

Staff Report

LANDSCAPE STANDARDS TEXT AMENDMENT UPDATE TO ADMINISTRATIVE STANDARDS AND MISCELLANEOUS UPDATES

September 12, 2017

BACKGROUND:

At the May 23, 2017 City Council meeting the City Council approved the proposed new landscape standards in Chapter 29 Article 4 Development Standards (29.403) and associated changes to zoning district standards. The new landscaping standards are a comprehensive rewrite of landscaping requirements. **At the adoption of the general standards, City Council also directed staff to return with updated administrative provisions for implementing the new standards.** The administrative sections govern issues such as timing of improvements, inspections process, compliance on nonconforming and existing sites, amendments to landscape plans, and long term maintenance of required landscaping.

This report addresses staff's recommended approach for these outstanding issues. Of particular note, direction is needed from the City Council on options of how to address existing sites that do not have conforming landscaping. After receiving direction from the City Council on how to proceed, a draft ordinance reflecting the changes will be completed and noticed for a public hearing.

PROPOSED STANDARDS:

The proposed administrative standards address five primary areas that are essential to enforcement and implementation of landscape standards so as to ensure that landscape design standards are maintained on all required sites across the city. Attachment A includes draft language for each issue.

One of overriding considerations within the administrative standards is how the City addresses non-conformities. Site improvements, such as landscaping and parking lots, are categorized as "Other Non-Conformities" with an expectation that they are removed as practicable. The intent is to improve the conditions as fast as possible compared to trying to correct other nonconformities related to buildings or uses that are often more substantial to correct. Additionally, the Zoning Ordinance considers any site improvements that were within the scope of a Site Development Plan approval to be a conforming condition and not as a non-conformity. The City has had Site Plan review since 1983. This means, that although sites may have been approved over 30 years ago under two editions earlier of different zoning standards, they are not required to come up to current standards. Many of these sites are subject to new site plan

requirements for additions or reconstruction but do not clearly have obligations to do other improvements and this is confusing for both staff and applicant as what is the expectation.

Maintenance of Landscaping:

Current language requires a property owner to maintain landscaping in a healthy manner and to replace landscaping within six months upon notice by the Zoning Enforcement Officer. **The proposed language articulates the specifics of maintaining required landscaping in greater detail than before.** The Maintenance section language addresses the specifics of the plant condition and type of growth that property owners must ensure all required vegetation achieve on site. The proposed language also explains the timeline by which property owners must replace or come into compliance with current landscape standards if vegetation is removed. Failure to maintain landscaping will continue to be a violation of the ordinance subject to fines and orders to comply. **Sec. 24.403(5)(A)(1)**

Removal of Vegetation or Changes to Required Landscaping:

Current code requires maintenance of landscaping, but does not address landscape change that in and of themselves may not trigger a Site Development Plan review. This is a critical issue due to the substantial changes in commercial and industrial site requirements and should be addressed to have a clear expectation on how to revise or update landscaping on a site. Since implementation of the current landscape regulations, staff has anticipated that property owners may desire to reconfigure existing landscaping to reflect new standards approved earlier this summer. **The new standard specifies previously approved landscaping cannot be removed and not replaced without approval of a revised landscape plan.** The intent is that the quality of landscaping on the site cannot be diminished through the revised landscape plan process by not following current standards and just removing old landscaping materials. Changes to plant materials only would be exempt from certain standards, such as soil quality, planter dimensions, etc., that could not reasonably be met while changing out vegetation.

Staff proposes that a landscape plan amendment can be done as a separate application from a Minor Site Development Plan if it does not trigger other application requirements. This allows property owners to work with landscape installers and staff on revising plant materials without the requirement to include a licensed engineer, architect, or surveyor. In cases where the removal of existing vegetation is proposed due to other site design changes, a Minor Site Development Plan may be required in the review process.

Sec.24.403(5)(C)

Installation and Inspections

Currently, the Zoning Ordinance requires all landscaping and site improvements to be completed prior to occupancy of building. Allowances are in place that due to weather, landscaping can be financially secured and deferred. Site inspections and timing of granting occupancies has been a challenge for staff over the past few years and staff would prefer to modify the process and put more onus on property owners to fulfill requirements and complete projects in a timely manner without as much staff time for follow up.

