

RESOLUTION NO. 16-109

A RESOLUTION APPROVING COVENANTS AND RESTRICTIONS FOR THE JADE AVENUE BUSINESS PARK OF THE CITY OF PORT ARTHUR SECTION 4A ECONOMIC DEVELOPMENT CORPORATION

WHEREAS, the City of Port Arthur Section 4A Economic Development Corporation (the “PAEDC”) has acquired 141 acres off Jade Avenue (the “Jade Avenue Business Park”) adjacent to the current Spur 93 Business Park located on 9555 W. Port Arthur Rd. (the “PAEDC Business Park”); and

WHEREAS, the Jade Avenue Business Park will allow for future and positive economic growth for the City of Port Arthur; and

WHEREAS, at a special meeting on March 28, 2016, the PAEDC Board of Directors approved setting Covenants and Restrictions for the Jade Avenue Business Park as proposed in Exhibit “A”; and

WHEREAS, the PAEDC Board of Directors recommends the City approve the Covenants and Restrictions for the Jade Avenue Business Park.

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF PORT ARTHUR:

Section 1. That the facts and opinions in the preamble are true and correct.

Section 2. That the City Council approves the Covenants and Restrictions for the Jade Avenue Business Park in substantially the same form as described in Exhibit “A”.

Section 3. That a copy of the caption of this Resolution be spread upon the Minutes of the City Council.

READ, ADOPTED AND APPROVED on this 19th day of April A.D., 2016, at a

Meeting of the City Council of the City of Port Arthur, Texas, by the following vote: AYES:

Mayor Pro Tem Frank

Councilmembers Scott, Hamilton, Albright, Richard Lewis and Moses

NOES: Mayor Prince

Deloris Prince
Deloris "Bobbie" Prince, Mayor

ATTEST:

Sherri Bellard
Sherri Bellard, City Secretary

APPROVED:

Floyd Batiste
Floyd Batiste, PAEDC CEO

APPROVED AS TO FORM:

Guy N. Goodson
Guy N. Goodson, PAEDC Attorney

APPROVED AS TO FORM:

(under legal review)
Valecia R. Tizeno, City Attorney

EXHIBIT "A"
WILL BE PRESENTED AT OR BEFORE
THE COUNCIL MEETING

COVENANTS AND RESTRICTIONS

JADE AVENUE EXTENSION OF THE PORT ARTHUR BUSINESS PARK

Updated 4/12/16

GENERAL

The City of Port Arthur Section 4A Economic Development Corporation ("PAEDC") is the owner of the Jade Avenue Extension of the Port Arthur Business Park (the "Jade Avenue Business Park"). The Jade Avenue Business Park shall be operated in conjunction with the Port Arthur Business Park ("Business Park") for the economic development initiatives of PAEDC. PAEDC has determined that it is in the best interests of the City of Port Arthur, Texas ("City"), PAEDC, the Jade Avenue Business Park and its future occupants to adopt the following provisions restrictions and covenants to control the development within the Jade Avenue Business Park.

CONDITIONS OF SALE

Each parcel sold or conveyed to a user by PAEDC is for the purpose of development of facilities and occupancy by a user. **Development of facilities (buildings) for user occupancy must be completed within the lesser of (i) eighteen months from the closing of a purchase of tract or tracts within the Jade Avenue Business Park or (ii) any development timetable(s) within any Incentive Agreement between PAEDC and a purchaser of property within the Business Park ("user").** If construction has not been completed as specified in the preceding sentence, PAEDC shall have the option to repurchase the property from the purchaser (user) on the basis of the original purchase price per acre with the purchaser (user) to bear all costs incurred by PAEDC in its exercise of its rights of repurchase, including but not limited to, attorney fees, title and recording fees, closing costs and related expenses. This repurchase option may be exercised at any time subsequent to the failure of construction to start by the time period specified in this paragraph. Exercise of the option will be by formal action of the PAEDC Board. Delivery of written notice of exercise of this option shall be the cause of an immediate halt to development on the purchased tract(s) by the purchaser (user).

If the owner or lessee of property in the Jade Avenue Business Park wishes to sell or assign the property to a third party, the owner or lessee shall obtain the approval of the PAEDC Board of Directors, with such approval not to be unreasonably withheld. The owner or lessee shall present information as to the financial and credit information as to the new buyer or assignee and such other information as reasonably requested by the PAEDC CEO. The new owner or lessee shall be required to assume the obligations in the incentive agreement, with such changes as are approved by the PAEDC Board of Directors.

