

PLANNING AND DEVELOPMENT SERVICES STAFF REPORT

For Planning Commission Meeting of March 17, 2009

SUBJECT: Amendments to Chapter 55, Section 5:92, Zoning Compliance Permit Required and Chapter 57, Section 5:122, Site Plans.

PROPOSED CITY PLANNING COMMISSION MOTION

The Ann Arbor City Planning Commission hereby recommends that the Mayor and City Council approve the amendments to Chapter 55 (Zoning Ordinance), Section 5:92, Zoning Compliance Permit Required, and Chapter 57 (Subdivision and Land Use Control Ordinance), Section 5:122, Site Plans, addressing placement of commercial recycling and related enclosures.

STAFF RECOMMENDATION

Staff recommends that the proposed amendments to Chapter 55 and Chapter 57 of the City Code be **approved** because the amendments would help facilitate construction and placement of commercial recycling containers and related enclosures.

DESCRIPTION OF AMENDMENTS

Planning and Development Services Unit staff, who are responsible for enforcement of the Zoning Ordinance, and Systems Planning Unit staff, who assist in coordinating solid waste and recycling collection programs, propose an amendment to the Chapter 57, Subdivision and Land Use Control Ordinance, to allow an exemption from site planning for construction or expansion of commercial recycling dumpsters and related enclosures. Staff also proposes an amendment to Chapter 55, Zoning Ordinance, which would require a zoning compliance permit for the construction of the recycling facilities. These changes are necessitated by recent modifications to Chapter 26, Solid Waste Ordinance, that have mandated recycling for commercial uses.

There is also one additional change to Chapter 55, Section 5:92. This change requires a zoning compliance permit for construction of a fence consistent with Chapter 104, Fences Ordinance. The issuance of zoning compliance permits for fence construction has been standard practice, but this minor change solidifies this requirement in the City Code.

As currently written, Chapter 57 does not specifically reference recycling containers and related enclosures. Historically, they have been included within enclosures provided for solid waste. These structures are reviewed during site planning, but many older sites that have not been site planned may not have adequate space to allow for additional dumpsters for recyclables. Since the changes to Chapter 26 mandate commercial recycling, changes to Chapter 55 and Chapter 57 have been recommended to allow for the addition of commercial recycling facilities without necessitating site plan approval. The addition of recycling dumpsters and related enclosures would be regulated through the issuance of a zoning compliance permit. The zoning compliance permit would be issued through the Planning and Development Services

office after review by Planning staff. This review would verify zoning setbacks and ensure that required parking and landscape buffers are not adversely affected.

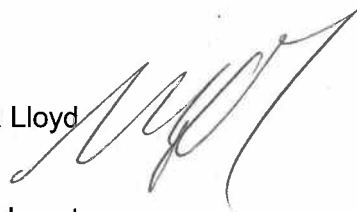
The proposed amendments will work in conjunction with the amendments to Chapter 26, Solid Waste Ordinance, that were approved by City Council in March 2009. The Zoning Ordinance is also proposed to be amended by inserting a reference to Section 2:5(4) of Chapter 26.

STAFF COMMENTS

Planning – Systems Planning Unit and Planning and Development Unit staff presented this amendment proposal to the Ordinance Revisions Committee (ORC) in December 2008. The ORC supported the proposed amendment.

Staff supports the proposed amendment, as it will help encourage commercial recycling and provide needed standards for the installation of related improvements to existing sites without the need for site plan approval.

Prepared by Matthew Kowalski
Reviewed by Connie Pulcipher and Mark Lloyd
jsj/3/10/09

A handwritten signature in black ink, appearing to be 'MKT', is written over the text of the reviewer's name.

Attachment: Proposed Ordinance Amendments

c: City Attorney
Systems Planning
File

ORDINANCE TO AMEND SECTION 5:92 OF CHAPTER 55 OF TITLE V OF THE CODE OF THE CITY OF ANN ARBOR.

The City of Ann Arbor ordains:

Section 1. That Section 5:92 of Chapter 55 of Title V of the Code of the City of Ann Arbor is amended as follows:

5:92. Zoning compliance permit required.

