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TO: City Planning Commission

FROM: Eric Fazzini, CPC Staff
Julie Connochie, P&DD Staff

RE: Proposed text amendment to Chapter 50 of the 2019 Detroit City Code, Zoning (Zoning Ordinance), that would modify landscaping and screening requirements and applicability contained in Article XII, Division 3 and Article XIV, Division 2, Subdivision D (**PRESENTATION**)

DATE: October 18, 2022

On October 20, 2022, the City Planning Commission (CPC) is scheduled to hold a 6:45 P.M. continued public hearing on the subject text amendment request. CPC staff is requesting that this public hearing be cancelled in favor of a future public hearing, planned to occur on November 17, to allow time for staff to complete additional research and a draft proposed text amendment ordinance related to this report and the September 29 public hearing on fences and walls. In place of the continued hearing we will provide an informational presentation providing the current status of staff's efforts.

BACKGROUND

Planning and Development Department Request (from Sept. 28 CPC report)

Over the past several months, Planning and Development Department (P&DD) and Buildings, Safety Engineering, and Environmental (BSEED) staff have been working towards improving numerous parts of the 2019 Detroit City Code related to desired commercial corridor design principles, in part, to improve the design and physical appearance of sites. Many of the topics intended to be addressed by the principles are zoning-related and would need to be achieved through amendments to Chapter 50, Zoning, of the City Code. Given the wide-ranging impact of these design principles, and that the refinement and development of the principles is ongoing, CPC staff has grouped amendments to the Zoning Ordinance (ZO) that would be required to implement certain principles into the below three categories that we believe would make discussion and engagement practical.

P&DD Principles – Zoning Ordinance Amendment Categories

1. Fences and Walls (introduced Sept. 29)
2. Required Landscaping and Screening (introduced Oct. 20)
 - a. Combined discussion and refinement of 1. and 2. (future Nov. meeting)

3. Corridor Design Principles- separate from 1. and 2. (future Nov./Dec. introduction)

Auto-Related Zoning Ordinance Text Amendment (from Sept. 28 CPC report)

The timing of this amendment discussion is beneficial as the CPC recently provided a positive recommendation to the City Council to amend how the ZO treats automobile-related uses, including junkyards, auto repair facilities, used auto sales lots, towing yards, used tire sales, scrap tire processing, etc., which was also initiated by the Administration ([link](#) to Aug. CPC report). The focus of the auto amendment, which has yet to be adopted by the City Council, is to change or restrict the permissibility of these uses as far as being By-right, Conditional, or prohibited principal uses in certain non-residential districts. The amendment also adds spacing requirements, revises use definitions, and updates use regulations for these same uses.

By amending the permissibility of auto-related uses, the auto amendment addresses the primary issue of the citywide proliferation of all types of auto-related uses that have occurred over time through restricting the zoning districts where auto uses are allowed and adding spacing requirements that reduce eligible areas for auto uses within permissible districts. The rationale for this amendment is that many of these auto uses are continually non-compliant with City zoning regulations, property standards, and licensing requirements, but are widely permissible in non-residential zoning district, resulting in a blighting influence on the City.

Amendment items one and two on the previous page seek to further address these blighting or aesthetic impacts on the City by amending ZO site improvement development standards contained in Article XIV, Division 2, Subdivision D which are standards that are referred to once use permissibility has been determined. While an auto use may be permitted on a site in accordance with its zoning district, development standards try to ensure that a use does not have a blighting or negative influence, especially along public streets or adjacent to residential property. A blighting influence could result from multiple factors, many of which are currently addressed in the ZO:

Development Standards – Aesthetic Factors

- Inappropriate fence or wall materials used as required or desired screening
- Excessive or ineffective fence or wall height
- Lack of landscape or natural ground cover at the perimeter of a site
- Insufficient or minimal landscape buffer width along the perimeter
- Lack of or ineffective landscape plantings along the perimeter

From a zoning standpoint, the above factors work together as perimeter security is typically desired by property owners or developers of uses such as auto, and perimeter screening is also required by municipalities along the boundaries of sites to minimize the aesthetic impact of uses. Below are examples of auto sites with inadequate comprehensive perimeter screening:



While this amendment seeks to address the screening of auto-related uses, the fence and wall standards that would be impacted by part one of this amendment discussion apply more broadly than just to auto uses. For auto-related uses, there are screening standards contained in Article XIV, Division 2, Subdivision D and Article XII, Division 3 that apply specifically and only to a limited set of auto uses. The current ZO applicability and standards for required landscaping and screening, which include auto-related uses, are described in the following section.