If the owner or lessee wishes to subdivide and sell or assign only a portion of its property to a third party, the owner or lessee shall obtain the approval of the PAEDC Board of Directors which can deny the request at its discretion. At the discretion of PAEDC, PAEDC shall have the

first option to repurchase any undeveloped portion of property not authorized for sale or assignment under the same terms and conditions as delineated in Paragraph 1 of these Covenants and Restrictions under the heading Conditions of Sale.

LEGAL DESCRIPTION

The Jade Avenue Business Park includes all land as described in **Exhibit A**.

TERMS AND DEFINITIONS

For the purposes of these covenants and restrictions, certain terms, phrases, words and their derivatives shall have their meaning as specified in this section. Where terms are not defined, they shall have their ordinary accepted meanings within the context with which they are used. Webster's Ninth New Collegiate Dictionary, Copyright 1987, shall be considered as providing ordinary accepted meaning.

- (1) *Board*. City of Port Arthur Section 4A Economic Development Corporation Board of Directors.
- (2) *Building*. Any structure built for the support, shelter and enclosure of persons, animals, chattels or movable property of any kind. When subdivided in a manner sufficient to prevent the spread of fire, each portion so subdivided may be deemed a separate building.
- (3) *City*. The City of Port Arthur, Texas.
- (4) *City Council*. The governing and legislative body of the City of Port Arthur, Texas.
- (5) *District*. An area, zone or section of the City of Port Arthur, Texas for which the regulations governing the height, area or use of the land and buildings are uniform.
- (6) *Height*. The vertical distance of a building measured from the average established grade at the street line or from the average natural front yard ground level, whichever is higher, to (1) the highest point of the roof's surface if a flat surface; (2) to the deck line of mansard roofs; or (3) to the mean height level between eaves and ridge for hip and gable roofs, and, in any event, excluding chimneys, cooling towers, elevator bulkheads, penthouses, tanks, water towers, radio towers, ornamental cupolas, domes or spires and parapet walls not exceeding ten feet in height. If the street grade has not been officially established, the average front yard shall be used for a base level.
- (7) *Lot*. Land occupied or to be occupied by a building and its accessory buildings, and including such open spaces as are required under these covenants and restrictions and having its principal frontage upon a public street or officially approved place.
- (8) *Occupancy*. The use or intended use of the land or buildings by proprietors or tenants.
- (9) *Planning and zoning commission*. The agency designated in the City Charter as the planning commission and appointed by the City Council as an advisory body to it and which is authorized to recommend changes in the zoning ordinance.
- (10) *Parking lot or structure, commercial (motor vehicle)*. An area or structure devoted to the parking or storage of motor vehicles. May include, in the case of a parking structure only, a facility for servicing of motor vehicles provided such facility is primarily an internal function for use only by motor vehicles occupying the structure and creates no special problems of ingress or egress.

(11) *Structure.* Any structure built for the support, shelter and enclosure of persons, animals, chattels or movable property of any kind. When subdivided in a manner sufficient to prevent the spread of fire, each portion so subdivided may be deemed a separate building.

(12) *Yard.* An open space other than a court, on the lot in which a building is situated and which is not obstructed from a point 30 inches above the general ground level of the graded lot to the sky, except as provided for roof overhang and similar features and for the usual trees and landscape planting.

(13) *Yard, front.* An open, unoccupied space on a lot facing a street extending across the front of the lot between the side lot lines and from the front face of the building to the front lot or street line with the minimum horizontal distance between the street line and the main building line as specified for the district in which it is located. The front face of the building shall not necessarily be determined by the primary access to the building or any unit therein.

(14) *Yard, rear.* An open, unoccupied space, except for permitted detached accessory buildings, trees and planting, extending across the rear of a lot from one side lot line to the other side lot line and having a depth between the building and the rear lot line.

(15) *Yard, side.* An open, unoccupied space or spaces on one or two sides of a main building situated between the building and a side line of the lot and extending through from the front yard to the rear yard. Any lot line not the rear line or a front line shall be deemed a side line.

