

CITY OF TARPON SPRINGS

Staff Report

August 20, 2009

TO: MAYOR & BOARD OF COMMISSIONERS

FROM: PLANNING & ZONING DIVISION

HEARING DATES: AUGUST 17, 2009 (PLANNING & ZONING BOARD)
SEPTEMBER 1, 2009 (BOC 1ST READING)
SEPTEMBER 15, 2009 (BOC 2ND READING)

SUBJECT: ORDINANCE 2009-12 - FORMULA BASED USES

BACKGROUND

Formula based uses, generally known as “chain stores”, include businesses such as retail stores, restaurants, and other establishments that are required by contract to adopt standardized services, methods of operation, décor, uniforms, and architecture including interior and exterior design, signage or other features virtually identical to businesses located in other communities nationwide. The intent of Ordinance 2009-12 is not to preclude a formula business from locating in Tarpon Springs but to require the business to establish a unique enterprise that does not conform according to a centralized formula.

This ordinance is being proposed because the City believes that it will assist in maintaining the long-term economic health of the City as a whole through promoting a balanced mix of local, regional, and national-based businesses. The scale and design of improvements to existing development is an important factor in the overall aesthetic character of the City’s commercial areas. Amending the Comprehensive Zoning and Land Development Code in this manner would ensure that new development is in scale and consistent with the surrounding neighborhood while also preserving the unique and historic character of our City. The ordinance attempts to “balance the interests” such that we can control the appearance, design and placement of retail chain stores without creating an overly-burdensome process that may have the un-intended consequence of driving such businesses away from the community altogether. The following points summarize the salient points of the ordinance:

1. The U.S. Highway 19 corridor from Live Oak Street to Klosterman Road is recognized as the traditional highway business corridor where such uses should be allowed as otherwise permitted by the existing zoning regulations. Formula based businesses in all other areas of the City shall require a Conditional Use review.
2. References have been made to require adherence to certain policies of the Comprehensive Plan, especially for large scale development sites.
3. Basic form-based design criteria have been added, as well as specific requirements for screening of parking lots.

Words that are ~~stricken~~ are deletions and words that are underlined are additions.

PLANNING & ZONING BOARD ACTION

The Planning & Zoning Board reviewed the proposed amendments at the August 17, 2009 meeting and recommended approval by a vote of 5-2 with the following recommended changes:

1. The Formula Based Use ordinance should be applied to all properties within the City; no exclusion zone for U.S. Highway 19.
2. The Heritage Preservation Board should review all Formula Based Use applications within the Historic District for compliance with Conditional Use / Historic District Design Guidelines standards. No other review required (No P&Z or BOC review).
3. Section 209.04(A)(7) should be moved to the end of that section of the ordinance.

Attachment: Ordinance 2009-12 (as drafted by staff)
Ordinance 2009-12 (with changes recommended by P&Z)

ORDINANCE 2009-12

AN ORDINANCE OF THE CITY OF TARPON SPRINGS, FLORIDA AMENDING THE COMPREHENSIVE ZONING AND LAND DEVELOPMENT CODE, ARTICLE V ADDING SECTION 72.00 FORMULA BASED USES; AMENDING ARTICLE XII ADDING SECTION 209.04 FORMULA BASED USES; PROVIDING FOR FINDINGS AND PURPOSE; PROVIDING FOR DEFINITIONS; PROVIDING FOR REVIEW CRITERIA; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS:

NOW THEREFORE BE IT ORDAINED BY THE BOARD OF COMMISSIONERS OF THE CITY OF TARPON SPRINGS, FLORIDA THAT:

SECTION 1. Article V, Section 72.00 of the Comprehensive Zoning and Land Development Code of the City of Tarpon Springs, entitled "Formula Based Uses", is hereby created to read as follows:

Section 72.00 Formula Based Uses

All formula based retail and restaurant uses as further defined in Section 209.04 (B) shall be processed in accordance with the rules and procedures set out in Article XII, Section 209.04 Formula Based Uses.

