

DISCUSSION

2025-0013 Zoning Ordinance Amendment Discussion

(Memorandum prepared by McLeod and Roediger dated 1/8/25 and Draft Administrative Zoning Ordinance Amendments had been placed on file and by reference became a part of the record hereof.)

Mr. McLeod stated that staff has a constant desire to try to clarify and improve the regulations, and noted that the Planning Commission will see administrative amendments come forward every once in a while. He reviewed the various proposed amendments, reviewing them as follows:

- The first amendment proposed is within the Ordinance 130-38 that creates the Planning Commission as a body. Within that ordinance is language regarding the requirement for public hearings for plats and site condominiums, and is in an area that someone would likely never look for this language. This language would be moved into the Zoning Ordinance.

- The next proposed amendment is relative to public hearing procedures. 138-1.203 notes that for conditional uses, planned unit developments or rezonings, signs are required to be placed in the front yard of the proposed development or application and that was always the burden on the applicant. The City will now install the sign, and they have been constructed through the City's sign shop and the applicant will pay a fee for each one of these applications to place the sign. This allows control over when the sign is placed and when it is removed, and provides uniformity in terms of signage. Staff was beginning to get word that some of these signs were becoming very expensive, with one applicant told that their sign would be \$2,500, which staff felt was incredibly unfair. It is not uncommon for cities to provide the sign. The first part of the proposed amendment takes out the requirements and the description of what it will look like for each applicant; the second part of the amendment describes when the public hearings are required which is the language that was removed from Ordinance 130-38 just mentioned.

- The next set of amendments is relative to site plan expirations. Right now approval is valid for one year and then an amendment or extension could be requested. Staff has been seeing that many applicants are going right up to that year timeframe or beyond; and especially since COVID, the process has slowed down on the applicant's end whether it is the engineer, or architect or construction costs. This proposed amendment tries to provide some relief to the process as they go through engineering or building permit reviews. Normally when a site plan leaves the Planning Commission, a conditions review is required and there are times when that submission does not come in for six, seven or eight months. The thought is to extend this out to two years and the language is simplified to say the approved plan and then take out reference to the conditions review.

Chairperson Brnabic suggested stopping for any questions prior to moving on.

Mr. McLeod continued reviewing the proposed amendment regarding site plan expiration, noting that it maintains the five year timeframe for construction. He pointed out that they are removing the reference to 180 days of continuous work on a site, and he explained that the Planning Department is not staffed to be out on a site and track whether someone may be actively working on a site at a particular time. He pointed out that the Building Department is out on sites all the time and has a 180-day cessation reference as well. If their building permit lapses, at that point Planning can get involved in the conversation as to what that really means. He noted that the number of extensions is being increased to three rather than just one administrative and one Planning Commission extension, with those three being administrative extensions. He stressed that it would not be to allow a change or amendment to the plans and just means that someone is needing additional time to get construction materials or get financing lined up. He stated that changes to plans would be dealt with separately and an independent decision made as to whether the plans have to go back to the Commission or City Council. The extension would be solely for plans that remain as were they approved.

Mr. Hetrick asked if this applied to any kind of development.

Mr. McLeod noted that extensions are not automatic and the applicant could apply for them. He commented that many of these real estate development deals are very intricate now with many moving parts. He mentioned the Priya senior development, and noted that they came up to their one year site plan approval and received an extension at the 11th hour. He stated that they received their Land Improvement Permit, and then did not do anything for six months which tripped their 180-day requirement and their site plan became null and void. He explained that staff has received word that they want to resurrect the project, and this could have been a project that the City could have kept going. He added that the Gerald was another project that fell victim to a site plan extension that could not go any further, and their site plan became null and void and had to come back to the Commission for a new approval. He commented that luckily it was moved forward as fast as possible and did not kill the deal, and he noted that with this provision it could have moved forward without any hiccup.