REVIEW AND APPROVAL OF USES AND IMPROVEMENTS

All uses that occupy parcels and all facilities and improvements constructed in the Jade Avenue Business Park (including all alterations and additions to the site and such facilities and improvements) shall be subject to approval by PAEDC and may require approval by the City. PAEDC and the City may at their sole discretion involve other parties in the review of proposed uses and improvements. In cases where specialized evaluations are deemed necessary, PAEDC may require a fee to cover the cost of the services of consultants engaged to perform these evaluations. No construction may be initiated upon any parcel in the Jade Avenue Business Park until approval has been granted by PAEDC (and where required, by the City). Failure of the user of a parcel to seek approval for development plans in a timely manner will not be the basis for granting an extension as to the timetable for construction. Approval means formal action by the PAEDC Board, (and where required by City Council of the City) and the receipt of written confirmation of approval from a competent authority of these bodies. Application for approval shall be made in writing and must contain all submission requirements specified by PAEDC. Such requirements will include site plans, building plans and specifications and other such information as PAEDC and the City may request.

PERMITTED OCCUPANCIES

Sites and facilities within the Jade Avenue Business Park may be occupied by the uses specified in the following chart (Parcels are as designated on the Jade Avenue Business Park Final Amended Plat; or as such Final Amended Plat may be subsequently amended).

Blocks 12, 18, 19 and 20 – Office, warehouse, distribution, light fabrication, assembly, and other approved uses as authorized within the Industrial District designation of the City Zoning Ordinance and as approved by PAEDC.

Block 13 and Reserve M – Office, warehouse, distribution, light fabrication, assembly, recycling, manufacturing and other approved uses as authorized within the Industrial District designation of the City Zoning Ordinance and as approved by PAEDC.

Other uses may be approved by PAEDC at its sole discretion which includes career centers and other types of development as approved by PAEDC and as authorized by state law. All occupancies permitted may be subject to additional restrictions imposed as a result of review of user applications provided that such specific requirements are intended to implement the restrictions previously established by the PAEDC in these Covenants and Restrictions or subsequent amendments.

PROHIBITED OCCUPANCIES

Specifically prohibited uses include slaughter houses and meat packing plants. Specifically prohibited uses further include other manufacturing and process operations that transmit noise, or release odors, fumes or dust that materially exceed City, State, or Federal Standards or discharge a waste stream that is not acceptable (due to content or volume) for the City's sanitary sewer system. Any use that requires on site treatment of waste in order to meet the above requirements will be allowed only on the basis of a special use permit from PAEDC, the City of Port Arthur, the TCEQ or the applicable regulatory agency. In general, on site treatment of significant quantities of special waste will not be permitted. A special use permit may, at the sole discretion of PAEDC, be granted, conditional upon continued and demonstrative conformance to specific requirements and standards. Failure by the user receiving such conditional approval to strictly conform to the requirements and standards imposed will be the basis of termination of the special use permit, without recourse by the user. Notice of termination of a special use permit will require the user to immediately cease all on site processes that generate or contribute to the subject waste stream.

In addition, all exterior site uses including parking areas, truck maneuvering and docking areas, storage and equipment yards and the like will be developed and maintained in strict conformance with these covenants and restrictions and with the specific terms of approvals granted by PAEDC and the City of Port Arthur.

CONSTRUCTION STANDARDS, CODES AND ORDINANCES

All improvements constructed in the Jade Avenue Business Park shall meet or exceed the standards and ordinances of the City including Section 17. Industrial District Regulations of the City Zoning Ordinance, as amended, statutes or regulations of the State of Texas, and other standards as required by law. It shall be the duty of the purchaser (user) of any property in the Jade Avenue Business Park to conform to such requirements and to obtain all approvals and permits granted by governing authorities. Such requirements include but are not limited to city building permits, and local drainage, environmental and utility requirements. Review and approval by PAEDC and the City under the above provisions for Review and Approval of Uses and Improvements does not relieve or mitigate in any way this separate duty of the user.

The owners or lessors of the property shall take such precautions as to commence and complete the improvements wherein laborers, subcontractors and contractors are promptly paid with no materials and mechanic's liens being filed on the property. Prior to commencing construction, the owner or lessee shall provide to the PAEDC such evidence of financial ability to complete the project which may include letters of credit, performance bonds and payment bonds.

