive than regulations or restrictions imposed by any governmental authority through legislation, rule or regulation, the regulations, rules or restrictions which are more restrictive or which impose the highest standards or requirements shall govern. Regardless of any other provision of this ordinance, no land shall be used and no structure erected or maintained in violation of any state, local, or federal pollution control or environmental protection law or regulation.
- b. A deed restriction or covenant imposed by a homeowner's association may not prohibit or be enforced so as to prohibit any property owner from implementing Florida-Friendly Landscaping™ on his or her land or create any requirement or limitation in conflict with any provision in Part II of Chapter 373, F.S., as amended, or a water shortage order, other order, consumptive use permit, or rule adopted or issued pursuant to Part II of Chapter 373, F.S., as amended.

APPENDIX A (A.1 and A.2) - Prohibited vegetation.

Those plant species listed below are defined as Category 1 nuisance and invasive exotic vegetation by the Florida Exotic Pest Plant Council's (FLEPPC) 2009 Invasive Plant Species List (www.fleppc.org), and shall not be planted, maintained or permitted to remain on sites receiving site plan approval (including small-scale development). The following list is current as of the approval of this ordinance but is subject to change, historically updated by the FLEPPC every two years. Please refer directly to the FLEPPC for the current Category 1 list. The removal of prohibited plant species shall be in conjunction with any new land development request, site plan modification or building permit with a valuation over \$2,500, unless the Director of the Department of Community Development determines that the removal of the prohibited plant species places an undue burden on the property owner. Furthermore, the sale of prohibited plant species is not permitted within the City.

(Appendix A.1)

- 1) Rosary pea (*Abrus precatorius*).
- 2) Earleaf acacia (*Acacia auriculiformis*).
- 3) Mimosa, silk tree (*Albizia julibrissin*).
- 4) Woman's tongue (*Albizia lebbbeck*).
- 5) Coral ardisia (*Ardisia crenata*).
- 6) Asparagus fern (*Asparagus densiflorus*).
- 7) Orchid tree (*Bauhinia variegata*).
- 8) Bishopwood (*Bischofia javanica*).
- 9) Santa Maria, Mastwood, Alexandrian Laurel (*Calophyllum antillanum*).
- 10) Australian pine (*Casuarina equisetifolia*).
- 11) Suckering Australian pine (*Casuarina glauca*).
- 12) Camphor tree (*Cinnamomum camphora*).
- 13) Taro, wild taro (*Colocasia esculenta*).
- 14) Leather leaf (*Colubrina asiatica*).
- 15) Carrotwood (*Cupaniopsis anacardiodes*).
- 16) Winged yam (*Dioscorea alata*).
- 17) Air potato (*Dioscorea bulbifera*).
- 18) Water-hyacinth (*Eichornia crassipes*).
- 19) Surinam cherry (*Eugenia uniflora*).
- 20) Laurel fig (*Ficus microcarpa*).
- 21) Hydrilla (*Hydrilla verticillata*).
- 22) Green hygro (*Hygrophila polysperma*).
- 23) West Indian marsh grass (*Hymenachne amplexicaulis*).
- 24) Cogon grass (*Imperata cylindrica*).
- 25) Water spinach (*Ipomoea aquatica*).
- 26) Gold-Coast jasmine (*Jasminum dichotomum*).
- 27) Brazilian jasmine (*Jasminum fluminense*).
- 28) Lantana, shrub verbena (*Lantana camara*).
- 29) Glossy privet (*Ligustrum lucidum*).
- 30) Chinese privet, hedge privet (*Ligustrum sinense*).
- 31) Japanese honeysuckle (*Lonicera japonica*).

