

MEMORANDUM

TO: City Council, City of Rochester Hills

FROM: James Breuckman, AICP, Principal Planner

DATE: March 25, 2009

SUBJECT: Zoning Ordinance Revisions



We have made the following changes to the Zoning Ordinance from the draft that was forwarded to you by the Planning Commission. These changes are as a result of continuing City Staff review, as well as in response to comments we have received since the draft was forwarded by the Planning Commission. The changes are minor, and consist of procedural adjustments or clarifications. These changes do not require this item being returned to the Planning Commission for review.

138-2.207.A(4) – Site Plan Extensions

The Director of Planning and Development may now grant an initial one year extension to site plans, and the Planning Commission may grant an additional one year extension. (pages 25-26)

138.4.425 – Outdoor Sales and Display of Goods

This section was initially added at the request of the Building Department. The Building Department has subsequently devised a special events permit to address outdoor sales, so we have removed the old standards and updated the Zoning Ordinance to reflect this practice. (page 69)

138.5.101 – Footnotes B and C to the Schedule of Regulations

The purpose of these footnotes has not changed, but we have revised the language to be clearer. These footnotes regulate side street setbacks, and are updated and clarified versions of footnotes b and c to the existing schedule of regulations. (page 82)

138-11.102.G(2) – Parking Lot Maintenance Permit

We have added a requirement for a parking lot resurfacing/restriping permit. This was done at the request of the Building Department to ensure that parking lot resurfacing and restriping projects are done in compliance with ordinance and accessibility requirements. (page 187)

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development of property. All construction and development pursuant to this Ordinance shall be in conformity with such engineering standards and specifications.

- G. **Variance Not Permitted.** The Zoning Board of Appeals does not have jurisdiction or authority to grant relief from or variances to the requirements of this section. The City Council may authorize a variance from the requirements of this section when undue hardship may result from strict compliance. In granting any variance, the City Council shall prescribe only conditions that it deems necessary to or desirable for the public interest. In making its findings, the City Council shall take into account the nature of the proposed use of land and the existing use of land in the vicinity, the number of persons to reside or work in the proposed development and the probable effect of the proposed development upon traffic conditions in the vicinity. No variance shall be granted unless the City Council finds that:
1. There are special circumstances or conditions affecting such property such that the strict application of the provisions of this section would deprive the property owner of the reasonable use of his land.
 2. The variance is necessary for the preservation and enjoyment of a substantial property right.
 3. The granting of the variance will not be detrimental to the public welfare or injurious to other property in the territory in which such property is situated.

SECTION 138-2.206 Use and Maintenance of Property in Accordance with an Approved Site Plan

- A. **Use.** No owner, tenant, occupant, or person shall use or allow to be used a part or all of any property which was the subject of an approved site plan, other than as set forth on such approved site plan, after completion and approval of the improvements required by the site plan and this ordinance. An example, but not by way of limitation, is using only areas designated for parking for parking purposes, and not some other area of the property.
- B. **Maintenance.** The owner, tenant, occupant or person responsible for any property which was the subject of an approved site plan shall maintain the property and the improvements thereon in accordance with the approved site plan or an approved amendment thereof. This responsibility shall include the duty to maintain in a condition substantially similar as approved, including the duty to replace, if necessary, all improvements such as, but not by way of limitation, all greenbelts, planting, walls, fences, paving, trash receptacles, handicapped parking areas, etc.

SECTION 138-2.207 General Provisions

- A. **Expiration of site plans.**
1. Preliminary site plans shall expire 365 days after the date of approval, unless the final site plan for the project has been submitted to the Planning Department for review.
 2. Final site plans shall expire 365 days after the date of final approval, unless building permits have been issued or construction has commenced. The date of final approval is established by the most recent date stamp on the final plans.
 3. If building permits have been issued or construction has commenced, final site plan approval shall continue for a period of five (5) years from the date thereof. If such construction lapses for more than 180 continuous days, said approval shall immediately expire.
 4. Upon written request received by the City prior to the expiration date, the Planning and Development Director may grant one (1) extension of up to 365 days to any site plan approval, either preliminary or final, provided that the approved site plan conforms to current Zoning Ordinance standards. The Planning Commission may grant one (1) additional extension of up

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to 365 days to any site plan approval extended by the Planning and Development Director provided that the approved site plan conforms to current Zoning Ordinance standards.