Staff has generally addressed occupancy requests based on size and scope of the individual project and the individual conditions on the property at the time of the request. Staff has often allowed temporary occupancy if landscaping is not fully installed and at times has required financial security and a targeted installation date. **The proposed criteria describe procedures for accommodating occupancy requests on larger multi-phase sites as well as criteria for providing for security or escrow to ensure installation of required landscaping occurs.** Much of this proposed new language simply puts in written form criteria by which how staff already often deals with requests for occupancy. It also makes it clearer that lack of landscaping even with granting of an occupancy permit by Inspections is still a violation of the Zoning Ordinance. **Sec. 24.403.(5)(D)**

Existing Sites

A new provision being added to landscape standards deals with how to address existing sites when new development, redevelopment or a use change requiring a special use permit, site plan or variance is submitted. **Staff proposes to include language that requires a review of current health and adequacy of existing landscaping on site in previously approved or current required landscape areas as practicable to ensure that all required vegetation meets the objectives of the zoning ordinance.**

One substantial departure that is proposed from current practice is a trigger of requiring front yard landscaping with a change of use that includes display or storage areas. The most relevant example to this would be for an automobile sales establishment. A new site would require a 20-foot landscaped setback. Whereas reuse of an older site is unlikely to have required landscape yards and would be substantially non-conforming, but likely not trigger the same requirements as new development trigger other improvements.

Staff has drafted two separate versions of this standard for direction on which is more appropriate. **Language addressing landscaping for outdoor display areas is proposed to be included with either version Council chooses.** The first proposal

includes language specific to required areas and vegetation types on an existing site. **This language would layout specifically what is looked at and where it is reviewed when reviewing an existing site.** Some cities do go so far as to specify that certain types of improvements, additions, change of use, trigger site improvements such as adding parking lot planters where none have been previously. For example a practical change to add parking lot landscaping would be practicable when a site exceeds minimum parking requirements. This proposal does not go to that length, but it does intend to add landscaping in space that is available if no other reconfiguration of the site will occur with the project.

*(1.) No new development, redevelopment, or change of use that requires approval of a special use permit, site development plan, or variance may be approved without a review of the health and adequacy of landscaping within existing or approved landscaped areas to ensure trees, ground cover, and screening, and front yard landscaping is in place to meet the objectives to the Zoning Ordinance for landscaping. **Additional landscaping must be provided for front yards and to the extent practicable for parking lot landscaping when no landscaping was previously required or approved with a Site Development Plan.***

The second proposal contains language addressing practicable improvements to nonconformities. Improvements to the site include parking lot configurations, site design and alteration of existing landscaping. This language requires that all sites must be less nonconforming than before and focuses on individual site conditions based on the scope of proposed improvements.

*(2.) Sites that do not comply with the landscaping standards of this ordinance are non-conforming. Landscaping, design and parking lot configurations, are categorized as other non-conformities that are to be removed as practicable. **Practicable improvements take in to account current conditions, dimensions, and scope of improvements proposed for a property. Although full compliance may not be achievable, all sites must advance towards compliance with current requirements.***

The two options listed above take different approaches to achieving the goal of making sure that landscaping is more compliant once a project is approved. Option 1 is the more stringent version that affirmatively requires enhanced landscaping on a site. The second Option more narrowly defines required improvements by scaling it to the extent of proposed changes.

Staff Comments

Staff is seeking direction from the City Council on proceeding with drafting an ordinance for administrative requirements. Staff requests feedback on any of the sections that are described within this report, but must have direction specifically on a preferred approach for existing sites that are non-conforming. The primary

question is the degree of specifying improvements and the extent of the City's expectation so property owners are aware of how to proceed with their plans.

Staff believes that to follow up on the original goals of the landscape revisions, it is important to require investment in site landscaping to improve the aesthetics of the community and to treat new and old sites equally. With City Council's direction to proceed, staff will take the proposed language and refine the language for draft ordinance. Due to prior construction of the Zoning Ordinance standards, changes to non-conformities, landscaping, and parking language will be needed to clarify the administrative requirements as part of the draft ordinance needed to make the proposed changes.

