

## COUNCIL MINUTES

## REGULAR MEETING

February 9, 2011

A Regular Meeting of the City Council of the City of Jacksonville was held Wednesday, February 9, 2011 beginning at 7:00 PM in the Council Chambers of City Hall. Present were: Mayor Sammy Phillips, presiding; and Council Members: Jerry Bittner, Fannie K. Coleman, Randy Thomas, and Bob Warden. Mayor Pro-Tem Michael Lazzara and Councilman Jerome Willingham were unable to attend. Also present were: Richard Woodruff, City Manager; Ronald Massey, Assistant City Manager, Adah Roberts, Finance Director; Glenn Hargett, Communications and Community Affairs Director; Mike Yaniero, Police Chief; Rick McIntyre, Fire Chief; Grant Sparks, Public Services Director; Reggie Goodson, Planning and Development Services Director; Carmen Miracle, City Clerk; and John Carter, City Attorney. \*An audio recording of the Council Meeting is presently available for review in the City Clerk's Office.

CALL TO ORDER

Mayor Sammy Phillips called the meeting to order at 7:00 PM.

PLEDGE OF ALLEGIANCE

Council Member Coleman led the Pledge of Allegiance.

INVOCATION

Mr. John Carter pronounced the invocation.

ADOPTION OF AGENDA AND CONSENT ITEMS

A motion was made by Councilman Bittner, seconded by Councilman Thomas, and unanimously approved to adopt the agenda as amended to add Consent Item 8 – ONWASA-City of Jacksonville – Contract to Loan Employee.

ADOPTION OF MINUTES

A motion was made by Councilman Warden, seconded by Councilman Thomas, and unanimously adopted to approve the minutes of a Special Meeting held January 18, 2011 as presented, the minutes of a Special Meeting (Legislative Delegation) held January 18, 2011 as presented and the minutes of the Regular Meeting held January 18, 2011 as presented.

PRESENTATIONSDISTINGUISHED BUDGET PRESENTATION AWARD

Mayor Phillips presented the Distinguished Budget Presentation Award to Ms. Adah Roberts, Finance Director. He expressed how much she would be missed since she was leaving

the City of Jacksonville to return to Atlanta. He commended her on the great job she had done for the City. Ms. Roberts thanked the staff of the City Manager's Office, Finance Department and the other Departments for their cooperation with budget preparation.

Mr. Woodruff stated that before the Council Meeting on Tuesday, February 22, 2011, there would be a reception held in appreciation of Ms. Roberts' service to the City.

#### BUSINESS YARD OF THE MONTH BEAUTIFICATION AWARD

Mayor Phillips announced that the Business Yard of the Month was awarded to Valerie and Donald Dail of Southeastern Steel Choppers, 125 Wilmington Highway. Mr. and Mrs. Dail were not able to attend, but Mayor Phillips thanked them for all their efforts. Councilman Bob Warden is the Council appointed Liaison to the Beautification and Appearance Commission.

#### MAYOR'S COMMITTEE FOR PERSONS WITH DISABILITIES AWARD

Mayor Phillips read a citation recognizing Chic-Fil-A in the Jacksonville Mall for receiving the Mayor's Committee for Persons with Disabilities recognition award in the category of Accessibility. Council Member Fannie K. Coleman, Council Liaison to the Mayor's Committee for Persons with Disabilities, assisted in the presentation. Tiffany Choice, Area Supervisor was present to accept the award. Employees Annie Campbell and Rae Oldham were also recognized and received certificates. Mr. Pete Burgess, owner, was also present.

#### SWEARING IN OF MAJOR PATRICK TRAITOR

Mayor Phillips reviewed the qualifications and past law enforcement services for Major Patrick Traitor. Mayor Phillips administered the Oath of Office while Major Traitor's youngest daughter held the Bible, his girlfriend pinned on his Major badge and his other daughter pinned on his rank insignia.

#### REPORT TO COUNCIL – BOARD OF ADJUSTMENT

Chairman Gary Herbold was unable to attend the meeting to present the report.