- 32) Peruvian primrosewillow (*Ludwigia peruviana*).
- 33) Tropical American water grass (*Luziola subintegra*).
- 34) Japanese climbing fern (*Lygodium japonicum*).
- 35) Old world climbing fern (*Lygodium microphyllum*).
- 36) Cat's claw vine (*Macfadyena unguis-cati*).
- 37) Sapodilla (*Manilkara zapota*).
- 38) Melaleuca, paper bark (*Melaleuca quinquenervia*).
- 39) Natal grass (*Melinis repens*).
- 40) Catclaw mimosa (*Mimosa pigra*).
- 41) Heavenly bamboo, nandina (*Nandina domestica*).
- 42) Sword fern (*Nephrolepis cordifolia*).
- 43) Asian sword fern (*Nephrolepis multiflora*).
- 44) Burma reed, cane grass (*Neyraudia renaudiana*).
- 45) Snowflake, (*Nymphoides cristata*).
- 46) Sewer vine, onion vine (*Paederia cruddasiana*).
- 47) Skunk vine (*Paederia foetida*).
- 48) Torpedo grass (*Panicum repens*).
- 49) Napier grass (*Pennisetum purpureum*).
- 50) Water-lettuce (*Pistia stratiotes*).
- 51) Strawberry guava (*Psidium cattleianum*).
- 52) Guava (*Psidium guajava*).
- 53) Kudzu (*Pueraria montana*).
- 54) Downy rose-myrtle (*Rhodomyrtus tomentosa*).
- 55) Natal grass (*Rhynchelytrum repens*).
- 56) Mexican Petunia (*Ruellia brittoniana*).
- 57) Water spangles (*Salvinia minima*).
- 58) Chinese tallow tree, popcorn tree (*Sapium sebiferum*).
- 59) Scaevola, half-flower, beach naupaka (*Scaevola sericea*).
- 60) Schefflera, umbrella tree (*Schefflera actinophylla*).
- 61) Brazilian pepper (*Schinus terebinthifolius*).
- 62) Wrights nutrush (*Scleria lacustris*).
- 63) Climbing cassia, Christmas cassia, Christmas senna (*Senna pendula*).
- 64) Wetland nightshade, aquatic soda apple (*Solanum tampicense*).
- 65) Tropical soda apple (*Solanum varium*).
- 66) Arrowhead vine (*Syngonium podophyllum*).
- 67) Jambolan plum, java plum (*Syzigium cumini*).
- 68) Incised halberd fern (*Tectaria incisa*).
- 69) Seaside mahoe (*Thespesia populnea*).
- 70) Small-leaf spiderwort, green or white-flowered wandering jew (*Tradescantia fluminensis*).
- 71) Para grass (*Urochloa mutica*).

(Appendix A.2)

In addition to those species listed in appendix A.1 above, due to cold tolerance problems, intrusiveness into water/sewer lines, invasive growth habits and/or lack of wind resistance, the following species shall also be prohibited:

- 1) Ficus (all species except Strangler fig (*Ficus aurea*), Shortleaf fig (*Ficus citrifolia*), Creeping fig (*Ficus repens*, *Ficus pumila*), Rusty fig (*Ficus rubiginosa*), and Moreton Bay Fig (*Ficus macrophylla*). *Ficus benjamina* is permitted only in single family residential areas if maintained as a hedge with a maximum height of twelve feet.
- 2) Norfolk Island pine (*Araucaria heterophylla*).
- 3) Silk oak (*Grevillea robusta*).
- 4) Eucalyptus (all species).
- 5) Ear tree (*Enterolobium cyclocarpum*)
- 6) Sea hibiscus, Mahoe (*Hibiscus tiliaceus*)
- 7) African tulip tree (*Spathodea campanulata*)
- 8) Vera wood (*Bulnesia arborea*)

APPENDIX - B

Those plant species listed below are defined as Native Florida Species, primarily within SFWMD's document, "WaterWise: South Florida Landscapes", available via (www.sfwmd.gov). The following list is not exhaustive and may be updated as necessary.

(Appendix B)

Native Shade Tree Species

- 1) Ash, Pop (*Fraxinus caroliniana*).
- 2) Birch, River (*Betula nigra*).
- 3) Blackgum (*Nyssa sylvatica*).
- 4) Common Persimmon (*Diospyros virginiana*).
- 5) Cypress, Bald (*Taxodium distichum*).
- 6) Cypress, Pond (*Taxodium ascendens*).
- 7) Elm, Florida (*Ulmus americana* var. *floridana*).
- 8) Gumbo Limbo (*Bursera simaruba*).
- 9) Hickory, Mockernut (*Carya tomentosa*).
- 10) Hickory, Pignut (*Carya alba* = *Carya glabra*).
- 11) Hornbeam, American (*Carpinus caroliniana*).
- 12) Jamaican Dogwood (*Piscidia piscipula*)
- 13) Magnolia, Southern (*Magnolia grandiflora*).
- 14) Mahogany (*Swietenia mahagoni*).
- 15) Maple, Red (*Acer rubrum*).
- 16) Mastic (*Sideroxylon foetidissimum* = *Mastichodendron foetidissimum*).
- 17) Mulberry, Red (*Morus rubra*).
- 18) Oak, Laurel (*Quercus laurifolia*).
- 19) Oak, Live (*Quercus virginiana*).
- 20) Oak, Sand Live (*Quercus geminata*).
- 21) Oak, Turkey (*Quercus laevis*).
- 22) Oak, Water (*Quercus nigra*).
- 23) Paradise Tree (*Simarouba glauca*).
- 24) Pine, Loblolly (*Pinus taeda*).
- 25) Pine, Long-leaf (*Pinus palustris*).
- 26) Pine, Sand (*Pinus clausa*).
- 27) Pine, Slash (*Pinus elliottii*).
- 28) Pine, South Florida Slash (*Pinus elliottii* var. *densa*).
- 29) Red Bay (*Persea borbonia*).
- 30) Satinleaf (*Chrysophyllum oliviforme*).
- 31) Seagrape (*Coccoloba uvifera*).
- 32) Short Leaf Fig (*Ficus citrifolia*).
- 33) Southern Catalpa (*Catalpa bignonioides*).
- 34) Strangler Fig (*Ficus aurea*).
- 35) Sugarberry (*Celtis laevigata*).
- 36) Swamp Tupelo (*Nyssa sylvatica* var. *biflora*).
- 37) Sweetgum (*Liquidambar styraciflua*).
- 38) Sycamore (*Platanus occidentalis*).
- 39) Tulip Tree (*Liriodendron tulipifera*).