PROPERTY MAINTENANCE

Owners and Users of parcels and improvements shall perform regular and routine maintenance on these properties. Undeveloped parcels shall be kept mowed and free of debris. Developed parcels (including site and facilities) shall be maintained in a manner consistent with the users approved proposal for use and improvements.

Lawns and landscaping shall be kept free of overgrowth, trash and debris. Parking or storage of vehicles, equipment or materials in areas other than approved outdoor storage is prohibited. Areas shall be maintained free of trash, sediment, debris, and abandoned or unsightly equipment.

Outdoor storage areas other than those approved by PAEDC are prohibited. Approved outdoor storage areas shall be well maintained and shall be kept neat and orderly in appearance. Only materials and equipment that are in active use at the site may be stored on site. Storage of derelict or junked materials, equipment or vehicles on site is prohibited.

Buildings and other structures shall be kept in an attractive condition. Exterior surfaces shall be washed and painted as required to maintain a fresh appearance. Exterior materials that deteriorate shall be replaced.

No open burning of rubbish is permitted on the site. All waste material shall be confined to trash receptacles in approved and screened locations for removal from the site.

In case of fire or damage from other causes, the owner shall restore the improvements within 9 months unless granted an extension by PAEDC.

INSURANCE

The lot owners and lessees shall maintain casualty insurance in an amount to replace the building. A copy of the certificate of insurance shall be given to the PAEDC with the PAEDC as an additional insured. If the lot owner or lessees fails to maintain or pay for the insurance, PAEDC (in its sole discretion) may pay for the costs thereof and assess the lot owners and lessees, and file liens.

ASSESSMENT

The lessees and private owners of the land in the Jade Avenue Business Park shall pay assessments to the PAEDC for (i) the maintenance of the street signage and landscaping, (ii) the

costs to enforce these deed restrictions, (iii) the costs to maintain the Jade Avenue Business Park and (iv) costs to provide security services within the Jade Avenue Business Park, such assessments shall be a minimum of \$500 per acre per year and shall be payable on or before December 31st of each year. Additional assessments, as determined by the PAEDC Board of Directors shall not exceed the actual proportionate share of the expenditures made by the PAEDC plus a 10% administrative fee. The proportionate share shall be the number of acres owned or leased divided by 95.

Notwithstanding the proportionate allocation of costs set forth in the preceding paragraph, any costs for security services provided to the Jade Avenue Business Park on or before December 31, 2016, shall be paid by PAEDC.

CONTINUATIONS, AMENDMENT AND VARIATION OF COVENANTS AND RESTRICTIONS

These covenants and restrictions shall remain in force on all parcels and shall be binding on all current and future owners of parcels within the Jade Avenue Business Park. Variation in these covenants and restrictions is limited to one of the following methods:

PAEDC, (subject to the approval) the City, may from time to time amend the provisions, covenants and restrictions.

PAEDC may grant variances to these provisions, covenants and restrictions as a part of the approval of the Review and Approval of Use and Improvement process. Such variances must be requested in writing by the user of the parcel. PAEDC will notify all other adjacent parcel owners of the request for variation by posting such notice and will receive and consider comments from such parcel owners in evaluating such variances. It is the intent of PAEDC to maintain the general character and intent of the provisions, covenants and restrictions and to comply with the Development Corporation Act of 1979.

SITE DEVELOPMENT

Building sites of individual users must be planned to have an attractive image and must be well maintained. The following requirements shall apply to the development of sites within the Jade Avenue Business Park:

<u>Category</u>		<u>Requirements</u>	
Set Backs	Building	Street Frontage	45 feet
		Side and rear lot lines	15 feet
	Paving	Street Frontage	20 feet
		Side and rear lot lines	No requirement
Landscaping	All non paved areas		Maintained lawns
	Street Frontage		1 tree per 100 feet of frontage – 2 inch caliper
Paving	Parking	Automobile	Concrete
		Trucks and Trailers	Concrete
	Aprons and maneuvering areas		Concrete