(1) ~~It shall be unlawful to begin the excavation for the construction, the moving, alteration, or repair, except ordinary repairs as defined in Chapter 98 of the Ann Arbor City Code, of any building or other structure, including an accessory structure, costing more than one hundred dollars (\$100.00) or exceeding one hundred (100) square feet in area until the planning and development services manager has issued for such work a Zoning Compliance Permit which includes a certification of his determination that plans, specifications, and the intended use for such structure do, in all respects, conform to the provisions of this Chapter. Also, it shall be unlawful to change the type of use of land, or to change the type of use or type of occupancy of any building, or to extend any use on any lot on which there is a non-conforming use, until the planning and development services manager has issued for such intended use a Zoning Compliance Permit, including a certification of his determination that the proposed use does, in all respects, conform to the provisions of this Chapter.~~

Deleted: (1).

(2) Zoning compliance permits shall also be required for the construction of fences consistent with Chapter 104, Section 8:433, and for the placement of locations for dumpsters used for commercial recyclables and related screening consistent with Chapter 26, Section 2:5 (4).

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(3) In all places where a building permit is required application for a Zoning Compliance Permit may be made coincidentally with the application for a Building Permit: in all other cases, it may be made prior to that date when a new or enlarged use of a building premises or part thereof is intended to begin. In those instances where application for Zoning Compliance Permit is made prior to the application for a Building Permit, such a Zoning Compliance Permit may be considered to be only an unofficial advisory opinion of the planning and development services manager and as such does not carry any guarantee or obligation on the part of the City. All Zoning Compliance Permits and applications shall be made in writing to the planning and development services manager on forms provided for that purpose. A record of all such

applications shall be kept on file in the planning and development services unit. Any Zoning Compliance Permit issued under the provisions of this Chapter shall be valid only for a period of six (6) months following the date of the issuance thereof. When the planning and development services manager receives an application for a Zoning Compliance Permit which requires Zoning Board of Appeals Permit, such application, along with all supporting information, shall be conveyed by the planning and development services manager to the Zoning Board of Appeals.

Section 2. That Section 5:122 of Chapter 57 of Title V of the Code of the City of Ann Arbor is amended as follows:

5:122. Site Plans

- (1) *Necessity.* An approved site plan shall be required before applicable permits may be issued for any form of construction or removal or disturbance of any natural features, except for:
 - (a) Construction of or addition to 1 single- or two-family dwelling or accessory structure on a parcel zoned solely for residential purposes.
 - (b) Removal or disturbance of any natural features on a lot which contains 1 single-family or two-family dwelling and is zoned solely for residential purposes.
 - (c) Construction solely on the interior of a building that does not increase usable floor area.
 - (d) Construction, erection, or placement of signs; retaining walls; fences; buffer walls; curb carts for solid waste; and dumpsters used for commercial recyclables and related screening that encloses up to 100 square feet; fire escapes, sidewalks; wireless communication antennas and associated facilities located on buildings or on other existing structures or on previously approved and constructed wireless communications towers; dish antennas and windmills located on buildings; lights; poles; cooling, heating or mechanical equipment when located on a building or occupying a ground area of less than 100 square feet; and freestanding storage buildings of less than or equal to 240 square feet in floor area and less than or equal to 14 feet in height.
- (2) Site plan procedure. Before submitting a site plan for formal review, the petitioner shall meet with the planning and development services manager or designee to review the proposal and applicable City requirements. To initiate a formal review, all drawings and other required materials, as specified in this Chapter and the Land Development Regulations, shall be filed with the planning

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and development services manager or designee. A site plan shall not be considered filed until all drawings and other required materials have been submitted. A site plan may be rejected if these materials are inadequate to make the foregoing determinations. The planning and development services manager or designee shall review the plan with other appropriate City departments and the petitioner and, except in the case of an administrative amendment to an approved site plan, shall make a report and recommendation on the proposed plan to the Planning Commission.