40) Wild Tamarind (*Lysiloma latisiliquum*).

Native Accent Tree Species Acacia, Sweet (*Acacia farnesiana*).

- 1) Black-Calabash (*Amphitecna latifolia*).
- 2) Blolly (*Guapira discolor*).
- 3) Buttonwood (*Conocarpus erectus*).
- 4) Cedar, Southern Red (*Junipera virginiana* = *Juniperus silicicola*).
- 5) Cherry Laurel (*Prunus caroliniana*).
- 6) Crabwood (*Gymnanthes lucida*).
- 7) Dogwood, Flowering (*Cornus florida*).
- 8) East Palatka Holly (*Ilex x attenuata* 'East Palatka').
- 9) Fiddlewood (*Citharexylum spinosum* = *Citharexylum fruticosum*).
- 10) Florida Soapberry (*Sapindus saponaria* = *Sapindus marginatus*).
- 11) Geiger Tree (*Cordia sebestena*).
- 12) Hercules' Club (*Zanthoxylum clava-herculis*).
- 13) Hickory, Scrub (*Carya floridana*).
- 14) Holly, American (*Ilex opaca*).
- 15) Holly, Dahoon (*Ilex cassine*).
- 16) Holly, Yaupon (*Ilex vomitoria*).
- 17) Ironwood, Black (*Krugiodendron ferreum*).
- 18) Joewood (*Jacquinia keyensis*).
- 19) Lignum Vitae (*Guaiacum sanctum*).
- 20) Loblolly Bay (*Gordonia lasianthus*).
- 21) Mangrove, Black (*Avicennia germinans*).
- 22) Mangrove, Red (*Rhizophora mangle*).
- 23) Mangrove, White (*Laguncularia racemosa*).
- 24) Oak, Chapman (*Quercus chapmanii*).
- 25) Pigeon Plum (*Coccoloba diversifolia*).
- 26) Pitch Apple, Autograph Tree (*Clusia rosea*).
- 27) Plum, Flatwoods (*Prunus umbellata*).
- 28) Pond Apple (*Annona glabra*).
- 29) Princewood (*Exostema caribaeum*).
- 30) Red Stopper (*Eugenia rhombea*).
- 31) Redberry Stopper (*Eugenia confusa*).
- 32) Redbud (*Cercis canadensis*).
- 33) Silver Buttonwood (*Conocarpus erectus* var. *sericeus*).
- 34) Spanish Stopper (*Eugenia foetida*).
- 35) Strongbark (*Bourreria succulenta*).
- 36) Summer Haw (*Crataegus flava*).
- 37) Swamp Bay (*Persea palustris*).
- 38) Sweetbay (*Magnolia virginiana*).
- 39) Wild Cinnamon (*Canella alba*).
- 40) Wild Dilly (*Manilkara bahamensis*).
- 41) Wild Lime (*Zanthoxylum fagara*).
- 42) Willow-leaved, Bustic (*Sideroxylon salicifolium* = *Dipholis salicifolia*).

Native Palm-Like Species

- 1) Buccaneer Palm, Cherry Palm (*Pseudophoenix sargentii*).
- 2) Cabbage Palm (*Sabal palmetto*).
- 3) Dwarf Palmetto (*Sabal minor*).
- 4) Florida Royal Palm (*Roystonea regia* = *R. elata*).
- 5) Needle Palm (*Rhapidophyllum hystrix*).
- 6) Paurotis Palm (*Acoelorrhaphe wrightii*).
- 7) Saw Palmetto (*Serenoa repens*).
- 8) Scrub Palmetto (*Sabal etonia*).
- 9) Silver Palm (*Coccothrinax argentata*).
- 10) Thatch Palm (*Thrinax parviflora*).
- 11) Thatch Palm, Florida (*Thrinax radiata*).
- 12) Thatch Palm, Key (*Thrinax morrisii*).

