

Staff Report

**LANDSCAPE ORDINANCE TEXT AMENDMENT UPDATE**

April 12, 2016

**BACKGROUND:**

The City Council first referred a review of the City's landscape ordinance in the fall of 2011. Council directed staff to work with a stakeholder group to discuss the options to enhance the quality, aesthetics, and vitality of landscaping that was provided at the time of development. Background materials are available on the Planning Division website under 'What's New' at <http://www.cityofames.org/planning>.

In 2015 the City Council prioritized staff time to work on the ordinance update and to consider issues of sustainability in conjunction with parking along with the previously identified landscaping issues. Based on this combined of direction, staff has defined the goals of the landscape ordinance update as "creating more visually distinctive landscaping with visual accents of interest in color and texture that also promote a sustainable environment."

The City's landscape zoning standards are principally found in Section 29.403 of the Municipal Code. In a broad sense, the City requires that a site provide for open space and landscape areas within the standards of most base zoning districts. However, the City's defined landscaping requirements are essentially based upon three concepts – screening of parking lots, internal parking lot landscaping, and front yard or foundation plantings for apartment buildings.

The basic landscape requirements were written as part of the 2000 city-wide Zoning Ordinance rewrite. **The standards are essentially prescriptive in calculating the number of required trees and shrubs and specifying their spacing with little to no latitude in how they are implemented.** There have been a limited number of targeted updates to the standards for specific uses, such as auto dealers, and for gateway areas such as the Southeast and Southwest that identified specific requirements for themed native plantings, options for plantings, and to promote treatment of storm water with landscape based systems.

In preparation for this update, staff initially reviewed and compiled landscape ordinance standards from various cities around Iowa and the Midwest in an effort to understand how they compared with Ames. From staff's research it appears the City's standards are not onerous and are more of a basic middle-of-the-road approach to landscape requirements. Although the current standards do not appear to be onerous, **it is clear from working with developers and property owners, as wells as with City staff members, that no one is satisfied with how the City standards are currently implemented.**

Staff hired the landscape architecture and planning firm of Confluence to assist staff in research of options, to provide experience from other jurisdictions and development projects, and to help facilitate a dialogue on landscape requirements with the local stakeholders group.

Two workshops have been held by the Planning & Housing Department in conjunction with Confluence. The first stakeholder meeting was on January 28<sup>th</sup> with an open invitation to known interested parties, including local developers, designers, engineers, ISU faculty, property managers, and City staff to discuss all concerns or issues related to our current landscape standards and for a presentation on the basic elements of landscape architecture. **Approximately 30 persons attended this first meeting, and the full list of categorized comments is attached to this report.** There were a number of complaints about the monotony of planting requirements, the need for parking lot screening, concerns about maintenance and ensuring that storm water treatment is incorporated, and a desire for opportunities to be more creative, to summarize a few of the comments. A full list of comments is posted in the background information [online](#).

Based on the feedback received at the January 28 workshop, staff put together a memo for feedback on four main concepts of a new ordinance and some specific ideas for new standards. Staff provided an outline of the issues to local developers and stakeholders and held a second workshop on March 30<sup>th</sup>. The consensus among the stakeholder group after the second workshop remained that changes to our ordinance are likely beneficial to all stakeholders.

### **LANDSCAPE ORDINANCE FRAMEWORK:**

**Staff believes now is the appropriate time to update the City Council and seek direction on the intent and framework of a new ordinance before drafting a specific ordinance. Staff needs direction on three issues to formulate a draft ordinance.** The first issue is the approach in how to design landscaping, the second is to review sustainability priorities, and the third issue is to consider changes to the site inspection process.

#### **Issue 1 – ‘Flexibility’ vs. ‘Predictability’**

A main point of discussion is ‘Flexibility’ versus ‘Predictability’ in terms of how the new ordinance is to be formatted. Staff identified four separate approaches with differing levels of flexibility. Those included the following:

##### **A. Complete Discretionary Review Process**

This would be a new process that allows greater flexibility through discretionary staff approval of the landscape layout and types of plantings. This would be a wide open approach that would largely look at landscape designs on a site-by-site basis, but allow complete flexibility for the Planning Director to approve a landscape design that meets defined basic design principles.

From staff's review of comparable ordinances this is an uncommon approach, but it does occur and would not be difficult to write as an ordinance.

**B. 'Points' Based Site Development Approach.**

Under this approach, a project would be required to achieve a predefined minimum level of points, but would be able to choose how landscaping is configured based upon the pre-established values for different attributes. This approach would allow for some flexibility in what to prioritize on each site based on its attributes and the interests of the developer. For example, use of bio-retention cells would earn more points than planting of shrubs, use of larger trees would earn higher points than smaller trees, conditioning soil would earn points in lieu of planting as many shrubs, etc.