ZONING ORDINANCE – CURRENT STANDARDS

Article III, Division 5 – Site Plan Review (no amendments proposed)

Below is a summary of current ZO requirements for site plan review, which is the main mechanism that the City uses to implement the current required landscaping and screening standards proposed to be amended. The goals of the proposed amendment are based on the below purpose statements. No amendments are proposed that would affect the site plan review process.

Subdivision A – In General

The purpose of the site plan review process is to:

1. Protect the public health, safety, and welfare;
2. Minimize adverse effects upon pedestrian and vehicular traffic;
3. Ensure that design is safe, efficient, environmentally sound, aesthetically responsive, and protects properties in the immediate vicinity and the general public;
4. Ensure compliance with this chapter, the Master Plan, and other documents that may control development; and
5. Provide a consistent and uniform method of review.

Site plan approval, which is the desired final step in the site plan review process, is required prior to the building permitting process for land uses that require site plan review. Applicants who are required, but fail, to received final site plan approval are ineligible to receive building permits.

Proposed developments that met any one or more of the applicability criteria below are required to be approved through the site plan review process prior to permitting. Developments that do not meet any of the below criteria may proceed directly to the BSEED permitting process without site plan approval being required. Site plan review is not required for the construction or alteration of an individual single- or two-family dwelling.

Summary of Site Plan Review Applicability (Sec. 50-3-113)

1. New construction that involves any of the following:
 - a. Any new development with more than 20,000 sq. ft. of gross floor area, except on land zoned M1 through M5, the threshold is increased to 50,000 sq. ft.
 - b. Projects with multiple principal structures on one zoning lot
 - c. Any multiple-family residential or loft development with more than 12 units
 - d. Site condominium developments
 - e. Projects in a 100-year floodplain
 - f. Any parking structure as defined by the ZO
 - g. Projects located in the portion of the MKT District described in Section 50-13-157(a)
2. Additions or major structural alterations that involved any of the following:
 - a. For existing developments of less than 20,000 sq. ft. of gross floor area, any addition or alteration that results in a cumulative total of more than 20,000 sq. ft. of gross floor area considering existing floor area and proposed additions, except on land zoned M1 through M5, the threshold is increased to 50,000 sq. ft.
 - b. For existing buildings of greater than 20,000 sq. ft. of gross floor area, an increase of 25% or more in gross square footage, except on land zoned M1 through M5, the threshold is increased to 50,000 sq. ft.
 - c. Projects in a 100-year floodplain
3. Any development with a lot area of more than one acre, except on land zoned M1 through M5, the threshold is increased to three acres
4. Substantial changes in use within any building that has more than 20,000 sq. ft. of gross floor area or of any use with a lot area of more than one acre (exempt M1 through M5)
5. Any conditional, regulated, or controlled land use, and any case before the BZA as the body of first jurisdiction
6. Any use that has drive-up or drive-through facilities, or a walk-up component
7. Projects within any PD, and certain projects within SD1, SD2, or SD5 Districts
8. Projects within the SD4 District that involve certain utility uses
9. Projects seeking Alternative Residential Development Options provisions
10. Urban farms and all other agricultural uses specified as a conditional use
11. Any new or newly established motor vehicle salesroom or sales lot for used vehicles
12. Development projects with certain post-construction stormwater management thresholds

Subdivision D – Site Plan Approval Criteria

The ZO provides site plan approval criteria standards that should be utilized when considering site plans for approval. These criteria are general statements that seek to achieve sound planning principles and allow for some design flexibility through the criteria, but they are not intended to modify, reduce, waive, etc., explicit ZO standards. For example, any proposed site plan is required to meet the landscaping and screening standards of Article XIV, Division 2, but there is some flexibility to require an enhanced landscape buffer design that meets base ZO standards but may exceed them to satisfy site plan approval criteria. This is a good policy to have in the ZO but it can be unsustainable to rely on in long term if the base ZO standards are not viewed as effective and plan reviewers have to review projects on a case-by-case basis for sound landscaping design when

the ZO could be improved to provide consistent and clear requirements. This is one purpose of the proposed text amendment, to improve the City’s administration of site plan reviews by providing improved standards and applicability that are based on site plan approval criteria.

