
MEMORANDUM

To: City Planning Commission, Committee of the Whole
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Date: September 19, 2017
Subject: Proposed Zoning Code Text Amendment: Fees, Site Plan Review, Minor vs. Major Changes to Approved Plans

CPED staff is analyzing a zoning code text amendment that would include the following:

- Revise land use application fees
- Revise the thresholds for applications that trigger a site plan review application
- Revise the standards governing changes to approved applications

The proposed changes were introduced by Council Member Bender at the City Council meeting of August 18, 2017. The following chapters were included in the introduction:

- Chapter 520: Introductory Provisions
- Chapter 525: Administration and Enforcement
- Chapter 527: Planned Unit Development
- Chapter 530: Site Plan Review

Land Use Application Fees

The state enabling authority for planning and zoning, the Municipal Planning Act, states in Minn. Stat. §462.353, subd. 4, that a city may establish fees "sufficient to defray the costs incurred by it in reviewing, investigating, and administering" a land use application or other request for a permit or approval required by the zoning ordinance. Fees are required to be fair, reasonable, proportionate, and be linked to the actual cost of the service for which the fee is imposed. The fee table was most recently overhauled in 2011 and updated the next year, in 2012.

In general, the current update would adjust all fees in the existing table based on an eight (8) percent increase in the consumer price index (CPI) since 2012. In addition, all public hearing applications would incorporate the average costs of the publication charge in *Finance & Commerce* and postage for all City-mailed notifications to property owners within 350 feet of the site, which are currently charged as separate itemized fees.

Staff is proposing further amendments to the fee table – beyond the CPI increase and inclusion of publication and postage fees – in consideration of additional factors, including the actual staff time it takes to provide services related to each land use request and potential efficiencies in the review process that have been gained since 2012. The most notable proposed changes are as follows:

- A new, flat fee for conditional use permits for height, unless the property is located in the SH Shoreland Overlay District (possibly higher than other conditional use permit applications).
- Flat fees for future land use amendments and interim use applications (rather than charging by lot area).

- A new, higher fee for the administrative review of detached accessory dwelling units due to the staff time required for review and inspection relative to the majority of internal and attached accessory dwelling unit applications.
- A new fee for the administrative review of skyways, which is a new application type.
- A new fee type to allow for the review of minor changes to a previously approved site plan review, as discussed elsewhere in this memo.

Uses Subject to Site Plan Review

Site plan review applications are typically triggered by proposals that include new principal structures or building additions over 1,000 sq. ft. A variety of specific uses (e.g., drive-through facilities) also trigger the need for a site plan review, regardless of whether new construction is proposed. The draft amendment would increase the threshold for the size of a building addition that would prompt a site plan review application—for non-residential and mixed use buildings—from 1,000 to 2,500 sq. ft. The current 1,000-sq. ft. standard is a low threshold and results in relatively minor site and building changes being subjected to a very thorough review process. As proposed, additions of less than 2,500 sq. ft. would simply be reviewed for compliance with general zoning code standards such as floor area, height, setbacks, et cetera.

CPED proposes to amend the site plan review standards in a manner that would allow certain building additions to be reviewed administratively rather than through a City Planning Commission process. Specifically, the proposed change would allow building additions that face a public street, walkway, or pathway to qualify for administrative review. However, those additions will still be subject to City Planning Commission review if they require variances or other land use applications, or if the addition exceeds 20,000 sq. ft. in area. These changes would be reflected in Table 530-1 as follows:

Table 530-1 Buildings and Uses Subject to Site Plan Review

(excerpt)

Any addition to a non-residential or mixed use building that would increase its gross floor area by ~~one thousand (1,000)~~ two thousand five hundred (2,500) square feet or more.

The site plan review application may be reviewed administratively if each of the following apply:

- (1) The project or proposal does not include any other land use application requiring a public hearing.
- ~~(2) The building addition would not face a public street, sidewalk, or pathway.~~
- ~~(3)~~(2) The building addition contains less than twenty thousand (20,000) square feet of gross floor area. ¹

Changes to Approved Applications

Following action on an application for site plan review, CPED staff is frequently charged with considering proposed changes to plans that have been approved by the City Planning Commission. Staff must decide whether proposed changes are minor and consistent with the project reviewed and approved through a public process. While it's understood that unforeseen circumstances of "value engineering" will often result in revisions to development plans, administrative approval of substantial changes may undermine the purpose of the public process that resulted in action on the project.

While the current ordinance provides some guidance regarding when a change is considered minor, the language is relatively vague and has been subject to a good deal of interpretation on a case-by-case basis. Further, some applicants have questioned whether longstanding interpretations are congruent with the intent of section 530.100 of the zoning code, which allows the zoning administrator to authorize minor changes to approved site plans based on certain criteria.