Mr. Hooper suggested that he does not have a problem with the initial two years, but would favor one year granted by the Planning and Economic Development Director and another granted by the Planning Commission for a total of four. He commented that if something is not done by four years, there is something else going on. He pointed out that Priya started out and then went vacant with weeds growing everywhere, and stated that things could become a nuisance or eyesore and could become a code enforcement problem.

Mr. McLeod stressed that these extensions are solely for the approval of site plans.

Ms. Roediger commented that this probably happens more than anyone would think. She pointed out that both of Mr. Polyzois' projects, Cambridge Knoll and Camden Crossing, are coming through again. She mentioned that there are probably a half dozen sites that were approved prior to her tenure with the City

that are still under construction, and listed The Enclaves, Pinewood, and Villas at Shadow Pines. She noted that these neighborhood developments are planned out far in advance and construction may go out two or three years in the future. She stated that while she has no issue with what the Planning Commission would ultimately decide, she would stress that it happens more often than people may realize and it is taking longer to get these developments into the ground.

Mr. Hooper stated that four years seems reasonable, and if they haven't done anything in three years it ought to come back to the Commission.

Ms. Roediger noted that Andover's site plan date was 1999 and it was just built four years ago.

Ms. Roediger stated that it is common for residential neighborhoods especially, and pointed out that Townhomes at Maple Hill still has not gone vertical.

Mr. Hooper stated that this would not apply to Maple Hill.

Ms. Roediger responded that the plan is vested and the road is installed. She added that it is the same with Commons South and a lot of projects have installed infrastructure and underground and then something happened financially or the market dictated a delay. She stressed that this is for those projects that have not begun and nothing is vested.

Ms. Roediger stated that was correct, and she added that this sometimes leads to complications because they have different expiration dates for various State agency permits.

Mr. Hetrick commented that this is what they saw with Mr. Polyzois where he had to come back in, pay his fees and have a different tree ordinance apply to the project.

Ms. Roediger stated that this is also true for extensions, and the ordinance does say that the Planning Director can only make extensions if the ordinances have not changed; however, if Ordinances have changed, the applicant must meet the new ordinances. She stressed that they do not get grandfathered into more liberal ordinances.

Mr. Hetrick commented that if they received extensions, they would not have had to pay additional fees.

Ms. Roediger responded this is correct. She stressed that they are still upheld to the current day standards and are not grandfathered in to an older standard.

Chairperson Brnabic stated that she absolutely agrees with Mr. Hooper. She noted that she had a brief conversation with Mr. McLeod today in regard to this and would support the two-year initial timeframe, one extension by the Department, and then coming back to the Planning Commission. She stated that her bigger concern was the question mark on the final site plan continuing for five years and then having the option to three one-year extensions, making

eight years. She commented that her concern is that no neighborhood should be exposed and have to put up with the construction process for eight years.

Ms. Roediger reiterated that the extensions being talked about in subsection four are only on the upfront and are relative to paper and motion approvals. She noted that this would not extend the five-year timeframe for construction and if a project does technically go beyond five years, she stated that the reality is that one cannot just say stop because everyone probably wants the project finished at that point. She stated that this is when code enforcement and legal gets involved. She stressed that the extensions in section four are just about the upfront approvals and are relative to the instance if someone is having trouble getting their ducks in a row in terms of financing or construction materials. In theory it is always hoped that they finish quicker than that, and a developer typically wants that too because time is money. She stressed that the extension was on the front end before dirt was moved, and the five years for construction was not changing.

Ms. Neubauer stated that she keeps getting complaints about a particular development where the Sheriff had to come in and take two families that have been living in the backyard of an undeveloped property under awful conditions and it is an eyesore. She commented that she understands giving an extension at the beginning to protect their interests, but asked if there was a way that the five year timeline could be adjusted so that they do not have this gargantuan amount of time to decide what to do with their properties. She stated that while time is money, some developers have so much time and money that they really do not care and can leave a property in disarray.

Ms. Roediger asked whether the development mentioned is a half-constructed building.