Access and Entry		As approved by PAEDC May not conflict with street traffic or access to adjacent sites.
Utilities		All connections and service underground and; Equipment (transformers etc.) screened from public view
Outdoor Yards and Storage Areas		Not allowed forward of the line of the building face
		Fully screened from frontage with berms, planting or walls constructed in conformance with standards for front face of buildings
	Area Limitations	Parcel 6, 10 No limit
		Parcels 1, 2, 3, 5, 7, 9 No larger than the area of the building
	Parcel 4,8 Not permitted	
Fencing		Side and rear yards only
	Visible from Street	Decorative iron or as approved by PAEDC (no wood fences permitted)
	Side and rear	Chain link or as approved by PAEDC (no wood fences permitted)
Ancillary Structures and Equipment		Constructed to meet applicable building standards Tanks, trash receptacles and other equipment screened from public view Mail boxes as approved by PAEDC Flagpoles as approved by PAEDC
Lighting		Pole or building mounted lighting All lighting will be natural in color (no uncorrected high pressure sodium fixtures) Lighting must be controlled to prevent glare as seen from adjacent public ways and adjacent properties
Drainage		Surface drainage must be controlled within site boundaries. Discharge into drainage ways as approved by responsible authorities.
Signage		All signs must be approved by PAEDC May be internally or externally illuminated May not be animated
Site Mounted Signs		Maximum of 6 feet in height Base no more than 2 feet above ground No closer then 10 feet to property line Compatible with building color and materials Integrated and compatible with landscaping
Building Mounted Signs		Not painted on building May not extend beyond building profile Must be compatible is size, color and material with building
Fencing-visible from front of primary structure		Decorative iron or as approved by PAEDC (no wood or

constructed on property	plastic fences permitted)
Fencing-visible along sides or rear of structures constructed on property including any street or right-of-way	Chain-link or as approved by PAEDC (no wood or plastic fences permitted)

BUILDING DESIGN AND CONSTRUCTION

Building design including all exterior materials and colors must be attractive, compatible with adjacent development and be approved by the PAEDC.

<u>Category</u>		<u>Requirements</u>
Exterior Materials		Except for trim and accents, no wood will be permitted
Walls Facing Frontage and Public Ways		Concrete or masonry
Walls Facing Side and Rear Yards	Parcel 1, 2, 3, 5, 6, 7, 9, 10	Concrete, masonry, or metal panels
	Parcel 4, 8	Concrete or masonry
Roofing Materials		Any roof surface that is exposed to public view must be approved by PAEDC
Roof top equipment		No more than five feet in height and screened from public view
Awnings and Canopies		Compatible with building design and approved by PAEDC
Exterior Colors		Exterior surfaces will be predominately neutral or natural colors. Bright accent or trim colors will be considered by the PAEDC.

ENFORCEMENT OF COVENANTS AND RESTRICTIONS

Determination regarding the meaning, applicability and enforcement of these covenants and restrictions is the sole domain of PAEDC and its agents. Inquiry in regard to such matters shall be made to PAEDC in writing. A judgment rendered in writing by PAEDC shall be deemed final and binding on all parties.

Enforcement of the provisions, covenants and restrictions shall be in accordance with law or through civil proceedings initiated by PAEDC. Enforcement action may include but is not limited to restraint of violations, recovery of costs and damages, assessments, foreclosure, and judicial sale.

LANDSCAPING AND SCREENING REQUIREMENTS

(a) **Purpose.** The provisions of this section for the installation and maintenance of landscaping and screening are intended to protect the character and stability of commercial, and industrial areas within the Jade Avenue Business Park, to conserve the value of land and buildings of surrounding properties and neighborhoods, to enhance the aesthetic and visual image of the Jade Avenue Business Park, to encourage the preservation of existing trees and to assist with clean air. In no case shall these provisions restrict or limit requirements required by the Americans with Disabilities Act (“ADA”) requirements.

(b) **Landscape plan required.** All building permit applications for new building construction within the Jade Avenue Business Park shall be accompanied by two (2) blue-line or black-line prints of the landscape plan that has been approved by the PAEDC.

