

REQUEST:

Revising the Accessory Buildings and Structures, General requirements of the Unified Land Development Regulations (ULDR) by amending the following section:

Section 47-25 47-25.3.A.3.d, Bufferyard Requirements – Providing an exemption to the provision to require a bufferyard between residential uses and park, open-space and conservation area.

Case Number	4T12
Applicant	City of Fort Lauderdale
ULDR Sections	47-25.3 NEIGHBORHOOD COMPATIBILITY REQUIREMENTS,
Notification Requirements	Newspaper notice 10 days prior to meeting date.
Action Required	Recommend Approval or Denial of the proposal to the City Commission.
Written By	Anthony Fajardo, Acting Zoning Administrator

BACKGROUND/DESCRIPTION:

The current version of the Unified Land Development Regulations (ULDR), adopted in June of 1997, requires all non-residential uses within 100-feet of a residential use to comply with Section 47-25.3, Neighborhood Compatibility Requirements. This includes the requirement for a bufferyard with a five (5) foot tall wall and vegetation when a non-residential use is contiguous to a residential use.

The current definition of residential use in the ULDR is as follows:

Residential use: Single family, duplex and multiple family dwellings and level I and level II SSRF's, not including hotels or motels.

The current definition of non-residential use in the ULDR is as follows:

Nonresidential use: Any use which is not a residential use, as defined herein.

According to the definitions above park, open-space and conservation areas are considered non-residential uses. As such they are subject to the requirements of Neighborhood Compatibility when within 100-feet of residential uses and are required to provide a bufferyard and wall when contiguous to residential uses.

This appears to be an unintended result of the desire to adequately buffer commercial uses (gas stations, strip malls, restaurants, etc.) from residential uses by providing the wall and vegetation requirements of the bufferyard provision. The City's Parks and Recreation Department, the Department of Sustainable Development and the Engineering Department believe that open space, parks and conservation areas should not be enclosed with solid walls nor is the standard requirement for vegetation necessary in these situations since vegetation tends to be an integral part of the design of these uses. In addition, the requirements for walls and vegetation in these situations violate CPTED (Crime Prevention Through Environmental Design) principles by creating places for hiding as well as becoming impediments to the flow of breezes, and an invitation for graffiti and garbage collection. The standard requirement for a wall in these situations also amounts to a significant expense to the City for the installation and maintenance of the wall.

As part of the analysis of this requirement Parks and Recreation reached out to neighboring municipalities and counties to determine if there were similar ordinances in their jurisdictions. It was found that the City of Fort Lauderdale is unique in its ordinance that requires a wall surrounding parks, open spaces and conservation areas.

Pursuant to the above, staff is recommending a provision to exempt park, open-space, and conservation areas from the requirement of bufferyards when contiguous to residential uses. However, the proposed

exemption will not remove the requirements for these uses to meet the overall provision of Section 47-25.3, Neighborhood Compatibility. As such, this proposed revision will give the City a method for determining the best approach to address compatibility with neighboring uses with the option to not require a wall and the standard vegetation where other means to address compatibility are more appropriate.

Proposed Ordinance Revision:

The draft ordinance language reads as follows:

Bufferyard requirements. Excluding park, open space and conservation areas, ~~When~~ when a use which is subject to the requirements of this Sec. 47-25.3 is contiguous to any residential property, the property where the use is located shall be required to have a landscaped strip area and a physical barrier between it and the residential property. Such landscape strip shall meet the following requirements:

For more information please see the draft ordinance attached as **Exhibit 1**.

PLANNING & ZONING BOARD REVIEW OPTIONS:

The Planning and Zoning Board acting as the local planning agency shall determine whether the proposed change is consistent with the City of Fort Lauderdale's Comprehensive Plan and whether the Planning and Zoning Board recommends approval of the proposed amendments to the City Commission.

Sec. 47-25.3. - Neighborhood compatibility requirements.

47-25.3.A.3.d

A. The neighborhood compatibility requirements are as follows:

1. *Adequacy requirements.* See Sec. 47-25.2
2. *Smoke, odor, emissions of particulate matter and noise.*
 - a. Documentation from the Broward County Department of Natural Resource Protection (DNRP) or a report by a certified engineer, licensed in the State of Florida, that the proposed development will not exceed the maximum levels of smoke, odor, emissions of particulate matter and noise as regulated by Chapter 27, Pollution Control, of the Code of Broward County, and that a DNRP permit for such facility is not required.
 - b. Where a DNRP license is required in accordance with Chapter 27, Pollution Control, of the Code of Broward County, all supporting documentation and information to obtain such permit shall be submitted to the DRC as part of a site plan review.
 - c. Such DNRP licenses shall be required to be issued and copies provided to the city prior to the issuance of a building permit for the proposed development.
3. *Design and performance standards.*
 - a. *Lighting.* No lighting shall be directed from a use which is subject to the requirements of this Sec. 47-25.3 in a manner which illuminates abutting residential property and no source of incandescent or mercury vapor illumination shall be directly visible from any abutting residential property. No neon lights inside or outside structures shall be visible from any abutting residential property.
 - i. Glare. Any nonresidential operation or activity producing glare shall be conducted so that direct or indirect illumination of light shall not cause illumination in excess of one (1) footcandle on any abutting residential property except as provided in subsection iii. of this subsection a.
 - ii. Control of effects of lights from automobiles or other sources. Where the site plan indicates potential adverse effects of parking or of other sources on the lot on which the nonresidential use is to be located, such effects shall be eliminated or at a minimum prevented so that lights do not illuminate adjacent residential property below a height of five (5) feet at the residential lot line, or from shining into any residential window if there is to be nonresidential parking on the premises after dark.
 - iii. In addition to the above, parking lots and garages will be subject to the provisions of Sections 47-20.14 and if in conflict with the provisions of this section, the more restrictive provisions shall apply.
 - b. *Control of appearance.* The following design standards are provided to protect the character of abutting residential areas from the visual impact which may result from a use which is subject to the requirements of this Sec. 47-25.3