Native Shrub Species

- 1) Adam's Needle (*Yucca filamentosa*).
- 2) Apple, Seven-year (*Genipa clusifolia* = *Casasia clusifolia*).
- 3) Bahama Coffee (*Psychotria ligustrifolia*).
- 4) Bay Cedar (*Suriana maritima*).
- 5) Beach Elder (*Iva imbricata*).
- 6) Beautyberry (*Callicarpa americana*).
- 7) Black Torch (*Erithalis fruticosa*).
- 8) Blueberry, Shiny (*Vaccinium myrsinites*).
- 9) Buckthorn, Tough (*Sideroxylon tenax* = *Bumelia tenax*).
- 10) Buttonbush (*Cephalanthus occidentalis*).
- 11) Caper, Jamaican (*Capparis cynophallophora*).
- 12) Cassia, Bahama (*Senna mexicana* var. *chapmanii*).
- 13) Christmas Berry (*Lycium carolinianum*).
- 14) Coontie, Arrowroot (*Zamia integrifolia*).
- 15) Coral Bean (*Erythrina herbacea*).
- 16) Cotton, Wild (*Gossypium hirsutum*).
- 17) Eastern Gamagrass (*Tripsacum dactyloides*).
- 18) Elderberry (*Sambucus canadensis*).
- 19) Firebush (*Hamelia patens*).
- 20) Florida Boxwood (*Schaefferia frutescens*).
- 21) Florida Flame Azalea (*Rhododendron austrinum*).
- 22) Florida Gamagrass (*Tripsacum floridanum*).
- 23) Florida Privet (*Forestiera segregata*).
- 24) Florida-Anise (*Illicium floridanum*).
- 25) Gallberry (*Ilex glabra*).
- 26) Green Cocoplum (*Chrysobalanus icaco*).
- 27) Holly, Dwarf Yaupon (*Ilex vomitoria* 'Nana').
- 28) Inkberry (*Scaevola plumieri*).
- 29) Lyonia, Rusty (*Lyonia ferruginea*).
- 30) Maidenbush (*Savia bahamensis*).
- 31) Marlberry (*Ardisia escallonioides*).

- 32) Myrsine (*Rapanea punctata*).
- 33) Oakleaf Hydrangea (*Hydrangea quercifolia*).
- 34) Pinxter Azalea (*Rhododendron canescens*).
- 35) Possum Haw (*Viburnum nudum*).
- 36) Red Tip Cocoplum (*Chrysobalanus icaco* 'Red Tip').
- 37) Rough Velvet Seed (*Guettarda scabra*).
- 38) Sea Lavender (*Argusia gnaphalodes* (= *A. volubilis*)).
- 39) Silver Buttonwood (*Conocarpus erectus* var. *sericeus*).
- 40) Simpson Stopper (*Myrcianthes fragrans*).
- 41) Softleaf Coffee (*Psychotria sulzneri*).
- 42) Spanish Bayonet (*Yucca aloifolia*).
- 43) Spicewood (*Calypttranthes pallens*).
- 44) Swamp Mallow (*Hibiscus coccineus*).
- 45) Sweetspire, Virginia (*Itea virginica*).
- 46) Tetrazygia (*Tetrazygia bicolor*).
- 47) Tropical Sea Oxeye Daisy (*Borrchia arborescens*).
- 48) Varnish Leaf (*Dodonaea viscosa*).
- 49) Walter's Viburnum (*Viburnum obovatum*).
- 50) Wax Myrtle (*Myrica cerifera*).
- 51) White Indigo Berry (*Randia aculeata*).
- 52) Wild Coffee (*Psychotria nervosa*).
- 53) Wild Olive (*Osmanthus americanus*).
- 54) Wild Rosemary (*Conradina canescens*).
- 55) Wild Sage, Buttonsage (*Lantana involucrata*).
- 56) Yellow Anise (*Illicium parviflorum*).
- 57) Yellow Necklace Pod (*Sophora tomentosa* var. *truncata*).