#### PUBLIC HEARINGS

#### REZONING TO INCORPORATE THE FLIGHT PATH OVERLAY DISTRICT – ZONING TEXT AMENDMENT

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Ms. Abigail Barman, Planner, stated that Marine Corps Base Camp Lejeune and Marine Corps Air Station New River had requested the City of Jacksonville adopt a Flight Path Overlay District (FPOD). A text amendment that created the Flight Path Overlay District was adopted by City Council and was added to the Zoning Ordinance. To implement the District, a zoning overlay must be adopted for the properties within the designated Flight Path Overlay District. The primary purpose of this district was to ensure compatibility between future development and

air operations associated with Marine Corps Base Camp Lejeune and Marine Corps Air Station New River (the Base). The FPOD was necessary to ensure safe aircraft operations while protecting the public's health, safety and welfare along these routes.

Mr. Woodruff stated that at the time the text amendment was adopted, Councilman Bittner asked Staff to verify if the amendment would affect any non-conforming structures. The structures that would be affected were two City water towers and four communication towers. By adopting the text amendment tonight, Council was recognizing these structures as nonconforming, but a future text amendment would be forthcoming to address the six structures. The value to adopt at this time would guarantee that no further structures would be developed that were greater than 100 feet.

Mayor Phillips asked if the new text amendment would exempt the six structures from the limitation if structural re-work was required in the future. Mr. Woodruff stated that was correct.

Mayor Phillips recessed the regular meeting at 7:25 PM in order to convene the Public Hearing.

Macrina Fox, 13 Burton Place, stated that she received a letter because she lived in the area of the overlay. There were several items brought up at the Planning meeting, but one gentleman asked about trees over 100 feet. There were several trees in the City over 100 feet including some on her property. She felt this issue should be thought out because the trees were easier to hit than buildings and the military had recently been flying lower.

Mr. Woodruff stated that relative to the trees, there was nothing in the zoning ordinance that would require a property owner to trim the trees as they were a natural element and not a structure.

Tim Davis, 1195 Canady Rd, stated he lived across the road from one of the military water towers. He felt the military should be looking at moving their airport outside of the City like the Jacksonville airport did so it would be away from the schools and the people.

Nichole Bentrup, 295 Leonard St, stated her home was also in the overlay area. They were looking into alternative energy sources, such as solar panels, for their home in the future and wanted to know how this would affect them. Mr. Woodruff stated he wasn't sure if windmills were permitted, but if they were, the windmill would have to be less than 100 feet in height.

With no one else desiring to speak, Mayor Phillips recessed the Public Hearing at 7:35 PM and reconvened the regular meeting.

A motion was made by Councilman Bittner, seconded by Councilman Thomas, and unanimously approved the rezoning as requested based on findings of fact A through D being found in the affirmative and directed staff to prepare an amendment to the FPOD text to allow for the replacement of existing structures which exceed the 100' height limit.

Ordinance 2011-09, Bk.10, Pg. 298

AMENDMENTS TO SECTION 103 LANDSCAPING – ZONING TEXT  
AMENDMENT

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Mr. Ryan King, Planning Administrator, stated that at the direction of City Council, staff had drafted a zoning text amendment to create standards that would allow stormwater ponds to be configured as a site amenity and additional standards when they were designed as a utility. In conjunction with these changes, staff also recommended changes to Section 103 Landscaping that would simplify how the landscaping requirements were calculated. Staff utilized standards from the 2<sup>nd</sup> module of the proposed Unified Development Ordinance (UDO), institutional knowledge and previous discussions with local land planners in drafting the proposed text.

Using the PowerPoint presentation attached to the official minutes as Exhibit A, Mr. King reviewed the proposed changes. He asked Council to consider removing from the proposed ordinance Part D. 5 – Foundation Landscaping Required, until they had time to look at it further. He also asked for a delay of 30 to 60 days in implementation to allow the land planners, engineers, and surveyors to put through the work they were already doing. Mr. Woodruff suggested that instead of a delay, the option should be given to a set date that a developer can implement this code or work under the old standards up until a date certain.

Councilman Bittner stated that this Council action item was more extensive that what he had expected. He thought staff was only working on site amenities for retention ponds. One of the cons listed in the report stated that Clarion Associates were currently drafting the proposed UDO which would likely increase the amount of landscaping required at most sites. The implication was that the text would be amended again by the UDO. Mr. King stated that was correct unless the Council directed this Code to be put into the UDO.