Attachment A- Draft Administrative Standards

29.403(5) Administration Section

(A) Maintenance of Landscaping

(1.) The property owner shall maintain required landscaping in a healthy and vital condition. The property owner shall permit and support the full maturity of planted landscaping, including allowing for trees to reach their mature height and canopy size by not prematurely pruning, removing, “topping,” or by other means discourage the growth and health of vegetation. If landscaping is removed the property owner is responsible for replacing the landscaping in kind within 60 days of removal.

(B) Existing Sites (**Council Direction On One Option Is Needed**)

(Option 1.) No new development, redevelopment, or change of use that requires approval of a special use permit, site development plan, or variance may be approved without a review of the health and adequacy of landscaping within existing or approved landscaped areas to ensure trees, ground cover, and screening, and front yard landscaping is in place to meet the objectives to the Zoning Ordinance for landscaping. Additional landscaping must be provided for front yards and to the extent practicable for parking lot landscaping when no landscaping was previously required or approved with a Site Development Plan.

New development, remodeling, or additions to existing sites must improve nonconforming landscaping conditions in conjunction with the approval of a zoning permit. Uses establishing permanent outdoor display and storage areas, such as vehicle sales, must meet front yard landscaping requirements prior to establishing such a use on a site.

(Option 2.) Sites that do not comply with the landscaping standards of this ordinance are non-conforming. Landscaping, design and parking lot configurations, are categorized as other non-conformities that are to be removed as practicable. Practicable improvements take in to account current conditions, dimensions, and scope of improvements proposed for a property. Although full compliance may not be achievable, all sites must advance towards compliance with current requirements.

New development, remodeling, or additions to existing sites must improve nonconforming landscaping conditions in conjunction with the approval of a zoning permit. Uses establishing permanent outdoor display and storage areas, such as vehicle sales, must meet front yard landscaping requirements prior to establishing such a use on a site.

(C.) Removal of Vegetation

(1.) Failure to maintain landscaping consistent with an approved Site Development Plan and the standards of this ordinance is a violation of the Zoning Ordinance and subject to enforcement as a municipal infraction.

(2.) Property owners shall not remove existing vegetation that is consistent with an approved Minor Site Development Plan that may no longer be required under the current standards without providing for a whole site review that includes replacement landscaping consistent with all new standards. For example, although side yard buffering is not required in many commercial areas there are additional parking lot landscaping requirements that would need to be addressed with a new landscaped plan before trees could be removed and total landscape area is compliant for a site. Existing trees and shrubs cannot be removed without addressing how replacement landscaping that is consistent with current requirements in terms of quantities, areas, quality, and types, will be added to a site.

(3) Modifications to landscape plans to modify plantings may be submitted as a separate plan from a Minor Site Development Plan. However, if there are changes to the planting areas that affect stormwater management or reconfigure impervious areas, a Minor Site Development Plan is required for modifications to the site.

(D.) Installation and Inspections

(1.) Landscaping shall be installed commensurate with the overall construction and phasing of a site. Site Development Plan approvals may include conditions to facilitate planting of vegetation during the first phase of construction for larger projects.

(2.) All required landscaping materials, both living and non-living, shall be in place prior to the time of issuance of a final Certificate of Occupancy, weather permitting. In periods of adverse weather conditions, a temporary Certificate of Occupancy may be issued, subject to the posting of a cash escrow or irrevocable letter of credit in an amount equal to one and one-half times the estimated cost of the landscaping, with said estimated cost to be certified by a landscaping provider. The cash escrow or irrevocable letter of credit may be forfeited if the landscaping is not completed within one year after the issuance of the temporary Certificate of Occupancy. Between the months of November and March deferral of landscaping installation may be granted. The deferral agreement will require installation by the third week of May of the following year. During the months of

April through October only a limited extension of time for installation of landscaping may be granted.

(3.) Prior to requesting occupancy of a building, the property owner or applicant must submit a report verifying that required planter requirements for soil conditions, the number of plants, and The Zoning Enforcement Officer may grant a temporary certificate of occupancy for use of a site or building when the property owner has agreed to complete the required plantings within 60 days of the request for occupancy or by October 1st, whichever would occur first. No financial security is required for a limited term deferral with a Temporary Certificate of Occupancy.

(4.) The property owner may be found to be in violation of the Zoning Ordinance at any time once the initial deferral of installation term has expired.