Ms. Neubauer responded that construction has not started yet and explained that it was a building that was purchased and came in front of the Commission and Council denied a part of it, and now the plan has lapsed and if they want to do something with it they have to come back. She stated that they are not eligible for extensions as the Ordinance has changed. She commented that they need to figure out a way to prevent the ability to have an eyesore in the city.

Ms. Roediger responded that this is a policing matter in terms of the homeless.

Ms. Neubauer stated that there is exposed wire, cement that has been knocked over, structures that are falling and brick in disarray. She commented that if someone comes to the City and then does not do anything, there should not have this long of a time.

Ms. Roediger noted that the site in question is more of a blight issue and is something that the City could work with police and Ordinance to control, and would be complaint-based. She commented that this would be the same based on the five years because construction never started.

Ms. Neubauer asked if there was anything that could be done to not give five years before they have to start something, perhaps three years.

Ms. Roediger responded that this goes back to the extensions, and this is one example while she can provide 30 examples on the flip side. She stated that this is not the norm, and between nuisance ordinances and police power it should be handled.

Mr. McLeod added that the five years assumes that construction is ongoing and is not a scenario where nothing happened. He stated that if nothing happened, their site plan does become null and void. He stressed that the provision talks about ongoing construction, and he pointed out that the building permit does have a lapse in it. If they do not do work on the site for six months, in theory the building permit can be pulled. He commented that the question becomes what does the City do with a half-built or quarter-built building and that is a bigger issue that cannot be handled in a zoning ordinance.

Ms. Roediger noted that the IAGD building has been under construction for years, and she asked whether the City would make them tear it down. She commented that it is technically a legal issue, and she stated that she feels that the Building Department's regulation of a continuous six months gives the City the police power to do something, so they put up one more thing or move one piece of equipment. She stressed that at least it makes them move forward.

Ms. Neubauer commented that as long as there is a way to move things along rather than giving an opportunity to delay she would support this. She stated that an additional extension is an opportunity to delay, but she stated that staff is saying that this is an opportunity to move things forward.

Ms. Roediger stated that this is what they are talking about, at the front end where a lot of approvals where things have not changed must be redone because they cannot get the project off the ground within that one or two years for financing or other reasons. She stressed that no site would have been disturbed yet, and staff finds themselves babysitting projects. She mentioned that she cannot tell the Commission how many times they have notified Juan Blanco's that their site plan would be expiring and they are trying to get away from that to a degree.

Chairperson Brnabic asked why these projects aren't moving forward.

Ms. Roediger responded that financing is a really big thing, and many projects are changing ownership.

Mr. McLeod added that while this is not the case so much anymore, coming out of Covid meant that steel production was two years out, and a major project could wait 18 to 24 months for steel. He commented that they cannot have a site partially developed and waiting on steel, so they just prolong everything to be able to sequence it correctly.

Ms. Roediger stated that this is so plans do not have to be redone that meet the ordinances when they were approved and have not changed. She commented that they will still hold them accountable to current ordinances. She pointed that both of Mr. Polyzois' projects came back with revised plans that met revised

tree and stormwater ordinances.

Chairperson Brnabic commented that she was glad that the Gerald came back as this was one instance where it afforded the opportunity to condition the full brick which had not been conditioned in the first approval.

Mr. McLeod stressed that if there is an issue where the plan changes or is not in accordance with the Commission's directives, staff would ensure that those plans end up in the same direction that the Commission wanted it to go. He pointed out that in that case, the plans came back to the Planning Commission after expiration. He added that the extension is not an amendment or a change in plans, it would just be that they needed additional time; and consideration of changes to those plans would be a separate decision in total and would be processed accordingly.

Ms. Roediger commented that she is glad the Gerald worked out the way it did, but noted that it could have easily killed the deal as well. She explained that they first called and stated that they wanted to break ground, and she had to tell them that their approval had expired. She stated that luckily the new owner had the time and ability to proceed; however, she would have hated to see that as a technicality that it was one month and one year as opposed to one year. She stressed that there is enough protection that if things change or if there is an interpretation to be made, it can be brought back. She added that it gives the ability to hopefully keep projects going and not have to go back and do new review fees, publications and everything all over again.