SECTION 2. Article XII, Section 209.04 of the Comprehensive Zoning and Land Development Code of the City of Tarpon Springs, entitled "Formula Based Uses", is hereby created to read as follows:

Section 209.04 Formula Based Uses

(A) Findings and Purpose.

(1) The City of Tarpon Springs is a City of distinct neighborhoods with a character unique to its heritage as a working waterfront community. Its character is also defined by its location on the Anclote River and its proximity to the Gulf. The City has a defined and unique Historic District and a small-town feel that it desires to preserve for aesthetic, historic, and economic reasons. Its economy is dependant on tourism and it is a bedroom community for much of North Pinellas County. It is identified in large part by the character of its commercial areas.

(2) The City of Tarpon Springs needs to protect its vibrant small business sector and create a supportive environment for new small business innovations. Goal 5, Objective 5.2 of the City's Comprehensive Plan states "Ensure that small, locally owned independent businesses, unique to Tarpon Springs are able to compete with large retail chains"

(3) Retail uses are the land uses most critical to the success of the City's commercial districts.

(4) Formula Businesses are increasing in number in The City of Tarpon Springs and in Pinellas County, as they are in cities and towns across the country.

(5) Money earned by independent businesses is more likely to circulate within the local neighborhood and City economy than the money earned by Formula Businesses which often have corporate offices and vendors located outside of The City of Tarpon Springs either within or without the state of Florida.

(6) Formula Businesses can have a competitive advantage over independent operators because they are typically better capitalized and can absorb larger startup costs, pay more for lease space, and commit to longer lease contracts. This can put pressure on existing businesses and potentially price out new startup independent businesses.

(7) The City of Tarpon Springs has adopted a Multi Modal Transportation District and adopted Goals, Objectives, and Policies within the Future Land Use Element of the Comprehensive Plan which encourages housing, shops, work places, schools, parks and civic facilities intimately co-existing to create and maintain strong identifiable neighborhoods that invite walking and bicycling and the City's mix of architecture contributes to a strong sense of community.

(8) Notwithstanding the marketability of a retailer's goods or services or the visual attractiveness of the storefront, the standardized architecture, color schemes, decor and signage of many Formula Businesses can detract from the distinctive character of certain Neighborhoods and Commercial Districts.

(9) The increase of Formula Business Uses in the City, if not monitored and regulated, will hamper the City's goal of a diverse retail base, design criteria for commercial buildings, and aesthetically pleasing commercial areas with distinct neighborhood retailing personalities comprised of a mix of businesses. Specifically, the unregulated and unmonitored establishment of additional Formula Business Uses may unduly limit or eliminate business establishment opportunities for smaller or medium-sized businesses, many of which tend to be non-traditional or unique, thereby decreasing the diversity of merchandise available to residents and visitors and the diversity of purveyors of merchandise.

(B) Definitions.

(1) Formula Business Use is hereby defined as a type of retail sales activity or retail sales establishment which, along with fifteen (15) or more other retail sales establishments located in the United States, maintains two or more of the following features: a standardized array of merchandise, a standardized facade, a

standardized decor and color scheme, a uniform apparel, standardized signage, a trademark or a servicemark.

(2) “Formula Restaurant Use” is hereby defined in the same way as a Formula Business Use except that in the case of a restaurant one of the features referenced in (1) above is that the restaurant maintains a prescribed menu that is substantially the same as fifteen (15) or more restaurants.

(3) “Standardized array of merchandise” shall be defined as 50% or more of in-stock merchandise from distributors bearing uniform markings.

(4) “Trademark” shall be defined as a word, phrase, symbol or design, or a combination of words, phrases, symbols or designs that identifies and distinguishes the source of the goods from one party from those of others.

(5) “Servicemark” shall be defined as word, phrase, symbol or design, or a combination of words, phrases, symbols or designs that identifies and distinguishes the source of a service from one party from those of others.

(6) “Décor” shall be defined as the style of interior finishings, which may include but is not limited to, style of furniture, wallcoverings or permanent fixtures.

(7) “Color Scheme” shall be defined as selection of colors used throughout, such as on the furnishings, permanent fixtures, and wallcoverings, or as used on the facade.