Councilman Bittner thought some of the landscaping requirements were worthwhile considerations, but he felt it needed further discussion and did not recommend implementing except for the separate action on the retention ponds as amenities or utilities.

Councilman Thomas agreed. He stated that whenever Council was presented with a zoning text amendment in the past, they were given the old amendment with cross-outs and bold for changes. He felt this one was challenging to compare the old with the new.

Mr. Woodruff recommended that if Council felt comfortable with breaking up the text amendment into parts, those portions dealing with the stormwater ponds could be confirmed or everything could be taken back for a workshop.

Councilman Bittner felt that Part E – Standards for Retention/Detention Ponds/Stormwater Wetlands should be adopted and the rest deferred for future review..

Mayor Phillips recessed the regular meeting at 7:57 PM in order to convene the Public Hearing.

John Pierce, 405 Johnson Blvd., stated he was just made aware of these changes. He stated there was a need for change and simplification in the Code, but for small lots the new requirements would be devastating. The cost for landscaping strips would put small businesses out of business.

John Parker, 306 New Bridge Street, asked that if any part of the zoning text amendment was adopted tonight, a grace time for the projects they were currently working on should be provided. They would probably need at least 60 days.

With no one else desiring to speak, Mayor Phillips closed the Public Hearing at 8:01 PM and reconvened the regular meeting.

Councilman Bittner asked Mr. Carter to clarify what Council was voting on if they agreed to adopt in part. Mr. Carter stated he was comfortable with partial adoption covering the stormwater ponds and allowing a 60 day period of time for the new and old codes to run together, with the new code becoming the code on a date certain.

A motion was made by Councilman Bittner and seconded by Councilman Thomas to adopt Part E - Standards for Retention/Detention Ponds/Stormwater Wetlands of the Zoning Text Amendment and any related sections providing for a 60 day transition period between existing ordinance standards and the new standards. The new standards would become the only code on May 1, 2011.

Following a brief review of additional sections of the proposed text amendment, a vote was taken on the motion and was unanimously approved.

Ordinance 2011-10, Bk.10, Pg. 299

#### PUBLIC COMMENT

There was no one present desiring to speak at this public comment section.

NEW BUSINESSCONSENT ITEMSSTATE AID FOR MOSQUITO CONTROL

The FY-2012 Application for State Aid for Mosquito Control was due by March 10, 2011. The application required the City's governing body to adopt a Resolution designating an Agent to sign papers and to otherwise represent the City Council in matters related to Mosquito Control. This was an ongoing grant program that provided regular and basic funding for the City's Mosquito Control Program.

Council approved the Resolution authorizing the City Manager to execute grant documents relating to Mosquito Control.

Resolution 2011-02, Bk.6, Pg.375

PRELIMINARY AND GENERAL PLAN – PADGETT TRACT – WESTERN  
BOULEVARD & BRANCHWOOD DRIVE (FUTURE WESTERN PARKWAY)

Parker and Associates had submitted an application for a proposed Preliminary and General Plan that indicated 9.87 acres being divided into 5 commercial lots (1 of which was for stormwater pond) at the intersection of Branchwood Drive and Western Boulevard. The plan also depicted an unnamed private drive that would connect to the future Northwest Parkway. The proposed development was located within the City limits. Sewer allocation requests would be processed in accordance with the adopted Policy.

Council approved the Preliminary and General Plan with one condition identified within the Staff Report.

- 1) Stormwater detention pond shall adhere to new regulations regarding landscaping and design.

SITE PLAN WITH APPROVED CONDITIONAL USE PERMIT – RIVER OF LIFE  
CHURCH – 1940 GUM BRANCH ROAD

John L. Pierce and Associates had submitted an application for a Site Plan with an approved Conditional Use Permit for an existing 13,424 square foot church with a proposed 864 square foot expansion for a combined total of 14,388 square feet. The property was zoned Conditional Use-Business-1 (CU-B-1) and within this zoning district any use required a Conditional Use Permit which was granted by City Council on June 9, 1998. The project site was located within the City limits and was served by existing infrastructure; and would not impact the City's Sewer Allocation Policy.

Council approved the Site Plan with approved Conditional Use Permit.