- i. *Architectural features.* The facade of any side of a nonresidential building facing the residential property shall be constructed to compliment a residential structure and shall include the following:
 - a) Fenestration such as windows, doors and openings in the building wall; and
 - b) Shall contain a minimum of one (1) feature from each of the following architectural feature groups with a total of four (4) architectural features from the following list:
 - 1. Detail and embellishments:
 - a. Balconies,
 - b. Color and material banding,
 - c. Decorative metal grates over windows,
 - d. Uniform cornice heights,
 - e. Awnings.
 - 2. Form and mass:
 - a. Building mass changes including projection and recession,
 - b. Multiple types and angles of roofline, or any combination thereof.
 - c) The above required facade treatment shall be required to continue around the corner onto the adjoining wall for a distance of twenty (20) feet.
 - ii. *Loading facilities.* Loading and service facilities shall be screened so as not to be visible from abutting residential uses or vacant residential zoned property.
 - iii. *Screening of rooftop mechanical equipment.* All rooftop mechanical equipment, stair and elevator towers shall be designed as an integral part of the building volume and shall be required to be screened with material that matches the material used for the principal structure and shall be at least as high as six (6) inches above the top most surface of the roof mounted structure.
- c. *Setback regulations.* When a nonresidential use which is subject to the requirements of this Sec. 47-25.3 is contiguous to any residential property, there shall be an additional setback required for any yard of that use which is contiguous to the residential property, as follows:
 - i. When any side of a structure greater in height than forty (40) feet is contiguous to residential property, that portion of the structure shall be set back one (1) foot for each one (1) foot of building height over forty (40) feet up to a maximum width equal to one-half (½) the height of the building, in addition to the required setback, as provided in the district in which the proposed nonresidential use is located.
 - d. *Bufferyard requirements.* Excluding park, open space and conservation areas. When when a use which is subject to the requirements of this Sec. 47-25.3 is contiguous to

any residential property, the property where the use is located shall be required to have a landscaped strip area and a physical barrier between it and the residential property. Such landscape strip shall meet the following requirements:

- i. *Landscape strip requirements.* A ten (10) foot landscape strip shall be required to be located along all property lines which are adjacent to residential property. Such landscape strip shall include trees, shrubs and ground cover as provided in the landscape provisions of Section 47-21, Landscape and Tree Preservation Requirements. The width of the landscape area shall extend to the property line. All required landscaping shall be protected from vehicular encroachment. When walls are required on nonresidential property abutting an alley, required shrubbery shall be installed and located within the landscape area on the exterior of the wall.
- ii. *Parking restrictions.* No parking shall be located within twelve (12) feet of the property line, within the yard area required by the district in which the proposed nonresidential use is located, when such yard is contiguous to residential property.
- iii. *Dumpster regulations.* All solid waste refuse containers (dumpsters) shall be set back a minimum of twelve (12) feet from any property line which is contiguous to residential property, and shall be screened in accordance with the Dumpster requirements, as provided in Section 47-19, Accessory Uses, Buildings and Structures.
- iv. *Wall requirements.* A wall shall be required on the nonresidential property, a minimum of five (5) feet in height, constructed in accordance with Section 47-19.5 and subject to the following:
 - a) Decorative features shall be incorporated on the residential side of such wall according to the requirements of Section 47-19.5
 - b) Shall be located within, and along the length of the property line which abuts the residential property,
 - c) When the nonresidential property is located adjacent to an alley such wall shall be located at least five (5) feet from the right-of-way line located closest to the nonresidential property,
 - d) When a utility, or other public purpose easement, on the nonresidential property precludes the construction of a wall, then an opaque fence, constructed in accordance with the standards described in Section 47-19.5, may be erected in lieu of the wall required by subsection iv. above. The use of an opaque fence as a physical barrier between nonresidential and residential property shall be reviewed and recommended by the city engineer.
- v. *Application to existing uses.* Within five (5) years from the effective date of subsections A.3.c and d (effective date: September 19, 1989), all nonconforming uses of land which were in existence prior to such date shall comply with the requirements of subsections A.3.c and d unless compliance would cause one (1) or more of the following to occur:
 - a) Demolition of any load-bearing portion of a building as it exists on September

19, 1989, the effective date of subsections A.3.c and d;

- b) Reduction of required parking spaces;
- c) A reduction in the number of parking spaces provided for use of a parcel which would be required if based on the parking requirements of Section 47-20, Parking and Loading Requirements in effect on and applicable to such use on March 6, 1990;
- d) Relocation of an existing wall which complied with the Code prior to September 19, 1989, the effective date of subsections A.3.c and d;
- e) Access to the land would be substantially impaired;
- f) Installation of the wall as provided in subsection iv. would require a modification of the existing vehicular use area, which would impair traffic circulation on the site and a minimum five (5) foot high hedge, fence or other physical barrier is in place along the length of the nonresidential property line which abuts the residential property;
- g) In such cases, the use shall otherwise comply with the requirements of this section to the maximum possible extent; however, the requirement of subsections A.3.d.i to install a landscape strip shall be met if an abutting residential property owner agrees in writing that the landscape strip may be placed on his or her property. An agreement in form provided by the department must be executed by the applicant and the abutting property owner. If the abutting property owner removes the landscape strip after it has been installed, there shall be no further requirement to install another landscape strip on the abutting property in connection with the commercial use which existed at the time of the initial installation.