Mr. Struzik stated that he likes the idea of giving a little bit of flexibility before the shovel hits the ground, and noted that for properties where a redevelopment has been approved, it would give additional flexibility in not making them come back and could allow the property to redevelop more quickly. He stated that he can think of a couple of properties that are in limbo with an existing structure that is falling apart and a large parking lot that has weeds growing through it. He commented that in those cases he wants redevelopment, and the idea of flexibility before the shovel hits the ground takes some administrative burden off of staff and makes it easier to do business in the city while still providing protections to residents and property owners.

Mr. McLeod continued to describe additional proposed ordinance amendments as follows:

- Section 138-4.101, Zoning Map and District Boundaries. Mr. McLeod explained that this change is simply redirecting the interpretation provision from the Building Official to the Planning and Economic Development Director.*
- Section 138-4.200 Mr. McLeod noted that this proposed change adds R-5 into the title for that section.*
- Section 138-4.300, Table of Permitted Uses. Chairperson Brnabic pointed out that the table mentions up to four units attached, which is quads. She commented that she did not remember the Commission totally agreeing to quads when they added that district.*

Mr. McLeod responded that right now staff feels that the ordinance is not very clear for this provision, so the proposed change simply separates R-5 versus the BD District and tries to include everything into the table. He commented that if this is an item for debate on whether four is appropriate or not, it is a larger discussion. He suggested that it can ultimately be borne out of the Master Plan, and the Master Plan would trigger a Zoning Ordinance amendment. He stressed that these proposed amendments are designed as more of an administrative cleanup of things. He stated that the idea is that this is fully distinguishing between what is allowable in R-5 versus the Brooklands.

Ms. Roediger explained that the reason this came up was from the last Auburn Oaks because there was some confusion at Council about the regulations that talked about these units as it related to Angara Oaks. She stated that it was not clear in the footnotes that it only referred to R-5.

Mr. McLeod continued that in similar fashion in the second part of the table, it clarifies that existing gas stations only within the Brooklands District are permissible. He explained that a lot of people currently read that section and feel that you can do gas stations within the BD district, and the intent is to fully explain that for the BD, it is solely for existing stations, and no new ones are permitted. He added that it is the same thing with drive-throughs.

- Section 138-4.425, Outdoor Storage. Mr. McLeod stated that this provides clarification by removing the word Accessory and declaring that storage areas, whether accessory or primary, need to be paved. He mentioned the newly developed site on Hamlin Road with a gravel surfaced parking lot that covers multiple acres, and he noted that when they went out to do the final inspection, the gravel was already starting to deteriorate. He added that there are certain instances where paving may not be desirable, for instance if they are storing bulldozers.

- Section 138-5.205 Standard Methods of Measurement. Mr. McLeod explained that this was requested by the Building Department, noting that they just want clarification in terms of what counts for lot coverage and what does not. He stated that they are making interpretations now, and they have asked for clarity in terms of attached and detached accessory structures in terms of open and closed porches. He noted that anything that is on the ground does not count for lot coverage, and anything up in the air, for enclosed porches, does count.

Mr. Hetrick asked if a detached garage is counted toward total lot coverage.

Mr. McLeod stated that it is, and explained that for all structures on a site, there are percentage maximums, and Building wants it clarified that attached and detached accessory garages and other structures count toward that amount as well as porches that are attached to the house.

Mr. Hetrick commented that there are a number of houses in parts of Rochester Hills with detached garages that may not meet code after this change.

Mr. McLeod stated that Jodi Welch of the Building Department requested this change, and he suggested that he could get some further explanation or have her at the next meeting if the Commission would like. He noted that this would define roof structures such as a pergola and note when it counts as a structure and when it does not. He commented that they have people who play games about how open or wide the slats have to be or how far the boards have to be separated before it counts as a roof structure versus a non-roof structure. He mentioned that this was born out of a ZBA case where a gentleman had a deck previously in the front yard for a front porch and if he built the same exact structure out of concrete it would have been permissible. He explained that this simply allows for that same type of exception or allowance for a structure to be built in the same instance as a front porch or stoop. He noted that in this case it was the only means of entrance into the house, and he commented that this will hopefully alleviate that kind of situation from happening again just by allowing a deck structure.