APPOINTMENT TO BOARD OF TRUSTEES FOR FIREMEN’S RELIEF FUND

One seat on the Board of Trustees for the Firemen’s Relief Fund was due for appointment. City Council appointed Mr. Mandy Daughtry to the Board in 1997. He had continued to serve since that time. Mr. Daughtry had expressed an interest in serving an additional two-year term.

Council re-appointed Mr. Mandy Daughtry to the Board of Trustees for the Firemen’s Relief Fund.

RESOLUTION AUTHORIZING FILING OF AN LGC APPLICATION

The City requested proposals to finance the Jacksonville Commons and Jack Amyette Gym Floor Replacement Project in the amount of \$323,000. In order to enter into an Installment Financing Contract which included improvement to real property, the City must file an application with the Local Government Commission. The Local Government Commission also required the City to adopt a Resolution granting permission to file the application.

Council adopted the Resolution authorizing staff to file the application for approval of the Installment Financing Contract for Gym Floor Replacements.

Resolution 2011-03, Bk., Pg. 376

ONWASA – CITY OF JACKSONVILLE – CONTRACT TO LOAN EMPLOYEE –  
BILLY FARMER

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ONWASA had contacted the City and requested emergency assistance in providing temporary managerial services in the position of ‘Acting Executive Director’ of ONWASA. The City had agreed to loan the services of Deputy Public Services Director, Billy Farmer to serve as ONWASA Acting Executive Director. The contract term was for 60 days unless terminated sooner by either party giving ten days notice. The contract could be renewed or amended upon written agreement by both parties. The City would continue to pay Mr. Farmer; however, ONWASA would reimburse the City monthly in the amount of his salary and benefits.

Council approved contracting with ONWASA to loan City employee services.

NON-CONSENT ITEMS

APPOINTMENT – FIRE SAFETY ADVISORY BOARD

The Fire Safety Advisory Board had six (6) vacancies in the categories of General Business, Marine Corps Base, Developer, Hotel/Motel, and two (2) At Large. Four (4) of these vacancies occurred recently due to attendance violations. One new Talent Bank Application was received in the category of Developer. The applicant was contacted and wished to serve.

Council Member Jerry Bittner, Council Liaison to the Fire Safety Advisory Board, nominated Steven Kellum for appointment to the Fire Safety Advisory Board to an existing term expiring June 30, 2012 in the category of Developer.

A motion was made by Councilman Thomas, seconded by Councilman Warden, and unanimously adopted to close nominations and to appoint Mr. Kellum by acclamation.

#### PUBLIC COMMENT

There was no one present desiring to speak during this public comment section.

#### REPORTS

##### CIVIC AFFAIRS

Councilman Bittner reported that the Onslow Civic Affairs Committee would be meeting to continue the discussion on the Freedom Fountain and a possible fund drive.

#### ONWASA

Councilman Bittner clarified that the appointment of Mr. Chuck Kitchen as ONWASA legal counsel was on an interim basis and would give ONWASA time to recruit another firm or attorney on a retainer basis or alternatively, there had been discussions on having in-house legal counsel. In regard to the personnel matter, it was being pursued and would be resolved at the earliest possible date.

##### LAND APPLICATION SITE

Councilman Bittner wanted the public to know that an extensive amount of valuable information was received from the panel of experts who discussed the issues at the land application site at the workshop meeting held prior to the Council meeting. He also thanked the City Manager for his quick response in assembling this team of experts.

##### BEAUTIFICATION AND APPEARANCE COMMISSION

Councilman Warden reported that the Beautification and Appearance Commission had some vacancies and encouraged citizens to go to the City website and fill out an application if they were interested in serving.

##### CIVIC AFFAIRS

Mr. Woodruff reported that the Onslow Civic Affairs Committee would meet on Thursday, February 10, 2011 at 12:00 PM. At this meeting, he would bring a summary of the public input on the Freedom Fountain with hope that the Committee would bring a recommendation to Council on February 22, 2011.

INCLEMENT WEATHER

Mr. Woodruff reported that staff was aware of the forecast for inclement weather and at this time, the City would operate under their normal hours for Thursday, February 10, 2011.

GOAL SETTING SESSION

Mr. Woodruff reminded Council a Goal Setting Session had been scheduled for Tuesday, February 15, 2011 at 3:00 PM. Information for this meeting would be distributed no later than Friday, February 11, 2011. Dr. Marianne Herring, Coastal Carolina Community College, would lead this session.