This would be a unique approach to Ames; and neither staff nor Confluence has identified a zoning ordinance that takes this approach. Such an ordinance would likely be modeled after green building or sustainable scorecard systems that are used for projects seeking recognition of exceptional accomplishments. The process to develop the scoring and weighting would involve a moderate to significant amount of staff time with the stakeholders, the Planning and Zoning Commission, and the City Council to develop an ordinance.

**C. Balance of Prescriptive Standards and Discretion.**

This format would provide for key base level prescriptive standards in terms of number, expected ratios and coverage requirements, and planting sizes, but would allow for some Planning Director discretion based on location, specific plant layout design, and individual needs of the site. This would be more flexible than current landscape standards with the intent to promote higher quality design and interest, while providing some flexibility to deal with site specific issues.

From staff's review of ordinances, this is a somewhat common approach that could either include incentives or outright options to vary from standards. Staff believes it would take a moderate amount of time to formulate a draft ordinance and review it with the stakeholders.

**D. Prescriptive Ordinance Modifying Current Standards.**

This format would keep a largely prescriptive style ordinance with very little discretion. This would be the same process that applies to site development plans now, but would provide for updated standards that address some concerns expressed by stakeholders.

This type of ordinance is the most common. It would take a minimal amount of time to draft an ordinance as there would be a narrow set of issues modified under this approach.

Generally, feedback from developers has been a desire for more flexibility due to the belief that practical issues have not been accommodated by the current standards and

that the freedom to be creative is also restricted by the current requirements. During the discussions there were concerns expressed about ultimately how decisions are arrived at in a truly discretionary process, what time commitments would be involved in site plan review with flexible standards, and whether staff was willing to support a flexible ordinance. Alternatively, prescriptive standards are easier to implement and offer more predictability that would not increase time in the development review process.

The overall tenor of the discussion appears to reflect the belief that a combination approach of having prescriptive standards helps to provide a guide and overall framework to draw from when designing a landscape layout that provides flexibility when coupled with the ability to make exceptions or seek new alternatives via discretionary review. This would mean exploring Option B or Option C to define the range of flexibility. **What would be critical in an option that is based upon flexibility is that it is not a one-sided process used to diminish landscape value, but instead is a tool that promotes higher quality and interesting landscaping than has been accomplished under our existing prescription requirements.**

Staff generally is supportive of any of the options, with some hesitancy on implications to staff time for administration of completely discretionary process. One idea was to create a fully voluntary and discretionary alternative process for those that were interested, and to allow others to default to prescriptive standards. Once Council indicates their preference in the range of flexibility to be afforded during the review, staff can begin to define the specifics of an ordinance.

### **Issue 2 – Sustainability and Design:**

The next issue and one of the primary directives included in the revision of the landscape ordinance is for a crossover between high quality landscaping while promoting environmental benefits. This would allow a developer to incorporate their storm water management plan more comprehensively into the landscape plan and work toward creating a more environmentally friendly site for a variety of issues. Currently the landscape standards do not prohibit storm water features, but depending on the design they may not count as meeting screening and parking lot landscape requirements.

Sustainability is a broad concept for site design that can take on many forms from water quality, to energy efficiency, to human health. In consultation with our consultant, Confluence, and review of United States Green Building Council (USGBC) and the American Society for Landscape Architects (ASLA) references, staff has derived a list of issues that could be incorporated into an ordinance to varying degrees. These include the following:

- **Incorporating existing vegetation**

The inclusion of existing vegetation promotes environmental preservation and retention of native species, thereby assisting in preservation of existing habitat and helping to ensure an initial presence of mature vegetation.

