

COUNCIL ACTION FORM

SUBJECT: TEXT AMENDMENT TO GRANT AUTHORITY TO THE ZONING BOARD OF ADJUSTMENT TO APPROVE ALTERNATIVE LANDSCAPE DESIGN AS PART OF A SPECIAL USE PERMIT REQUIRING A SITE PLAN

BACKGROUND:

On August 14th staff presented an option for City Council to consider allowing approval of alternative landscape plans when proposed in conjunction with Special Use Permits requiring a site development plan. The referral of this matter to staff came in conjunction with the Fareway request to amend the Neighborhood Commercial (NC) zoning district standards.

Currently the City's landscape standards allow for any property owner to propose an alternative landscape plan through a Major Site Development Plan process. The proposed amendment would permit a use subject to a Special Use Permit process an option for the Zoning Board of Adjustment to approve an alternative landscape plan.

The current Major Site Development Plan process includes a review and recommendation by the Planning and Zoning Commission with final approval by the City Council. A Special Use Permit is an approval process that only involves the Zoning Board of Adjustment. Each of the approval processes requires public notice of hearing on the proposed project.

Staff has limited discretion for alternative landscape approvals, but does not have the authority to approve wholesale differences in landscaping design. Currently, an alternative landscape plan is an option available to a developer to propose landscaping that deviates from the strict requirements of the Zoning Ordinance for front yard and parking lot landscaping identified within Article IV of the Zoning Ordinance. The intent of the alternative landscape plan is to allow a project to include customized landscaping that meets the intent of the current ordinance, but which utilizes different plantings to meet the intent. **It is not meant to be a means of reducing the quality and standards of landscaping that apply to a site.**

At the September 19th Planning and Zoning Commission meeting the Commission discussed the options of adding the Special Use Permit process compared to the existing Major Site Plan option. The Commission discussed consistency of the process between two review options and the benefit of a streamlined process. The Commission voted 5-1 to recommend that City Council approve a text amendment granting the Zoning Board of Adjustment authority to approve alternative landscape plans when included as part of a site development plan with a Special Use Permit.

ALTERNATIVES:

1. The City Council can direct staff to publish a public hearing notice for consideration of a zoning text amendment to grant authority to the Zoning Board of Adjustment

to approve alternative landscape plans on site plans requiring a Special Use Permit. This is shown as Option on the attached addendum, and is the Planning and Zoning Commission's recommendation.

2. The City Council can direct staff to develop alternative language for the proposed text amendment and to publish notice for a zoning text amendment.
3. The City Council can direct staff to not proceed with a zoning text amendment. This is shown as Option B on the addendum.

CITY MANAGER'S RECOMMENDED ACTION:

Traditionally the City has allowed for flexibility in site plan review of landscaping only within the confines of the Planning and Zoning Commission and City Council review process. The Zoning Board of Adjustment typically addresses specific defined standards as a quasi-judicial review board determining conformance with objective standards or permit criteria. The Special Use Permit is a type of application that includes review of site development plan details by the Zoning Board of Adjustment along with consideration of the operational aspects of the use. **Allowing for the consideration of the alternative landscape plan by the ZBA would create more efficiency for an applicant, but does not create a new standard or process overall.**

If the amendment was not approved, Fareway could still propose an alternative landscape plan as a Major Site Development Plan prior to its review of the Special Use Permit.

With an interest in streamlining an approval process, staff would support the proposed text amendment with no other changes to the landscape standards themselves. **Therefore, it is the recommendation of the City Manager that the City Council approve Alternative #1, which is the recommendation of the Planning and Zoning Commission, thereby proceeding with Option A and publishing notice for a public hearing to amend the alternative landscape plan process.**

ADDENDUM

Option A – Allow approval of alternative landscape plans by the Zoning Board of Adjustment

This would grant the Zoning Board of Adjustment the ability to review and approve alternative landscape designs when proposed in conjunction with a Special Use Permit. The intent is that the proposed landscape plan must be a part of a site development plan that requires a Special Use Permit. Alternative landscape plans could not be approved by themselves via the Zoning Board of Adjustment without being part of a required Special Use Permit as part of the larger site development plan. This option allows for more efficiency for the customer during the site development plan process.

The current language of Article IV is as follows with the language of the Special Use Permit option inserted with underlining:

Section 29.403.3

(J) Alternative Design Approvals

- (i) Major Site Development Plan and Special Use Permits. A landscape plan prepared by a certified Landscape Architect with alternative design and plantings may be approved under the requirements of a major site development plan after review and approval by the City Council when found to address the purposes of the ordinance and provides for a unique or high quality landscape environment that exceeds the quality of the base standards.
- (ii) A use subject to approval of a Special Use Permit may include a landscape plan prepared by a certified Landscape Architect with alternative design and plantings for review and approval by the Zoning Board of Adjustment when the proposed plan is found to address the purposes of the ordinance and provides for a unique or high quality landscape environment that exceeds the quality of the base standards.

(L) The Department shall not approve any landscape plan submitted to it pursuant to this section unless the plan conforms to the requirements of this section or conforms to an approved Master Plan or a Major Site Development Plan which the City Council or Special Use Permit approved by the ZBA has determined meets the purposes described in Section 29.403.

Option B – Maintain current standards allowing alternative design approval only with a Major Site Development Plan.

This option would maintain the current standards as they are and maintain the requirement that an alternative landscape plan be approved through a Major Site Development plan consideration by the City Council.