ADJOURNMENT

A motion was made by Councilman Bittner, seconded by Council Member Coleman, and unanimously adopted to adjourn the meeting at 8:17 PM.

Adopted by the Jacksonville City Council in regular session this 22<sup>nd</sup> day of February, 2011.

ATTEST:

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Sammy Phillips, Mayor

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Carmen K. Miracle, City Clerk

Exhibit "A"

**Jacksonville City Council**



**February 9, 2011**

*Legislative Public Hearing*  
**Amendments to Section 103**  
**Landscaping**  
**Zoning Text Amendment**

Agenda Item #2



**Amendments to Section 103 Landscaping**

- November 30, 2010 City Council workshop
- Establish Amenity standards
- Reviewed entire section and recommend some wholesale changes
- Simplified requirements
- Some Increased and others decreased



**Applicability**

All: Regulated by NC Dept of Environment and Natural Resources

Applies to:

- Commercial
- Residential
- Others



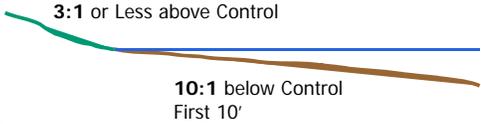
**Standards:**

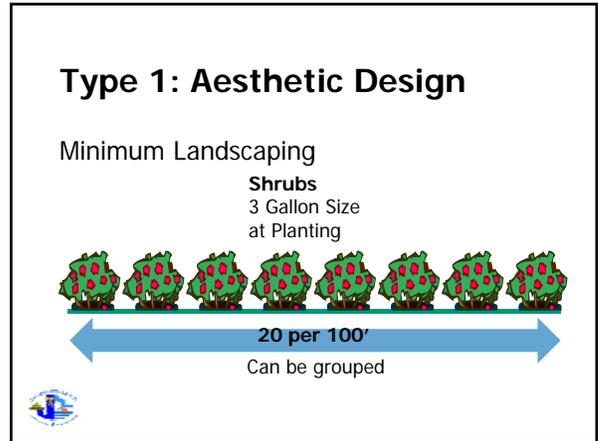
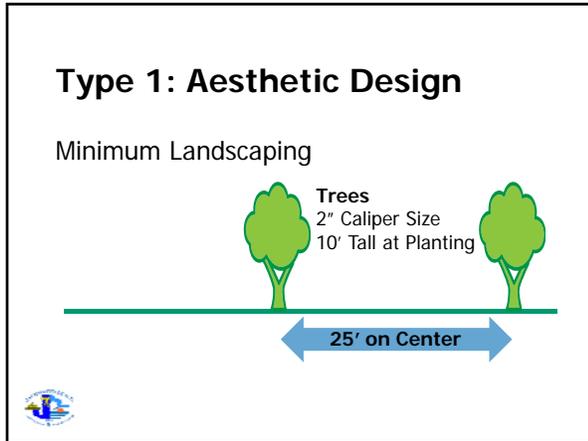
- Location
- Design
- Fencing
- Landscaping
- Slopes
- Amenities



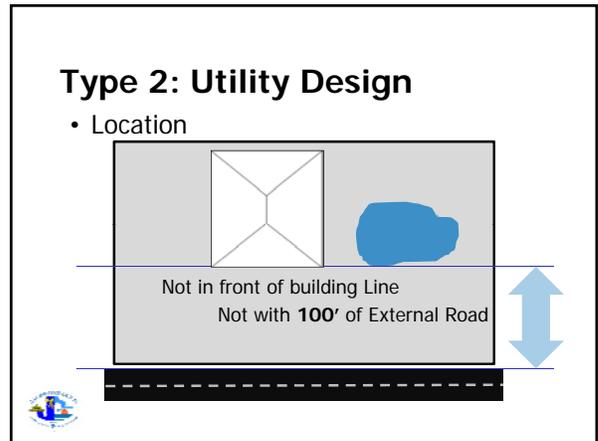
**Type 1: Aesthetic Design**

- Location – Any Portion of Site
- No Fencing
- Aesthetic – Walls Permitted
- Slopes