- Section 138-10.107 Fences. Mr. McLeod noted that this change states that for non-residential, it has to be decorative in nature and takes away the standard chain link. He explained that in some instances where the Planning Commission has the authority to approve it, it must be vinyl coated otherwise it has to be a more decorative-type fence and also eliminates fences within the front yard for non-residential properties. He stressed that for residential properties, it remains as-is.

- Section 138-10.311, Dumpster and Trash Storage Screening. Mr. McLeod explained that the change is proposed to make sure that if there will be dumpsters a property, they are fully enclosed and up to the City's standards. He stated that this provides that the enclosure has to be masonry to match the building and have a suitable enclosure gate to it, and that the enclosure must be six foot tall. He commented that right now, someone could make the case, especially for industrial sites, that they do not need a dumpster enclosure, or if they do, it could be a chain link fence; and he stated that this is not up to City standards.

Mr. Struzik asked what the enforcement mechanism is for keeping doors closed on the enclosure.

Mr. McLeod responded that while he is not speaking for Code Enforcement, typically it would be when trash actually starts blowing out of it and that is usually what prompts the call. He commented that he would hope that as Code Enforcement officials are going around when they see gates open they will tell the business owner; however, the real answer is most likely when a call comes in to say that there is trash blowing around and the gates are open. He stressed that if it consistently happens, enforcement would ramp up from there. He explained that unfortunately it is not uncommon where whoever sets the dumpster down may not push it all the way into the enclosure.

- Section 138-10.401, Solar Energy Systems. Mr. McLeod noted that this change adds temporary and permanent to the provisions in this section. He explained that this comes from the Building Department as one of their

requests, and stated that in both instances they would be regulated by Ordinance.

- Section 138-11.205, Bicycle Parking. Mr. McLeod explained that this adds into the Ordinance the bike racks that have been required on site plan reviews.
- Section 138-11.305, Stacking Spaces. Mr. McLeod explained that there is no change to this section other than aligning it to the stacking space requirement that is in the drive-through provision that was approved last year, and he pointed out that this change was omitted at that time.
- Section 138-12.108, Performance Guarantee. Mr. McLeod stated that this is in reference to landscape bonds. He stated that the way the City has handled bonds does not really match what the Ordinance states. He noted that what the City does is basically get one bond for 100 percent of the landscaping and once it is installed, they release 75 percent of the bond and keep 25 percent for performance. Then after two years a review is done. He explained that in the Ordinance right now, they technically do not have to provide a bond. He stressed that even the Engineering Department, as a part of their Land Improvement Permit, requires a bond for landscaping, and he commented that this is trying to bring the Ordinance into current practice and ensure that the landscape bonds and performance and maintenance bonds do not expire. He mentioned that there have been a couple of situations where they have gone to pull a bond and there is no money to be had.

He added that requiring that the owner post the bond also works from the standpoint that they do not want the owner coming back and asking what the bond is on their property, and is to ensure that the person providing the bond is the one ultimately responsible for the project. He noted that this has come up with the Townhomes on Maple Hill where there are three owners involved. He stated that staff is working their way through that one, and wants to ensure that the Ordinance backs up what they currently do.

He explained that once they call for final inspections, typically when they are getting their temporary or full CFO, if at that point they approve the landscape inspection staff releases 75 percent of the bond and it goes down to 25 percent, which is kept for two years. At that point, if everything is still alive, then the full bond is released. If they need to replace things, they are required to do so.

Ms. Roediger commented that she thinks that this proposed change and the signage change are Ms. MacDonald's favorite portions of the Ordinances as they will help her explain things to the applicants and will reduce headaches.

Mr. McLeod noted that if the Commission is in agreement, these proposed changes with the one change discussed relative to the time for extensions would be taken to a public hearing at the next Regular meeting.

Discussed