- (3) Site plans for City Council approval. Except as otherwise provided in this section, City Council shall review and approve or reject a site plan after receiving a report and recommendation from the Planning Commission. The Planning Commission shall submit its report and recommendation to the City Council within 60 days of receiving a report and recommendation from the planning and development services manager or designee. The City Council shall approve or reject the site plan within 30 days of the recommendation by the Planning Commission. If approval is conditioned on changes to the site plan, the petitioner shall submit revised drawings with the necessary changes to the planning and development services manager or designee within 30 days of approval by the City Council or the site plan approval shall lapse. Any changes to a condition placed on the site plan by City Council shall require City Council approval.
- (4) Site plans for Planning Commission approval. The Planning Commission shall review and approve or reject a site plan that proposes 1 or more of the following minor modifications only. If a site plan proposes any modification that would require City Council approval in addition to any of the following minor modifications, then the site plan, including the minor modifications, shall be considered in the manner provided for site plans for City Council approval.
 - (a) Garages; carports; freestanding automatic teller machines; outdoor storage; freestanding storage buildings greater than 5,000 square feet in floor area or in excess of 5 percent of the lot area or taller than 14 feet in height; more than 1 dish antenna on a parcel; windmills not located on a building; wireless communications towers; and cooling, heating or mechanical equipment occupying a ground area greater than 100 square feet.
 - (b) An addition to an existing building, if the addition does not exceed 10 percent of the existing floor area or 10,000 square feet, whichever is less.
 - (c) Paving or expanding an existing parking lot, or construction of a new access road or driveway.
 - (d) Modifications to an approved natural features protection plan or natural features mitigation plan that are not covered under the administrative amendment requirements.
 - (e) Where no approved site plan exists on file with the planning and development services unit, a minor change allowed by the administrative amendment requirements.

- (5) Administrative amendments to approved site plans. A minor change to an approved site plan may be approved by the planning and development services manager or designee if the community services area administrator, public services area administrator, and fire chief verify in writing that the change will not significantly alter natural features shown to be preserved nor alter or conflict with the stated conditions of site plan approval. The planning and development services manager or designee shall provide regular reports to the Planning Commission of administrative amendments acted upon by the planning and development services unit. A minor change is 1 or more of the following:
- (a) Change to or addition of development phasing lines.
 - (b) Change in building height that does not create new floor area.
 - (c) Relocation of sidewalks.
 - (d) Change of location or type of landscape or screening materials. Where more landscaping area or materials are shown than required by Chapter 62, these elements may be reduced by no more than 20 percent of the additional amount originally approved.
 - (e) Relocation of refuse collection stations.
 - (f) Internal rearrangement of parking lot.
 - (g) Decrease in building size.
 - (h) Moving a building no more than 10 feet or 5 percent of the distance to the closest property line, whichever is smaller.
 - (i) An increase in building size that does not exceed 10,000 square feet or 10 percent of the floor area, whichever is smaller.
 - (j) Extension of site plan approval for periods up to 2 years if the plan is in compliance with current laws and regulations.
 - (k) Relocation or addition of no more than 50 percent of the approved storm water detention capacity.
 - (l) Change in species or placement of plant material included in an approved mitigation plan, as long as the change does not result in a reduction of plant material or area from the original plan and the change meets the intent of the approved mitigation plan.
 - (m) Substitution of areas to be preserved in an approved natural features protection plan, as long as there is no net loss of preserved area, the cumulative area to be changed does not exceed 250 square feet of the original area to be preserved in the approved protection plan, and the substitution is consistent with the Review Criteria for Natural Features Statement of Impact.

- (n) Removal of a tree identified on the site plan as a landmark tree to be saved, but recognized as an invasive species at the time of approval of the administrative amendment.
 - (o) Addition of 1 freestanding storage building greater than 240 square feet of floor area, but not to exceed 5,000 square feet of floor area, 5 percent of the lot area, and 14 feet in height.
 - (p) Addition of carports over existing legal parking spaces.
 - (q) Replacement or enhancement of a wireless communications tower to accommodate co-location, provided that the tower is not relocated more than 15 feet from the base of the original tower, nor is increased in height more than 20 feet above the original tower height and meets all other applicable regulations.
 - (r) Canopy structures over vehicular use areas.
- (6) Standards for site plan approval. A site plan shall be approved by the appropriate body after it determines that:
- (a) The contemplated development would comply with all applicable state, local and federal law, ordinances, standards and regulations; and
 - (b) The development would limit the disturbance of natural features to the minimum necessary to allow a reasonable use of the land, applying criteria for reviewing a natural features statement of impact set forth in this Chapter; and
 - (c) The development would not cause a public or private nuisance and would not have a detrimental effect on the public health, safety or welfare.
- (7) Effect of approval of site plan. For 3 years from the date of approval of a site plan, permits may be issued and the land developed consistent with that plan and the regulations, laws and ordinances in effect at the time of approval, unless new regulations, laws and ordinances are made applicable to previously approved developments. After 3 years from approval, no permits shall be issued unless the site plan is reconsidered in the manner provided for new site plans.

Section 3. That this ordinance shall take effect on the tenth day following legal publication.