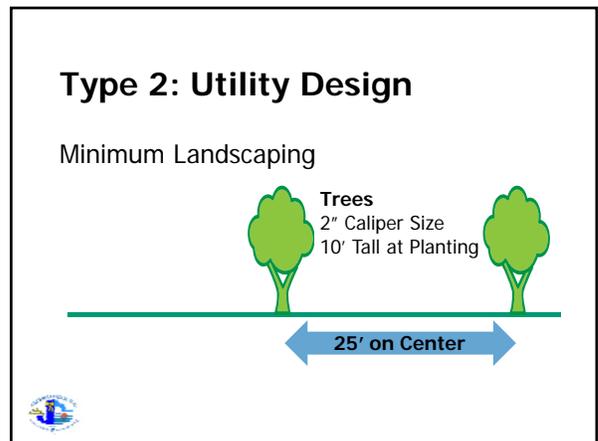




- ### Type 1: Aesthetic Design
- Amenities
- Walls
  - Fountains
  - Waterfalls
  - Lighting
  - Other items
- 



- ### Type 2: Utility Design
- Fenced
  - Slopes: As per permit
- 



### Type 2: Utility Design

Minimum Landscaping

**Shrubs**  
3 Gallon Size  
at Planting



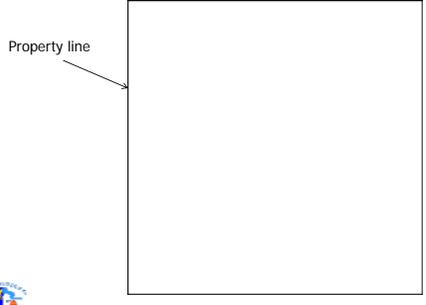
### Type 1: Utility Design

Amenities

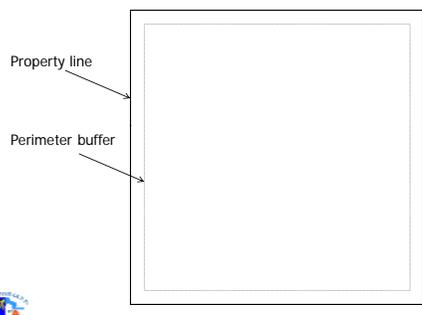
- Walls
- Fountains
- Waterfalls
- Lighting
- Other items



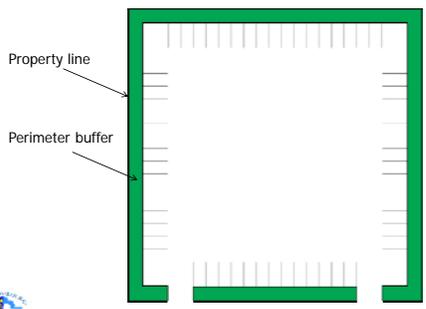
### Amendments to Section 103 Landscaping – 1 Acre Site