(8) “Façade” shall be defined as the face or front of a building, including awnings, looking onto a street or an open space.

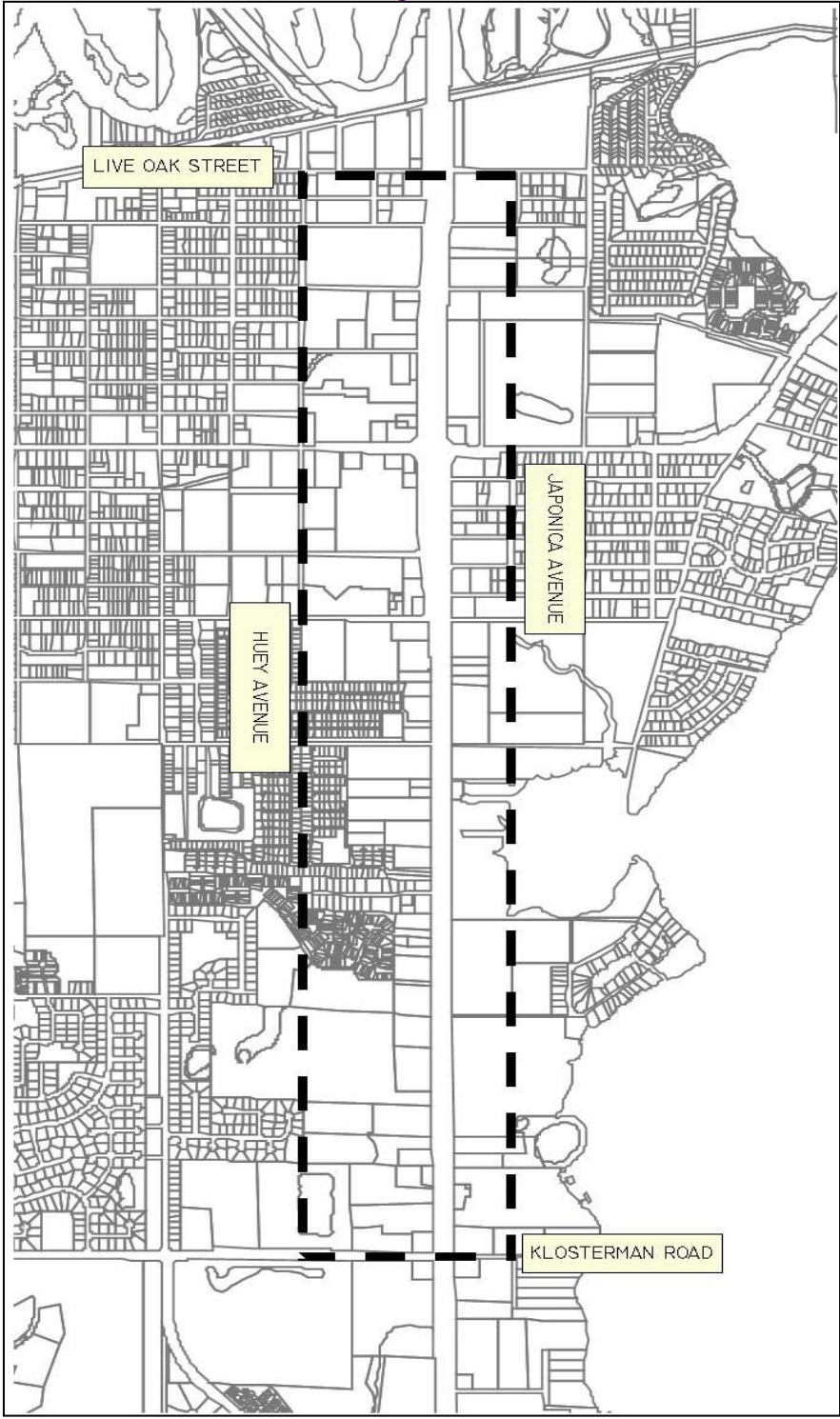
(9) “Uniform Apparel” shall be defined as standardized items of clothing including but not limited to standardized aprons, pants, shirts, smocks or dresses, hat, and pins (other than name tags) as well as standardized colors of clothing.