The landscape plan shall contain sufficient detail to show the following:

- (1) The date, scale, north arrow and names and address and phone numbers of each property owner and person preparing the plans
- (2) The footprint of all existing and proposed structures
- (3) Remaining and/or proposed site elements such as power poles, fences, walls, drainage swales, easements, sidewalks, parking lot layout, pedestrian walkways, and other such elements
- (4) A schedule identifying name, size, number, and location of all landscape elements
- (5) Name, location and size of existing trees, and type and location of other vegetation proposed to remain for credit purposes
- (6) The size and location of the parking lot and the number of spaces, and how the owner proposes to address the interior landscaping requirement
- (7) Such other information as may be reasonably necessary to administer and enforce the provisions of this ordinance
- (8) Drawn at a scale of one (1) inch equals twenty (20) feet or greater

(c) **Irrigation required**

- (1) All landscaped areas shall require an automatic irrigation system sufficient to provide complete coverage of required screening landscaped areas, including sodded or seeded areas along front and side of building
- (2) Irrigation system shall be installed and operational prior to issuance of a certificate of occupancy or final building inspection
- (3) State law requires installation by licensed irrigators
- (4) Irrigation systems shall be maintained in good and operating condition

(d) **Certificate of occupancy.** No certificate of occupancy for new construction in the Jade Avenue Business Park shall be issued or final approval of parking lot expansion made unless a letter is received from the PAEDC that the property owner has complied with terms and conditions required herein.

(e) **Definitions**

- (1) **Berm.** Landscaped earthen hill of three (3) feet height or greater
- (2) **Caliper.** The measure of the diameter of a tree at eighteen (18) inches above grade

Class A trees must be two (2) inches caliper or greater.

Class B trees if multi-trunked, must have a minimum of three (3) trunks of one (1) inch caliper each.

- (3) **Class A tree.** A tree with a mature height of thirty (30) feet or more. See recommended list.
- (4) **Class B tree.** A tree with a mature height of less than thirty (30) feet. See recommended list.
- (5) **Critical root zone.** A circular region measured outward from the tree trunk to the drip line representing the area of roots that must be maintained or protected for the tree's survival.
- (6) **Drip line.** A vertical line extending from the outermost edge of the tree canopy or shrub branch to the ground
- (7) **Easement.** The legal grant of right-of-use to an area of designated private property utilized by public corporations (states, municipalities) and also made to companies providing public services such as gas, electricity, and telephone
- (8) **Island.** A curbed landscaped area in a parking lot that is surrounded on all sides by parking spaces
- (9) **Landscaped.** Shall consist of any combination of turf/grass/ground cover, shrubs, and trees. It must be installed in a sound manner and in accordance with accepted standards of the nursery industry.
- (10) **Median.** A curbed landscaped area in a parking lot that separates parking aisles
- (11) **Open space buffer planting strip.** The area between single-family residential and any other zoned property. This strip is to include required trees.
- (12) **Planting strip.** The area between the curb and sidewalk, two (2) curbs, a curb and fence, or a sidewalk and fence.
- (13) **Peninsula.** A curbed landscaped area that protrudes into parking aisles and adjoins other nonparking open space.
- (14) **Public right-of-way.** The entire strip of land lying between the property line and a street or thoroughfare, alley, crosswalk, or easement.
- (15) **Shrub.** A woody plant of low or medium height, usually multi-stemmed. See recommended list for three foot high hedge.
- (16) **Vehicular use area.** The total area of all the parking spaces and drives serving the parking area.

(f) **Perimeter landscaping and screening**

- (1) When a commercial or industrial use is established on a lot of premises located adjacent to any residential zoning district, or when any multiple-family dwelling use is established on a lot or premises adjacent to any property located in a single-family residential zoning district, a ten-foot width of landscaping open-space buffer strip shall be installed and maintained by the owner, developer or operator of the commercial or

industrial property between it and the adjacent residentially zoned property.

- (2) In an open space buffer planting strip required under the terms of this section, a minimum of one (1) class A tree or two (2) class B trees shall be planted and maintained for each twenty-five (25) lineal feet or portion thereof of said open space buffer strip. The required trees may be planted anywhere within the buffer strip with a minimum of ten (10) feet apart for class A trees and a minimum of five (5) feet apart for class B trees. Refer to definitions on tree size.
- (3) In addition, an eight-foot high opaque fence or wall shall be erected and maintained along the property line to provide visual screening. The fence or wall shall be masonry or a wood diagonal, horizontal or vertical stockade type privacy fence, although the framing may be metal.
- (4) In lieu of the fence, a thirty-foot wide landscape planted buffer for the purpose of screening, may be provided along the property line.
- (5) For a thirty-foot wide landscape planted buffer, one (1) class A tree or two (2) class B trees shall be planted and maintained for each ten (10) lineal feet of buffer. The required trees may be planted anywhere within the buffer strip with a minimum of twenty (20) feet apart for class A trees and a minimum of ten (10) feet apart for class B trees. Refer to definitions on tree size.
- (6) The provisions of this perimeter landscaping and screening shall not apply where district are separated by a public street.
- (7) When a specific use permit is required, the landscape buffering and fencing required by this section may be modified or eliminated as a condition of a specific use permit.