Site Plan Approval Criteria for Landscaping and Screening

1. The type, dimensions, and character of open spaces, landscaping, screening, and buffering shall enhance the design, character, use, and value of the property and abutting lands (Sec. 50-3-178)
2. To the extent practicable, the type, dimensions, and character of open spaces, landscaping, earth berms, fencing, screening, buffering, signs, walls, and other site features shall be designed and located on the site so that the proposed development is aesthetically pleasing and harmonious with nearby existing or future development (Sec. 50-3-180 part).
3. Utility and mechanical equipment and fixtures that abut a public right-of-way shall be effectively screened to the extent possible.

Site Plan Review – Required Landscaping and Screening

The above information on the applicability of the site plan review process directly informs when the actual landscaping and screening requirements contained within the ZO may be legally enforced by P&DD and/or BSEED through the site plan review process, if applicable, and the permitting process only when site plan review is not required (Sec. 50-14-302). Through either process, P&DD and/or BSEED can currently require that new development greenfield sites, or redevelopment sites with existing buildings or other improvements upgrade their site improvement features to meet the current requirements of Article XIV, Division 2 as may be enhanced by the site plan approval criteria.

Required Landscaping and Screening – Article XIV, Division 2

The primary way that the ZO requires landscaping and screening is by reference to Article XIV, Division 2 (Landscaping, Screening, and Fencing) for certain land uses. Division 2 contains the following subdivisions, Subdivision D is the only subdivision proposed to be amended.

Article XIV, Division 2 Subdivisions

- A. Subdivision A – In General includes the purpose statement and applicability of Division 2 (Sec. 50-14-302), and that single- and two-family dwellings are exempt.
- B. Subdivision B – Landscaping, Quality includes required plant materials, quality and type (species), prohibited tree species, planting size, ground treatment, and other details.
- C. Subdivision C – Landscaping and Screening of Off-Street Parking Areas includes required screening for off-street parking areas located along rights-of-way, or abutting or across from residential lots, and interior parking area landscaping requirements.
- D. Subdivision D – Landscaping and Screening, Miscellaneous Provisions includes a street tree requirement, screening requirements for dumpsters, open storage areas, and other industrial areas, and specific landscaping and screening requirements for certain land uses.

Article XIV, Division 2, Subdivision D – Applicability

The following is a summary of land uses that are currently required to provide landscaping and screening by reference to either Article XIV, Division 2, or Section 50-14-367, which is located within Article XIV, Division 2, Subdivision D. Current required screening for these land uses, which is summarized in the next section, would be impacted by the proposed amendment.

General References to Article XIV, Division 2 (includes Sub. D and Sec. 50-14-367)

Section	Requirement
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50-9-26 – Other regulations (B1 District)	Non-residential uses in B1: (1) “The site shall be screened and landscaped in accordance with Article XIV, Division 2”
50-12-190 – Stadiums or sports arenas; outdoor entertainment facilities	(7) “All outdoor areas shall be either landscaped in accordance with Article XIV, Division 2...or hard surfaced.”
50-12-267 – Motor vehicle filling stations; and screening and landscaping	(b) “Any such building, or portion of a building, which faces, abuts, or is adjacent to, or across an alley from, land zoned R1 through R6, residential PD, or TM, shall comply with the screening and landscaping requirements of Article XIV, Division 2”
50-12-270 – Motor vehicle filling stations; screening and landscaping	(a) “In addition, the site shall be screened and landscaped in accordance with Article XIV, Division 2”
50-12-296 – Motor vehicle washing and steam cleaning	(14) “As may be required, landscaping shall be provided in accordance with Article XIV, Division 2”
50-12-358 – Wholesaling, warehousing, storage buildings, or public facilities	(6) “Permitted outdoor accessory storage...screening shall be subject to the applicable provisions of Article XIV, Division 2, Subdivision D”
50-13-103 – Setback requirements for boundary lot lines (Industrial districts)	“Setbacks shall be provided in industrial districts where abutting or across a street or alley from land zoned R1 through R6, TM, or residential PD in accordance with the following: (5) All portions of the setbacks that are required in Subsections (1) through (4) of this section...not used for access shall be landscaped in accordance with Article XIV, Division 2”