- B. **Resubmission.** A site plan that has been denied shall not be resubmitted for a period of 365 days from the date of denial, except on grounds of new evidence or proof of changed conditions found by the Planning Commission to be valid.
- C. **Appeals.**
 - 1. The Zoning Board of Appeals shall not have the authority to consider appeals of site plan determinations, except as defined in this Section.
 - 2. When the Planning Commission approves a site plan contingent upon approval of one or more variances from specific requirements of this Ordinance, the applicant shall initiate such a request to the Zoning Board of Appeals. The Planning and Development Director shall provide copies of the site plan, application materials and Planning Commission meeting minutes to the Zoning Board of Appeals. Zoning Board of Appeals consideration shall be limited to the specific variances identified as conditions of site plan approval by the Planning Commission. This shall not preclude the applicant from seeking a dimensional variance from the Zoning Board of Appeals prior to obtaining site plan approval.
- D. **Rescinding Site Plan Approval.** Approval of a site plan may be rescinded by the Planning Commission upon determination that the site has not been improved, constructed or maintained in compliance with approved permits, site plans, or conditions of site plan or conditional use approval. Such action shall be subject to the following:
 - 1. Public hearing. Such action may be taken only after a public hearing has been held in accordance with the procedures set forth in Section 138-1.203 of this Ordinance (Public Hearing Procedures), at which time the owner of an interest in land for which site plan approval was sought, or the owner's designated agent, shall be given an opportunity to present evidence in opposition to rescission.
 - 2. Determination. Subsequent to the hearing, the decision of the Commission with regard to the rescission shall be made and written notification provided to the property owner or his or her designated agent.
- E. **Revisions to Approved Site Plans.** Minor revisions to an approved site plan may be administratively reviewed by the Planning and Development Director, provided that such changes do not materially alter the approved site design, intensity of use or demand for public services. Revisions to an approved site plan that are not considered by the Planning and Development Director to be minor shall be reviewed by the Planning Commission as an amended site plan.

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SECTION 138-4.424 Office Uses in the B-4 District

Office buildings with a minimum floor area of 15,000 square feet are permitted for any of the following occupations: executive, administration, professional, accounting, writing, clerical, stenographic, drafting and sales, medical offices, and clinics.

SECTION 138-4.425 Outdoor Display and Sales of Goods

The outdoor sales of goods in the B-1, B-2 and B-3 districts shall require a special events permit from the Building Department, and must apply with all applicable City codes and ordinances.

SECTION 138-4.426 ORT Use Standards

All uses in the ORT district shall comply with the following standards:

- A. **Noise and Vibration.** All uses located in the ORT district shall be designed and operated so as to produce no sound, glare or vibration discernable at the property line in excess of the normal intensity of street or traffic noises or vibration noticeable at such points.
- B. **Retail and Restaurant Uses** may only be permitted in a building containing another non-retail or restaurant use. The total area devoted to restaurant and retail uses may not exceed 25% of the total floor area of the building. Parking requirements for restaurant and retail uses shall be calculated separately from the requirements for the other uses of the building.
- C. **Special Submission Requirements.** The applicant shall provide the following submissions with the site plan application for any use allowed in the ORT office, research, technology district:
 - 1. A development planning analysis, by a urban planner, registered architect or registered landscape architect, which describes the relation of the proposed project to existing uses and to the overall development of the ORT district, as envisaged in the city's master plan or in other official published planning materials. The analysis shall also set forth evidence that the proposed project, and the use or combination of uses proposed, will contribute to realization of the fullest economic potential of the district and demonstrate that the intent and purpose of this ORT district (i.e., intent) has been met. The analysis should include or be accompanied by a study or analysis showing the fiscal impact of the proposed project on the city and a market study with respect to the proposed uses. If a project is proposed to be developed in stages or phases, the development analysis shall take into account the time of each stage or phase.
 - 2. Traffic studies demonstrating that the anticipated maximum traffic, including pedestrian traffic that might be generated by the project can be efficiently and safely accommodated by existing, abutting major streets and walkways, or by any future street improvements planned and committed to by the city.
 - 3. Concurrency of facilities analysis demonstrating availability and adequacy of public utilities and infrastructure contemporaneously with the completion of the proposed development. If there are any deficiencies in the ability of the streets and walkways to accommodate the traffic generated by the proposed development or in the public utility systems the applicant shall submit plans and evidence of finance commitment to cure such deficiencies.

The planning commission may, in its sole discretion, waive any of the required submissions or portions thereof set forth in items 1-3 when it determines that it has available sufficient data to provide the necessary information or when it determines that the information is not necessary or relevant to its evaluation of the proposed project.

- D. **Underground utilities.** All lines for telephone, electric, television, and other similar services distributed by wire or cable shall be placed underground entirely throughout the development area, except for major thoroughfare right-of-way, and such conduits or cables shall be placed within private easements provided to such service companies by the developer or within dedicated public ways. All such facilities placed in dedicated public ways shall be planned so as not to conflict with

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SECTION 138-5.101 Footnotes to the Schedule of Regulations

A. **Building Height Measurement.** In the R-1 through R-4 and RE districts, building height shall be measured from the average grade on the front façade of the building.