(10) “Signage” shall be defined as within the Sign Code.

(C) Regulations For Formula Based Uses (meaning Formula Business and Formula Restaurant Uses as defined above).

(1) Formula Based Uses located along the US Highway 19 corridor bounded by Live Oak Street to the north, Klosterman Road to the south, the north-south alignment of Huey Avenue to the west and the north-south alignment of Japonica Avenue to the east shall be permitted and reviewed in accordance with the applicable zoning district regulations found elsewhere in this code- (see [Figure 1 below](#)).

Figure 1



(2) All new Formula Based Uses and expansions of such uses by 500 or more square feet of floor area shall that are not within the boundaries deccribed in (1)

above shall require a conditional use review in accordance with Section 209.00 and the following review criteria set out in (E) below.

(3) Change of ownership of an existing Formula Based Use shall not, by itself, require obtaining a conditional use permit.

(4) The Formula Based Use shall be compatible with existing surrounding uses, and shall be designed and shall be operated in a non-obtrusive manner to preserve the community's character and ambiance. All Formula Based Uses shall be evaluated for compatibility with surrounding uses and furthering the intent of the District it is located in as it relates to promoting the City's tourist oriented economy. When uses under this Code Section are evaluated for compatibility such factors as scale, mass, intensity, location, size, height, style and aesthetics shall be taken into account. This list of factors to be considered is not exclusive and the reviewing body may consider other relevant factors in making a compatibility determination. The use in order to be compatible shall be found to preserve the character of the adjacent neighborhoods and the overall character of the City.

(5) Approval of the Formula Based Use will be consistent with the policies and standards of the City's Comprehensive Plan.

(6) The Board of Commissioners shall make a finding before approval of the Use that the proposed intensity of use on the site proposed is appropriate given any other uses permitted on the site and on adjoining sites.

(7) The Board of Commissioners shall further make a finding before approval of the Use that approval of the Formula Based Use will contribute to an appropriate balance of small, medium and large-sized businesses in the community.

(E) Review Criteria for Formula Based Uses (meaning Formula Business and Formula Restaurant Uses as defined above).

(1) In determining compatibility with the surrounding neighborhood the following factors shall be evaluated:

a. Form and mass of all structures.

b. Placement of all structures on the site and integration (or buffering where appropriate) with adjoining neighborhood.

c. Internal circulation and interaction of pedestrians, bicycles, and vehicles.

d. Ability to accommodate mixed uses, either horizontally or vertically, on the site

e. Architecture and site design shall compliment or improve upon the surrounding area.

f. Storefronts greater than 50' in width shall be detailed to appear as multiple storefronts

h. Buildings shall be oriented to the street with interior/rear parking and streetscapes shall included pedestrian friendly amenities such as wider sidewalks, enhanced landscaping, pedestrian scale lighting, and street furnishings. Where these requirements may conflict with other regulations of this code the requirements herein shall apply.

i. Buildings oriented toward the street with interior parking shall be allowed a wall sign for the road frontage elevation in accordance with sign regulations elsewhere and an equal size or smaller wall sign for the parking frontage elevation. Such building elevations along the street, regardless of store front width, shall provide architectural detail to break up expanses of single-plane blank walls. This detail shall included variation in façade setbacks to create the appearance of multiple buildings elevations.

j. Parking lots shall be screened from street frontages in accordance with Figure 1 below or similar screening methods as approved during the site plan review process Adjustments to the dimensions of Figure 1 may be altered during the site plan review process to accommodate specific site conditions.

(2) Formula Based Uses that are part of a unified or planned development that exceeds 40 acres or are located on parcels of land that exceed 40 acres shall also adhere to the requirements of Policy 1.1.11 of the Future Land Use Element of the Comprehensive Plan.

(F) Burden Of Proof.

If the City determines that a building permit application or building permit subject to this Section of the Code is for a Formula Business Use or a Formula Restaurant Use, the building permit applicant or holder bears the burden of proving to the City that the proposed or existing use is not a Formula Business Use or a Formula Restaurant Use.