(g) ***Dumpster and immobile trash containers.*** Any fixed or otherwise immobile trash contained must be set back from the property line no less than twenty-five (25) feet or be completely screened from view from any street via landscaping and solid, opaque fencing on a minimum of three (3) sides.

No such container shall be allowed on City right-of-way.

(h) ***Landscaping of off-street parking***

(1) ***Perimeter requirements***

- a. A landscaping edge or buffer shall be required along each side of a parking lot that faces towards a public right-of-way.

- b. The landscaping edge shall be no less than six (6) feet wide and may use up to three (3) feet of the public right-of-way, if unused and available at the time of permitting.
 - c. The landscaping edge shall be for the parking lot's entire length.
 - d. The landscaping edge shall contain no less than one (1) class A tree or two (2) class B trees for each twenty-five (25) lineal feet or fraction thereof of the edge.
 - e. The required trees may be located anywhere within the six (6) foot landscape edge with a minimum of ten (10) feet apart for class S trees and a minimum of five (5) feet apart for class B trees. Refer to definitions on tree size.
 - f. If overhead lines are present along the perimeter landscape edge, no trees will be permitted in that perimeter landscape edge. In addition, no trees shall be permitted within a thirty-foot distance from the outermost power line.
 - g. A screen no less than three (3) feet height comprised of a wall, solid fence, berm, or plant material or combination of shall be provided along the entire length of the landscaping edge or buffer, if any part of the landscaping edge is within ten (10) feet of the right-of-way. The screen does not have to be straight with the street or parking edge.
 - h. The three-foot high screen shall not be on the right-of-way
 - i. The three-foot high screen shall not be required across driveways.
 - j. The three-foot high screen shall not be within three (3) feet of a driveway or restrict a driver's line of sight of approaching vehicles as determined by the City.
 - k. The required three-foot high screen, when planted, shall be a minimum of two (2) feet in height. See list of suggested shrubs.
 - l. A minimum width of three (3) feet is required for the bed containing the planted screen
 - m. The required three-foot high screen, if planted shall be maintained at no less than three (3) feet high.
- (2) An increase in the size of an existing parking lot by twenty-five (25) percent in the number of parking spaces or more shall require the entire parking lot, in addition to the twenty-five (25) percent expansion, to be brought into compliance with this section.
- a. A turf area is to be located between the paved or curbed portion or sidewalk of the adjacent street right-of-way and the front property line.
 - b. The landscape planting strip shall not be used for parking, but can be crossed with driveways providing direct ingress and egress to the development that have been approved by the development services manager or his designee
 - c. This landscape planting strip shall be planted with one (1) class A or two (2) class B trees for each twenty-five (25) lineal feet or fraction thereof along the property line. The required trees may be planted

anywhere within the landscape planting strip with a minimum of ten (10) feet apart for class A trees and a minimum of five (5) feet apart for class B trees.

- d. Three (3) feet of public right-of-way may be used with written permission from the City.

(i) ***Installation and maintenance.***

- (1) All landscaping shall be installed in accordance with accepted standards of the Texas Nurseryman's Manual.
- (2) All plant material shall be true to name, variety, and size and shall conform to all applicable provisions of the American Standards for Nursery Stock, latest edition.
- (3) The owner and/or tenant shall be responsible for installing and maintaining all landscaping according to standard horticultural practices.
- (4) All landscaping shall be maintained in a healthy, neat, and orderly condition.
- (5) No trees may be located within ten (10) feet of a fire hydrant
- (6) No trees may be topped if the limbs are three (3) inches in diameter or greater.
- (7) Required three-foot hedges shall be maintained at a minimum of three (3) feet in height.
- (8) Dead, dying or damaged landscaping material shall be immediately replaced in conformance herein.
- (9) Irrigation systems must be in good and operating condition
- (10) Failure to install required material or maintain landscaping within sixty (60) days of notification shall be subject to legal action.
- (11) Any request for a variance to the terms of the deed restrictions must be submitted in writing and be responded to in writing by the PAEDC President after due consideration by the PAEDC Board of Directors

(j) ***Letter of credit.***

- (1) A letter of credit may be utilized when the landscaping improvements required by the PAEDC have not been completed prior to the issuance of a certificate of occupancy.