The proposed ordinance amendment seeks to provide a greater degree of clarity for City staff, applicants, and the general public. Changes to already-approved site plans would have to comply with five criteria, which are

intended to allow some degree of flexibility while ensuring that major changes must be reviewed through the same process that resulted in the original project approval. CPED is considering a reduced fee for site plan amendments that are required to repeat the public process, as it is expected that the costs associated with reviewing amendments to approved plans are lower than the initial review.

Additional text changes may be required, but are not reflected in the current draft, to address changes to approved conditional use permits and planned unit developments. CPED's final recommendation will likely be considered at a public hearing of the City Planning Commission in October.

~~530.100. – Changes in approved site plan.~~

~~(a) Minor changes. The zoning administrator may authorize minor changes in the placement and size of improvements and the type of exterior materials for an approved site plan, if the changes are required because of conditions that were unknown at the time the permit was approved, and the zoning administrator determines that the changes are consistent with the intent of this chapter and the findings made by the city planning commission or zoning administrator in connection with the approval of the site plan.~~

~~(b) Other changes. Changes to the site plan affecting bulk regulations, parking and loading, or components of the site plan other than minor changes in the placement and size of improvements and the type of exterior materials shall require amendment to the site plan. The requirements for application and approval of a site plan amendment shall be the same as the requirements for original application and approval.~~

530.100. - Changes in approved site plan.

(a) *Minor changes.* The zoning administrator may authorize minor changes to an approved site plan upon determining each of the following:

(1) The proposed changes are consistent with the intent of this chapter and the findings made by the city planning commission or zoning administrator in connection with the approval of the site plan.

(2) The proposed changes do not represent a substantial redesign of the project, including but not limited to building materials, massing, and vehicular access to the public right of way.

(3) The proposed changes do not create the need for additional alternative compliance not previously considered and approved by the city planning commission or zoning administrator.

(4) Where the proposed changes would result in additional building bulk, the increase would not exceed ten (10) percent of the gross floor area of the already-approved increase, or an additional two thousand five hundred (2,500) square feet, whichever is less. For example, if an application was approved to allow a ten thousand (10,000) square-foot building addition, a ten (10) percent increase of up to one thousand (1,000) square feet, for a total building addition of eleven thousand (11,000) square feet, could qualify as a minor change. A proposed reduction of floor area compared to the approved site plan may also be considered more than a minor change based on criteria (1) and (2) above.

(5) Compared to the approved plan, the changes would not increase the proposed building height greater than five (5) feet or five (5) percent, whichever is less. Additional building height shall not be considered a minor change if the proposal exceeds the height authorized through a conditional use permit or variance to increase the maximum allowed building height.

(b) *Other changes.* Changes to the site plan or components of the site plan other than minor changes shall require amendment to the site plan. The requirements for application and approval of a site plan amendment shall be the same as the requirements for original application and approval. However, an amendment to an approved site plan filed within two (2) years of approval shall be subject to a reduced application fee as authorized by Chapter 525, Administration and Enforcement.

Table 530-1 Buildings and Uses Subject to Site Plan Review

<p>Any new principal non-residential or mixed use building. The site plan review application may be reviewed administratively if both of the following apply: (1) The project or proposal does not include any other land use application requiring a public hearing. (2) The building contains less than twenty thousand (20,000) square feet of gross floor area.¹</p>
<p>Any addition to a non-residential or mixed use building that would increase its gross floor area by one thousand (1,000) <u>two thousand five hundred (2,500)</u> square feet or more. The site plan review application may be reviewed administratively if each of the following apply: (1) The project or proposal does not include any other land use application requiring a public hearing. (2) The building addition would not face a public street, sidewalk, or pathway. (3)<u>(2)</u> The building addition contains less than twenty thousand (20,000) square feet of gross floor area.¹</p>
<p>Any building or use containing five (5) or more new or additional dwelling units or rooming units.² The site plan review application may be reviewed administratively if both of the following apply: (1) The project or proposal does not include any other land use application requiring a public hearing. (2) The proposal includes fewer than ten (10) new or additional dwelling units or rooming units.</p>
Any use with a drive-through facility
Automobile services uses
Freestanding accessory parking garages containing thirty (30) or more new or additional parking spaces ³
Principal parking facilities containing ten (10) or more new or additional parking spaces ⁴
Public services and utilities uses
Recycling facility
<p>Single and two-family dwellings and multiple-family dwellings having three (3) or four (4) dwelling units The site plan review application shall be reviewed administratively and shall be subject to the standards of Article VI, Single and two-family dwellings and multiple-family dwellings having three (3) or four (4) dwelling units.</p>
Transportation uses