(G) All Formula Business Uses including Formula Restaurant Uses shall file a Site Plan and obtain Site Plan Approval under the Code.

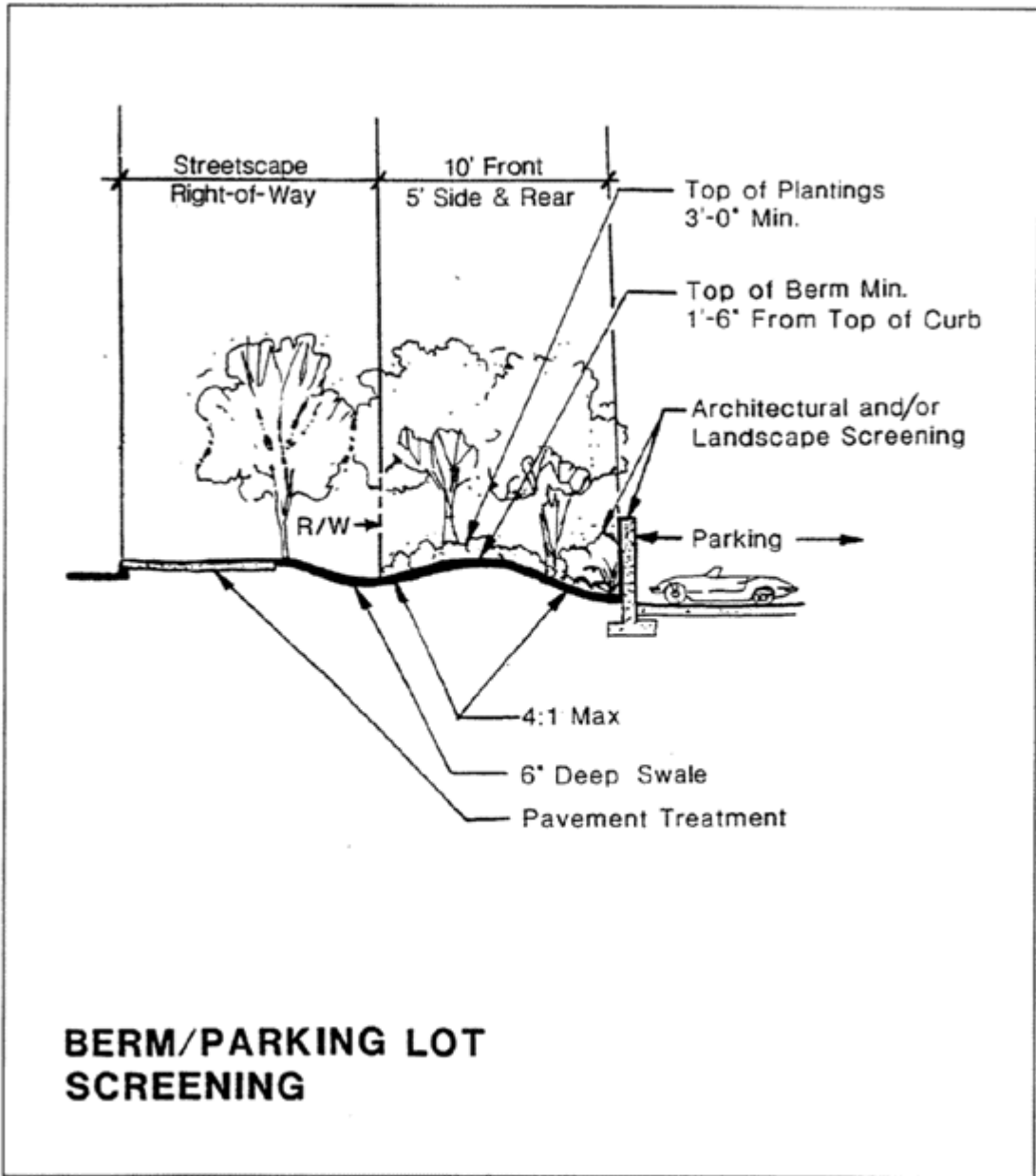


Figure 24

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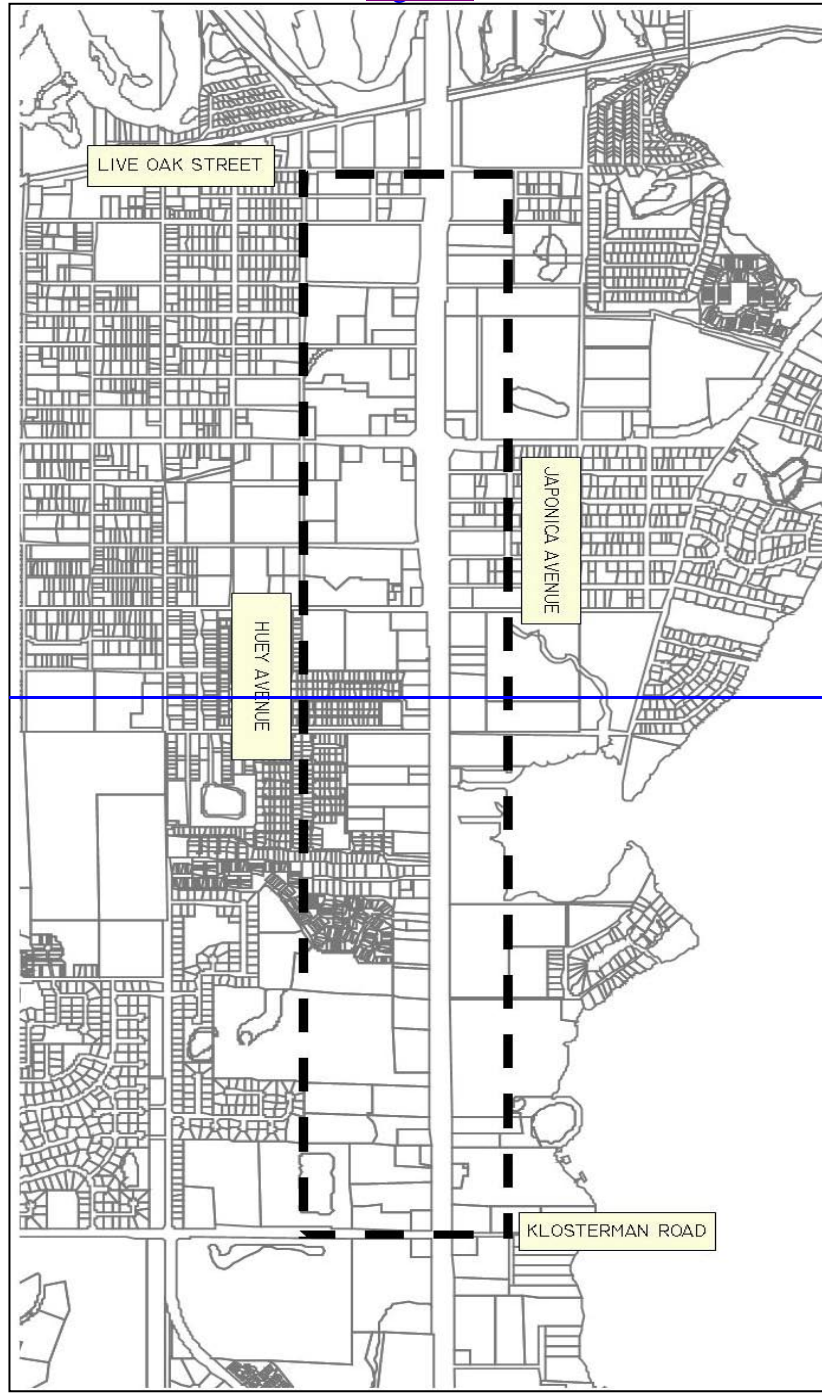
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(1) Formula Based uses located within the City of Tarpon Springs National and/or Local Historic District shall be required to obtain a Certificate of Appropriateness in accordance with Article VII of this code.