CPC staff comments: *The sections included in the above table provide a general reference to Article XIV, Division 2, which includes all four subdivisions A through D. As these references are mostly general, it is currently unclear if the Section 50-14-367 landscaping and screening requirements (Sub. D) are intended to apply to all the above uses. Technically, Section 50-14-367 applies through this general reference, but the ZO is unclear on when the requirements of Section 50-14-367 are specifically intended to apply to the above table uses as far as if screening is required from adjacent streets, alleys, or residential properties. Staff is continuing to research this issue and will have more information at a future CPC meeting.*

Specific References to Sec. 50-14-367 (located within Art. XIV, Div. 2, Sub. D)

Retail, Service, and Commercial Uses	
Section	Requirement
50-12-292 – Motor vehicles, new, salesroom or sales lot	“The premises shall be screened by six-foot high opaque walls where adjacent to, or across an alley from, land zoned R1 through R6, or residential PD, in accordance with Section 50-14-367” <i>(Vehicles parked for sale are treated as off-street parking and do not require compliance with 50-14-367)</i>
50-12-293 – Motor vehicles, used, salesroom or sales lot	
50-12-294 – Motor vehicle services, major	
50-12-295 – Motor vehicle services, minor	
50-12-296 – Motor vehicle washing and steam cleaning	“The premises shall be screened by six-foot high opaque walls where adjacent to land zoned R1 through R6, or residential PD, in accordance with Section 50-14-367”

Manufacturing and Industrial Uses	
Section	Requirement
50-12-343 – Lumber yards	“All lumber yards with accessory outdoor sales, display, or storage areas shall be screened from view of street rights-of-way and land zoned R1 through R6, or residential PD in accordance with Section 50-14-367”
Very high impact manufacturing or processing uses	<i>No requirements currently, will be proposed</i>
Uses with 20-foot Setback (Buffer) Requirement	
50-12-341 – Junkyards	<p>“Notwithstanding the junkyard screening provisions of Chapter 41, a masonry wall that is not less than eight feet in height and not more than 12 feet in height, shall be constructed and maintained in good condition around any junkyard”</p> <p>“All buildings, screening, and junk materials shall be set back at least 20 feet from any lot line abutting a right-of-way”</p> <p>“As required by Section 50-14-361, the 20-foot setback area between the masonry wall and the lot line shall be landscaped in accordance with Section 50-14-362 and 50-14-365”</p>
50-12-344 – Outdoor storage yards; containerized freight	<p>“No storage shall be maintained within 20 feet of any lot line abutting a public street. Said setback area shall be landscaped in accordance with Section 50-14-362 and Section 50-14-367”</p> <p>“All such uses shall be screened from adjacent streets, alleys, and properties by an opaque fence that is not less than six feet high. The height of stored items shall not exceed the height of any fence or wall surrounding such lot.”</p>
50-12-354 – Transfer station for garbage, refuse, or rubbish	<p>“No storage or processing shall be maintained in the open within 20 feet of any lot line abutting a public street. Said setback shall be landscaped in accordance with Section 50-14-362 and Section 50-14-367”</p> <p>“All such uses shall be screened from adjacent streets, alleys, and properties by a masonry wall that is not less than eight feet height, and not more than 12 feet high”</p>
50-12-352 – Towing service storage yards	“As required by Section 50-14-361, the 20-foot setback area between the masonry wall and the lot line, where required, shall be landscaped in accordance with Section 50-14-362 and Section 50-14-367”
50-12-355 – Trucking terminals, transfer buildings, truck garages, RV storage lots, and open areas for the parking of operable trucks	<i>No requirements currently, will be proposed per 50-14-366</i>

Accessory Uses	
Section	Requirement
50-12-461 – Accessory outdoor operations–Screening	“All accessory outdoor storage areas shall be screened as required under Section 50-14-365”
Miscellaneous Uses	
Section	Requirement