- **Encouraging the planting of significant trees that can mature to a large status**  
 The planting of significant trees helps promote larger over-story growth which assists in mitigating heat island effects as well as providing shading and promoting a favorable aesthetic appeal by allowing for a more dense tree canopy.
- **Plant diversity**  
 Diversity in plant species promotes a varied landscape with benefits to the local ecosystem, resistance to disease and pests, visual interest, as well as providing various types of storm water benefits and soil stabilization.
- **Storm water design**  
 Coordinate landscape requirements and storm water design to offer the potential for innovative ways to do site development by treating and managing storm water on the surface of a site rather than underground or in detention facilities. These measures can also create visual interest on a site and meet screening and buffering requirements in some circumstances with strategic planting of native grasses and trees.
- **Shading or ‘heat island’ mitigation/windbreak**  
 The ability to absorb heat over building areas assists with the reduction of energy that a structure requires in the warm months to maintain a comfortable temperature. Additionally, shielding parking areas and buildings from excessive heat via shading helps reduce the ‘heat island effect’ which is a main contributor toward warmer urban temperatures as opposed to rural areas. Alternatively planting of windbreaks can over time shield buildings in the wintertime and reduce heating costs.
- **Air quality**  
 Adequate vegetation such as plants and most often trees are beneficial to a higher air quality given the nature of oxygen production from trees and significant vegetation.
- **Soil depth and quality**  
 Vegetative health and sturdiness is a direct result of soil quality and relative amount of organics within soil. Without organics, it is just dirt. The same plant or tree in poor quality soil as opposed to high quality soil can vary significantly in its ability to thrive, grow optimally and in some cases survive its expected lifespan. Additionally, healthy soils absorb moisture more effectively and help reduce the effects of storm water runoff.
- **Garden and local food options**  
 Sustainability encompasses not only passive environmental treatment but also includes various aspects of food production. The growth of local, fresh produce assist in an environmentally sustainable and economical option. Community

gardens are an example of this type. Such gardens provide an economical local food option and help to promote direct environmental and human health.

- **Recreational spaces and open areas**

Human activity and social gathering areas help enhance physical and emotional health. Landscaping could potentially encompass the creation of social gathering spots for interaction and activity on a site development. This is most likely an issue related to residential development.

- **Reduced impervious surfaces**

Impervious surfaces contribute to increased runoff and water discharge thereby allowing less to be absorbed down into groundwater sources. Increasing pervious areas of greenspace reverses that effect and promotes healthier vegetation and less runoff. Seek to reduce or avoid the construction of impervious parking lots and building roofs area that are excessive.

Staff recommends that all of these issues be integrated into the new standards. **The question is to what degree or if there are priorities that should be incorporated in the mandatory or essential provisions in an ordinance.** Depending on the options and degree of requirements, the stakeholder group was willing to consider these provisions. Most felt that use of storm water features in lieu of other landscape requirements would be the most beneficial option. Some jurisdictions provide regulatory incentives to incorporate sustainability features for the more significant or costly alternatives as opposed to mandating compliance; however, staff has not at this time identified obvious regulatory trade-offs for these issues that would be viewed as an incentive and still meet community expectations for site design.

### **Issue 3 – Site inspection and maintenance**

The City's Municipal Code (Sections 29.1500 et al and 29.1600) ties building occupancy to completion of the required site plan improvements, including the planting of landscaping. Once landscaping has been planted, a property owner is required to maintain the landscaping subject to a municipal citation for non-compliance. Although occupancy is tied to site completion, there are often requests for temporary occupancy while landscaping is finished along with other improvements. Landscaping can be financially secured and deferred due to weather at the approval of the Planning Director. **The overall deferral process and temporary occupancy practice can become time consuming for site inspections to verify completion. Additionally, once occupancy is granted it can be difficult to get a property owner to follow through on completing a project.** Furthermore, the temporary occupancy permits are an administrative complication for the Inspection Division, including compliance with the Rental Housing Code for Letters of Compliance.

Staff would like to consider alternatives for site inspection requirements as part of the landscape ordinance update in an effort to ease staff's administrative burden. There are two basic concepts that staff would like to investigate as alternatives to the current system.

The first idea would be to allow the property owner to submit written confirmation verifying that landscaping has been completed or will be complete within 30 days with an allowance for seasonality. Upon receipt of the letter, the Inspection Division would be able to grant building occupancy. Staff would complete an inspection after receipt of the letter. Non-compliance to the landscape plan would then trigger a citation of a municipal code infraction with a corrective order to complete their requirements. This approach would not entangle building occupancy with compliance to landscaping improvements, which would assist the Inspection Division in their permit tracking. To a small degree, it would increase property owner responsibility for compliance.

The second idea is to adjust the financial incentive for completing landscaping based upon creating a site inspection fee and an increase in the financial security amount to 150% of the estimated cost. Under this approach it would be similar to the current system, but due to higher costs for not completing the work it may motivate property owners to come into compliance quicker.

**NEXT STEPS:**

Updating the ordinance has been a long time interest of the community and it is clear that we can improve both the quality and aesthetics of landscaping while supporting sustainability with an ordinance update. With City Council's direction on the three issues above, staff will draft an ordinance with specific standards to review with the stakeholder group and then proceed to a public hearing process. With the interest and momentum we have on completing this task, staff believes that we can resolve the landscaping standards and reach consensus on most issues rather quickly and have an ordinance available to the Planning and Zoning Commission and for the City Council within the next two months.