- (2) The applicant shall post cash or an irrevocable letter of credit payable to PAEDC in an amount equal to one hundred thirty (130) percent of the estimated cost. This amount shall include PAEDC's cost of administering the completion of the improvement in the event the sub divider defaults as provided herein. The security shall be deposited with the Port Arthur Section 4A Economic Development Corporation or in escrow with a bank at the option of PAEDC. Such letter of credit shall comply with all statutory requirements and shall be satisfactory to PAEDC's attorney as to form, sufficiency, and manner of execution as set forth in these regulations. The period within which required improvements must be completed shall be specified by PAEDC or his designee and shall be incorporated in the letter of credit. In those cases where a letter of credit has been posted and the required improvements have not been installed within the terms of the letter of credit, the PAEDC may thereupon declare the letter of credit in default and require that all of the improvements be installed.

TREES FOR PORT ARTHUR JADE AVENUE BUSINESS PARK

<i>Class A Tree:</i>	Mature height greater than thirty (30) feet
	Branches begin at six (6) feet
	Must be two (2) inches or greater in caliper when planted
Common Name	Latin Name
Bald Cypress (back property only)	Taxodium distichum
Canary Island Date Palm	Phoenix canariensis
Cherrybark Oak	Quercus falcate var. pagodifolia
Green Ash (back property only)	Pinus Taeda
Live Oak	Quercus virginiana
Sawthooth Oak	Quercus
Loblolly Pine (back property only)	Pinus Taeda
Nuttall Oak	Quercus Nuttallii
Pecan (back property only)	Carya illinoensis
Red Maple	Acer rubrum 'Drummondii'
Sabal Palms, Florida Fan Palm/cabbage Palm	Sabal palmetto
Shumard Oak	Quercus Shumardii
Slash Pine (back property only)	Pinus Elliottii
Southern Red Oak	Quercus falcate
Spruce Pine (back property only)	Pinus glabra
Swamp Chestnut Oak, Cow, Basket	Quercus Michauxii
Washingtonia Palm	Washingtonia robusta
Water Oak	Quercus negra
White Oak	Quercus alba
Willow Oak	Quercus phellos
Windmill Palm	Tracycarpus fortune

Class B Tree:	Less than thirty-foot mature height
	Eight (8) to ten (10) feet height when planted

Common Name	Latin Name
American Holly	Ilex opaca
Chinese Fan Palm	Livistona chinensis
Chinese Pistachio (back property only)	Pistacia chinensis
Crape Myrtle	Lagerstroemia indica and hybrid
Flowering Pear (side/back property only)	Pyrus Calleryana 'Bradford', 'Aristocrat'
Japanese Evergreen Oak	Quercus glauca
Parsley Hawthorn	Crataegus Marshallii
River Birch	Betula nigra
Texas Redbud	Cercis Canadensis 'Texensis'
Tree Ligustrum	Ligustrum lucidum
Wax Ligustrum Tree	Ligustrum japonicum

SHRUBS FOR SCREENING REQUIREMENTS

Shrubs:	Maintain three-foot height or greater
	Must be evergreen

Common Name	Latin Name
Blue Vase Juniper	Juniperus chinensis 'Glauca'
Bottlebrush	Callistemon rigidus
Cameellia Sasanqua, upright	Camellia Sasanqua
Chinese Holly	Ilex cornuta 'Rotunda'
Cleyera	Ternstoremia gymnanthera
Dwarf Burford Holly	Ilex cornuta 'Burfordu Nana'
Dwarf Japanese Holly *	Ilex crenata 'Compacta'
Dwarf Wax Myrtle	Myrica pusilla
English Boxwood	Buxus sempervirens
Fringe Flower	Loropetalum chinense
Gardenia, Cape Jasmine	Gardenia jasminoides
Glossy Abelia	Abelia grandiflora
Indian Azalea	Rhododendron indica
Indian Hawthorn	Raphiolepis indica
Nardina	Nandina domestica
Oleander DWARF	Nerium Oleander
Red Tip Photinia	Photinia glabra
Wax-leaf Ligustrum	Ligustrum japonicum