Native Groundcover and Grass Species

- 1) Aster, Stokes (*Stokesia laevis*).
- 2) Black-eyed Susan (*Rudbeckia hirta*).
- 3) Blanket Flower (*Gaillardia pulchella*).
- 4) Blue Flag Iris (*Iris hexagona*).
- 5) Blue Porterweed (*Stachytarpheta jamaicensis*).
- 6) Blue-eyed Grass (*Sisyrinchium angustifolium*).
- 7) Butterfly Weed (*Asclepias tuberosa*).
- 8) Cardinal Flower (*Lobelia cardinalis*).
- 9) Cinnamon Fern (*Osmunda cinnamomea*).
- 10) Climbing Aster (*Aster carolinianus* = *Symphotrichum carolinianum*).
- 11) Common Tickseed (*Coreopsis leavenworthii*).
- 12) Dotted Horsemint (*Monarda punctata*).
- 13) Giant Leather Fern (*Acrostichum danaeifolium*).
- 14) Giant Sword Fern (*Nephrolepis biserrata*).
- 15) Golden Creeper (*Ernodea littoralis*).
- 16) Gopher Apple (*Licania michauxii*).
- 17) Green Eyes (*Berlandiera subacaulis*).
- 18) Iris, Virginia (*Iris virginica*).

- 19) Lizard's Tail (*Saururus cernuus*).
- 20) Lopsided Indiangrass (*Sorghastrum secundum*).
- 21) Paint Brush (*Carphephorus corymbosus*).
- 22) Quailberry (*Crossopetalum ilicifolium*).
- 23) Powderpuff (*Mimosa strigillosa*).
- 24) Prickly Pear Cactus (*Opuntia humifusa*).
- 25) Purple Coneflower (*Echinacea purpurea*).
- 26) Purple Lovegrass (*Eragrostis spectabilis*).
- 27) Rain Lily (*Zephyranthes atamasco*).
- 28) Royal Fern (*Osmunda regalis*).
- 29) Sage, Lyre-Leaved (*Salvia lyrata*).
- 30) Sage, Tropical Red (*Salvia coccinea*).
- 31) Saltgrass (*Distichlis spicata*).
- 32) Shrub Verbena (*Lantana depressa*).
- 33) Smooth Water-Hyssop (*Bacopa monnieri*).
- 34) Snowberry (*Chiococca alba* = *C. pinetorum*).
- 35) Southern Shield Fern (*Thelypteris kunthii*).
- 36) Wild Columbine (*Aquilegia canadensis*).
- 37) Wild Petunia (*Ruellia caroliniensis*).
- 38) Wiregrass (*Aristida stricta* = *A. beyrichiana*).
- 39) Yellow Canna (*Canna flaccida*).
- 40) Yellowtop (*Flaveria linearis*).

Native Groundcover and Grass Species Appropriate for Costal Dune Areas

(Note: species appropriate for dune areas may also be suitable for inland landscape design.)

- 1) Baybean (*Canavalia rosea*).
- 2) Beach Morning Glory (*Ipomoea imperati* = *I. stolonifera*).
- 3) Beach Sunflower (*Helianthus debilis*).
- 4) Beach Peanut (*Okenia hypogaea*).
- 5) Bitter Panicgrass (*Panicum amarum*).
- 6) Muhly Grass (*Muhlenbergia capillaris*).
- 7) Railroad Vine (*Ipomoea pes-caprae*).
- 8) Saltgrass (*Distichlis spicata*).
- 9) Saltmeadow Cord Grass (*Spartina patens*).
- 10) Sand Cord Grass, Switchgrass (*Spartina bakeri*).
- 11) Seacoast Marshelder (*Iva imbricata*).
- 12) Seashore Dropseed (*Sporobolus virginicus*).
- 13) Seashore Paspalum (*Paspalum vaginatum*).
- 14) Seaside Gentian (*Eustoma exaltatum*).
- 15) Seaside Goldenrod (*Solidago sempervirens*).
- 16) Sea Oats (*Uniola paniculata*).
- 17) Sea Oxeye Daisy (*Borrichia frutescens*).
- 18) Sea Purslane (*Sesuvium portulacastrum*).
- 19) Sea Rocket (*Cakile lanceeolata*).
- 20) Spider Lily (*Hymenocallis latifolia*).
- 21) Verbena, Beach (*Glandularia (Verbena) maritima*).

Native Vine Species

- 1) Blue Jacquemontia (*Jacquemontia pentanthos*).
- 2) Coral Honeysuckle (*Lonicera sempervirens*).
- 3) Corky-stem Passion Flower (*Passiflora suberosa*).
- 4) Crossvine (*Bignonia capreolata*).
- 5) Muscadine Grape (*Vitis rotundifolia*).
- 6) Passion Flower (*Passiflora incarnata*).
- 7) Trumpet Vine (*Campsis radicans*).
- 8) Virginia Creeper (*Parthenocissus quinquefolia*).
- 9) Yellow Jessamine (*Gelsemium sempervirens*).