B. **Established Building Line.** In the event that there is an established building line along a street (as determined by the official reviewing the application), the front yard or side street yard setback requirement shall be the established building line. The established building line is equal to the average front yard setbacks of adjacent dwellings within 200 feet and on the same side of the street as the subject parcel.

The front setback of an adjacent structure shall be measured at the shortest distance between the structure's exterior surface and the front lot line. In the event that any of the parcels located within 200 feet of the subject parcel is vacant, the minimum setback required by Section 138-5.100 shall be used as the front yard setback for that parcel in calculating the average setback.

In no case shall a front yard setback be reduced to less than 20 feet, regardless of the established building line, and in no case shall a garage door be located closer to the front property line than the minimum setback required in the zoning district by Section 138-5.200.

C. **Corner Lots.** For corner lots, the side yard abutting upon a street shall not be less than 15 feet in the R-4 district and 25 feet in the R-1, R-2, R-3, and RE districts unless a larger setback is required by footnote B because neighboring houses on the side street have a front yard relationship to the side street.

D. **Reduced Side Yard on Narrow Lots.** If the lot or parcel is less than 60 feet in width, one side yard may be reduced to five feet providing the total of the two side yards shall be a minimum of 15 feet.

E. **Nonresidential Lot Requirements.** The minimum lot area and minimum lot width shall be determined by the use meeting all minimum yard requirements and all other requirements of this ordinance.

F. **Side Yard Setbacks.** Side yards shall comply with the following:

1. If walls of structures facing interior side lot lines contain windows or other openings, the minimum yard requirements in the schedule of regulations shall be met.
2. Where B-1 and B-2 districts abut R, RCD, RM-1 and MH districts, the minimum side yard requirement shall be 50 feet. This requirement shall not apply to the CI district.
3. Where a B-3 district abuts R, RCD, RM-1, MH, SP and CI districts, the minimum side yard shall be 75 feet.
4. Where an O-1 district abuts an R, RCD, RM-1 or MH district, the minimum side yard requirement shall be 30 feet.
5. In B-1, B-2 and O-1 districts, a 25 foot setback is required for a side street yard on a corner lot and for the exterior side of parcel or lot on the exterior of the district.
6. In the B-3 district a front yard setback shall be required on any street frontage and from any adjacent parcel not zoned B-3.

G. **Side Yard Setbacks Adjacent to a Residential District.** Where a B-4 or B-5 district abuts R, RCD, RM-1 or MH districts, the minimum side yard requirement shall be 50 feet.

H. **Rear Yard Setback Adjacent to a Residential District.** Where a B-3 district abuts an R, RCD, RM-1 or MH district, the minimum rear yard shall be 100 feet. The rear yard may be reduced to 50 feet with

- E. **Pedestrian Circulation.** The parking lot layout shall accommodate pedestrian circulation. Pedestrian crosswalks shall be provided, distinguished by textured paving or pavement striping, and integrated into the sidewalk network.
- F. **Cross Access.** Common, shared parking facilities are encouraged. As such, wherever feasible, cross-access connections between adjacent parking lots, or a future connection when no adjacent parking lot exists but can reasonably be expected to be constructed on an adjacent parcel at a future date are required. Blanket cross-access easements across the entire parking lot area shall be provided for connected lots under separate ownership or management. The cross-access easement shall be without limitation and shall be recorded with the County Register of Deeds.
- G. **Permit Required.**
 - 1. Construction. No parking lot shall be constructed unless and until a permit for such construction is issued by the public services department. Application for a permit shall be submitted in such form as may be determined by the City and shall be accompanied with two sets of plans for the development and construction of the parking lot showing that the provisions of this section will be fully complied with. No final occupancy permit shall be issued by the building department until the parking lot has been completed.
 - 2. Maintenance. A permit from the Building Department shall be required for any parking lot resurfacing or restriping activity. Application for such permit shall be accompanied by two sets of plans demonstrating that the provisions of this section shall be fully complied with.
- H. **Prohibited Activities.** The outdoor storage of merchandise, motor vehicles for sale, trucks or equipment, wrecked, junked or unlicensed vehicles, or the repair of vehicles in areas designated for parking (including the maneuvering lane) is prohibited.
- I. **City Parks Exempt.** The standards and regulations applicable to off-street parking shall not be applicable to publicly owned City parks. A parking plan shall be submitted and reviewed by City staff when a new park is proposed or modifications in an existing park are proposed. In those cases wherein the Planning Commission will review and approve a site plan for a park, a parking plan must be included and approved based on current and future expected usage.

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