50-12-349 – Scrap tire storage, processing, or recycling facility	“Where conducted outside of an enclosed structure, such uses shall comply with all applicable provisions of Part 169 of the MNREPA, titled “Scrap Tires,” being MCL 324.16901 through 324.16910, and Article I of Chapter 18”
50-14-365 – Screening of open storage areas (principal use)	“Open storage of any goods, materials, products, or equipment shall be screened from view of street rights-of-way and from view of land zoned R1 through R6, and residential PD in accordance with Section 50-14-367. Screening is not required for permitted outdoor sales areas. This provision shall not apply to the R1 through R6 and B1 Districts, except where involving a prohibited commercial or industrial use under jurisdiction of the BZA.”
50-14-265 – Landscaping and screening (off-street loading)	“Off-street loading areas shall be landscaped and screened from view in accordance with the standards of Division 2, Subdivision C, of this article.”
50-14-366 – Screening of loading docks, service yards, and exterior work areas	“Service yards, loading docks, exterior work areas, and truck maneuvering areas shall be screened from view of street rights-of-way and from view of land zoned R1 through R6, and residential PD, in accordance with Section 50-14-367, except where an opening is required for vehicle access.”

CPC staff comments: *As indicated by the above tables, uses with required screening can be grouped into the following categories:*

1. *Retail, Service, and Commercial Uses*
2. *Manufacturing and Industrial Uses*
3. *Accessory/Miscellaneous Uses*

Screening requirements are currently addressed in two separate ZO articles. First, the base screening requirement is provided as part of the Article XII, Division 3 Specific Use Standards for all the above uses except for the last three, Article XII is indicated by the number 12 middle section number (50-12-XXX). Secondly, the Specific Use Standards for all these uses reference, directly or indirectly, the requirements of Section 50-14-367 located in Article XIV, Division 2, Subdivision D. To understand the full screening requirement for each use, both Articles are currently required to be referenced as the detailed screening requirements for specific land uses are in Article XII while additional screening requirements that also apply are in Article XIV. Having to use two different ZO articles to determine screening requirements makes the ZO more difficult to use, makes the ZO longer as similar standards must be repeated for each use, and creates the opportunity for error by having to use two different articles that address screening or where there are subtle nuances between screening requirements of similar land uses, such as Motor vehicle washing and steam cleaning.

Staff believes the administration and understanding of what screening requirements apply would greatly be improved by replacing any detailed screening requirements located in the Article XII, Division 3 Specific Use Standards with a general reference to Section 50-14-367 for each use that currently requires screening. With the proposed amendment, Section 50-14-367 would be updated with an improved set of screening requirements still being refined by P&DD and CPC staff. These updated requirements would be maintained or added for the uses listed above through a screening requirements table that summarizes all uses that require screening and what exact requirements apply, where these requirements are currently spread out between two different ZO articles. By bringing the full set of screening requirements together under Section 50-14-367, it is easier to evaluate and improve current requirements.

Lastly, P&DD and CPC staff believe that current screening requirements are deficient or unclear when it comes to a desired landscape buffer width along the perimeter of properties (uses) required to be screened. As indicated in the above table, only four uses currently require a 20-foot-deep setback area along the perimeter lot line, and the language for whether this setback area is only required along adjacent streets/alleys is inconsistent. Also, the use of “setback” is not ideal as setback typically is only a requirement related to buildings or structures and is not typically used to describe an area desired to be improved and maintained as a landscape buffer as setbacks often still permit site improvements such as parking areas. With the proposed amendment, the term “setback” within these sections would be replaced with “required buffer depth” to indicate the intent of the requirement and to avoid confusion that this requirement is somehow related to building/structure setback requirements. An additional benefit of doing this would be that a new term and requirement for buffer depth would override the current minimal setback requirements for Industrial districts located in Section 50-13-103. The proposed “required buffer depths” would override minimum setback requirements in order to achieve consistent and clear buffer requirements for all uses.

PRELIMINARY CONCLUSION

No action is requested at this time. At a future CPC public hearing, planned to occur on November 17, staff will be presenting additional analysis of the current screening requirements of Section 50-14-367 proposed to be amended and a draft proposed text amendment ordinance related to this report (Subdivision D) that will also included revised language from the September 29 public hearing on fence and wall requirements (Subdivision E).

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