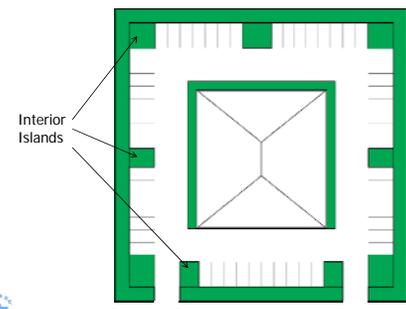
### Perimeter Buffer

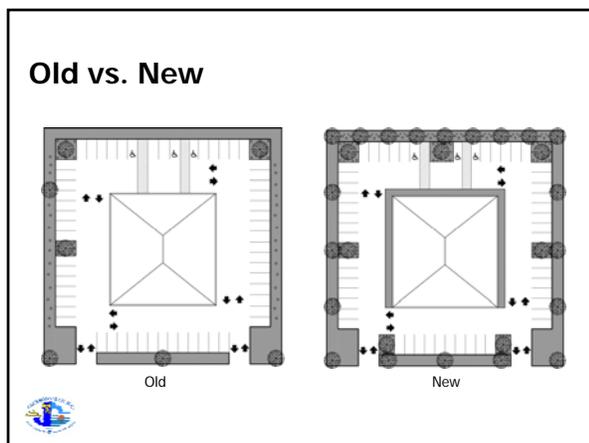
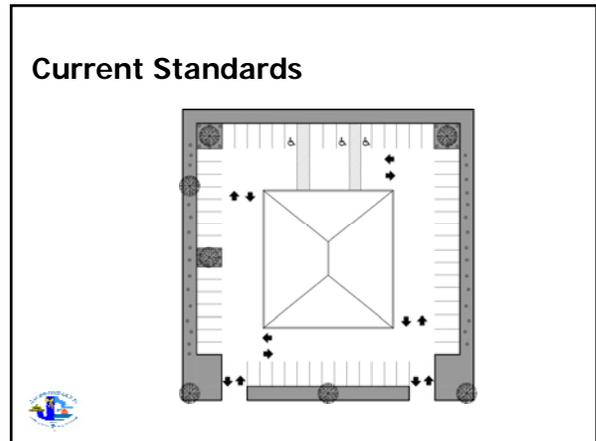
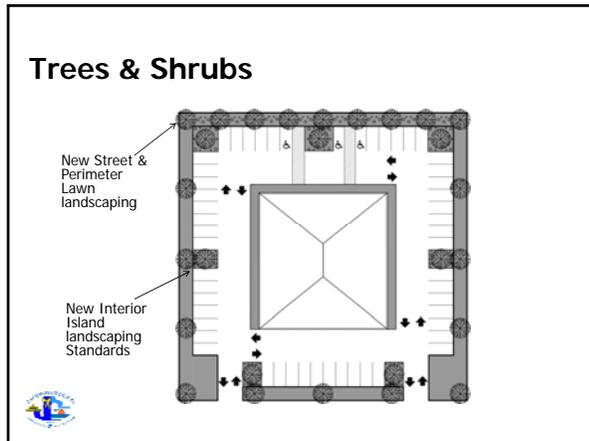
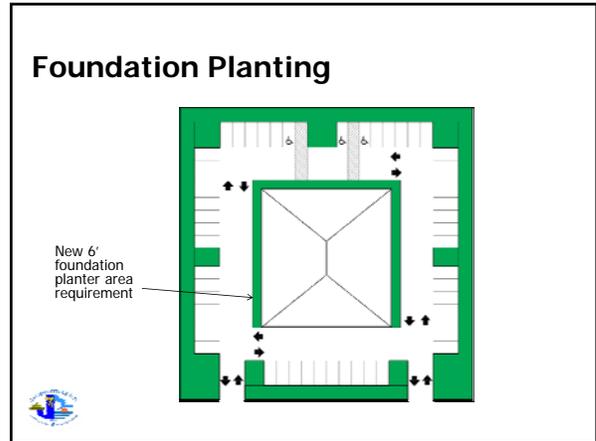
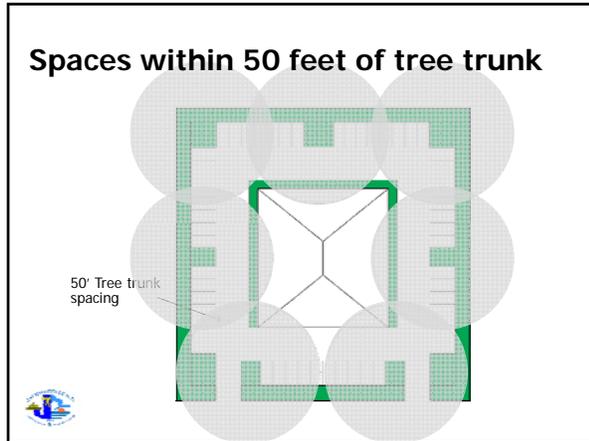


### Buffer & Parking



### Interior Islands





- ### Amendments to Section 103 Landscaping - Comparison
- Foundation Planting
    - Old: None
    - New: 6 feet on 3 sides
  - Interior Islands
    - Old: 12% of the VAA
    - New: 1 for every 10 spaces/within 50 feet of a tree

### Comparison

- Street Lawn
  - Old: 8 feet
  - New: 10 Feet
- Perimeter Buffer
  - Old: None
  - New: 10 feet



### Comparison

- Shrubs & Installation
  - Old: \$882
  - New: \$3,360
- Trees & Installation
  - Old: \$1,330
  - New: \$5,130



### Comparison



Current

New