Figure 1



(2) All new Formula Based Uses and expansions of such uses by 500 or more square feet of floor area shall that are not within the boundaries described in (1) above City's Historic District (see paragraph (1) above) shall require a conditional use review in accordance with Section 209.00 and the following review criteria set out in (E) below.

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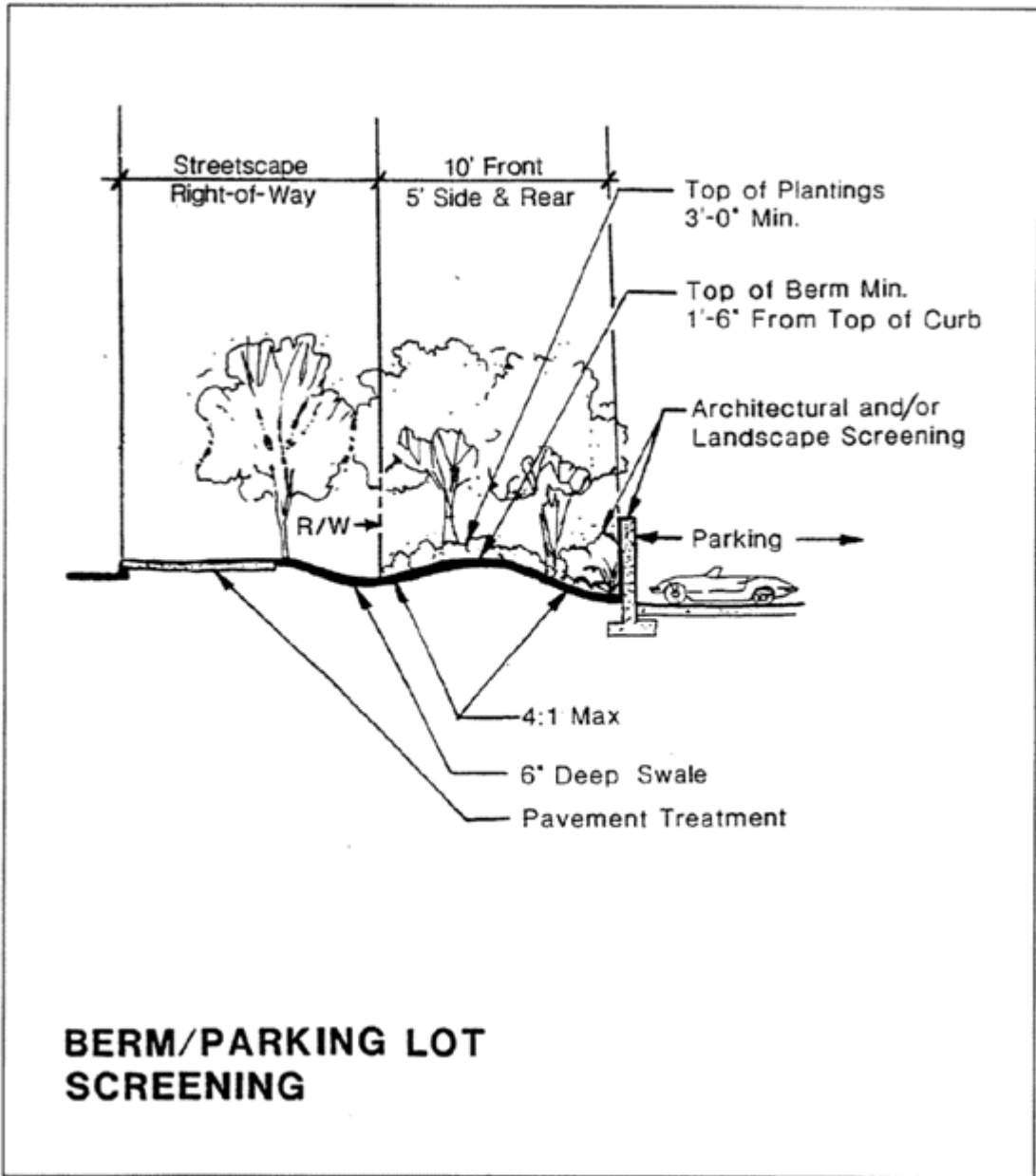


Figure 41