REPORT/RECOMMENDATION

To:	MAYOR AND COUNCIL	Agenda Item	Item No. VI.D.
From:	Cary Teague Planning Director	☒	Action
		☐	Discussion
Date:	January 3, 2011	☐	Information
Subject:	Ordinance No. 2012-01 regarding revisions to approved Site Plans.		
Deadline for a City Decision:	No Deadline		

ACTION REQUESTED:
Consideration of the attached Ordinance regarding revisions to approved Site Plans. If the Council is comfortable with the proposed language, please waive the second reading of the Ordinance.

INFORMATION/BACKGROUND:
The City Council directed staff and the Planning Commission to draft an ordinance amendment to clearly define when changes may be made to approved site plans. Current Edina Ordinance is not clear. "Minor changes" are not defined. (See page 2 of this report.) The Council advised that the Ordinance could be patterned after the City of Bloomington's regulations. (See the attachment to the June 29, 2011 memorandum.)

Based on that direction, over the past several months the Planning Commission considered an ordinance to regulate changes to approved Site Plans, and is recommending approval of Ordinance No. 2012-01. The Ordinance would allow staff to approve minor changes one time. Changes would be considered minor if:

1. There is no increase to the proposed number of dwelling units; and
2. Any proposed increase in the floor area of structures on site does not exceed five percent (5%) of the gross floor area; and
3. All proposed revisions comply with City Code requirements; and
4. There is no change to any condition required in a site plan approval, including building materials and color; and
5. The property is not located in an Edina Heritage Landmark District.

All other plan modifications shall be acted on, reviewed and processed by the Planning Commission and Council in the same manner as they reviewed and processed the site plan.

Existing City of Edina Ordinance:

I. Plan Modifications. Minor changes may be authorized by the Planner. Proposed changes to the approved site plan affecting structural types, building coverage, mass, intensity or height, allocation of open space and all other changes which affect the overall design of the property shall be acted on, reviewed and processed by the Commission and Council in the same manner as they reviewed and processed the site plan.

Planning Commission Recommendation: On December 14, 2011, the Planning Commission unanimously recommended approval of the attached Ordinance 2012-01.

ATTACHMENTS:

- Ordinance No. 2012-01
- Planning Commission Staff Reports & Memo's: June 29, September 28, November 9 and December 14, 2011.
- Minutes from the June 29, September 28, November 9 and December 14, 2011 Edina Planning Commission meetings.

ORDINANCE NO. 2012-01

AN ORDINANCE AMENDING THE ZONING ORDINANCE CONCERNING REVISIONS TO APPROVED SITE PLANS

The City Council Of Edina Ordains:

Section 1. Subsection 850.04. Subd. 3.I is amended to read:

> **I. Plan Modifications.** Minor changes may be authorized by the Planner only one time. ~~Proposed changes to the approved site plan affecting structural types, building coverage, mass, intensity or height, allocation of open space and all other changes which affect the overall design of the property shall be acted on, reviewed and processed by the Commission and Council in the same manner as they reviewed and processed the site plan.~~ Changes are considered minor if:
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> 1. There is no increase to the proposed number of dwelling units; and
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> 2. Any proposed increase in the floor area of structures on site does not exceed five percent (5%) of the gross floor area; and
>
> 3. All proposed revisions comply with City Code requirements; and
>
> 4. There is no change to any condition required in a site plan approval, including building materials and color; and
>
> 5. The property is not located in an Edina Heritage Landmark District.
>
> All other plan modifications shall be acted on, reviewed and processed by the Commission and Council in the same manner as they reviewed and processed the site plan.

Section 2. This ordinance is effective immediately upon its passage and publication.

First Reading:

Existing text – XXXX
Stricken text – ~~XXXX~~
Added text – XXXX

Second Reading:

Published:

ATTEST:

_____ _____

Debra A. Mangen, City Clerk James B. Hovland, Mayor

Please publish in the Edina Sun Current on:

Send two affidavits of publication.

Bill to Edina City Clerk

CERTIFICATE OF CITY CLERK

I, the undersigned duly appointed and acting City Clerk for the City of Edina do hereby certify that the attached and foregoing Ordinance was duly adopted by the Edina City Council at its Regular Meeting of _____, 2012, and as recorded in the Minutes of said Regular Meeting.

WITNESS my hand and seal of said City this _____ day of _____, 2012.

_____

City Clerk

MEMORANDUM

TO: **Planning Commission**

FROM: **Cary Teague, Planning Director**

RE: **Zoning Ordinance Amendment – Revision to Approved Site Plans**

DATE: **June 29, 2011**

The City Council has directed staff to draft an Ordinance Amendment to clearly define when changes may be made to approved site plans. Current Edina Ordinance is not clear. "Minor changes" are not defined. (See below.) The Council advised that the Ordinance could be patterned after the City of Bloomington's regulations.(See attached.)

Attached is a draft of an ordinance amendment that would allow staff to administratively approve changes to a site plan up to a 5% increase or a total of 10,000 square feet, the same as Bloomington. The Planning Commission is asked to consider the proposed amendment, and if comfortable with the language, make a recommendation to the City Council.

Existing City of Edina Ordinance:

I. Plan Modifications. Minor changes may be authorized by the Planner. Proposed changes to the approved site plan affecting structural types, building coverage, mass, intensity or height, allocation of open space and all other changes which affect the overall design of the property shall be acted on, reviewed and processed by the Commission and Council in the same manner as they reviewed and processed the site plan.

Ordinance Considered June 29, 2011

ORDINANCE NO. 2011-__

AN ORDINANCE AMENDING THE ZONING ORDINANCE CONCERNING REVISIONS TO APPROVED SITE PLANS

The City Council Of Edina Ordains:

Section 1. Subsection 850.04. Subd. 3.I is amended to read:

> **I. Plan Modifications.** Minor changes may be authorized by the Planner. ~~Proposed changes to the approved site plan affecting structural types, building coverage, mass, intensity or height, allocation of open space and all other changes which affect the overall design of the property shall be acted on, reviewed and processed by the Commission and Council in the same manner as they reviewed and processed the site plan.~~ Changes are considered minor if:
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> 1. There is no increase to the proposed number of dwelling units.
>
> 2. Any proposed increase in the floor area of structures on site does not exceed five percent (5%) or a total of 10,000 square feet.
>
> 3. All proposed revisions comply with City Code requirements.
>
> 4. There is no alteration to any condition of approval previously attached by the City Council.
>
> 5. There is no alteration to a plan modification previously required by the City Council.
>
> All other plan modifications shall be acted on, reviewed and processed by the Commission and Council in the same manner as they reviewed and processed the site plan.

Section 2. This ordinance is effective immediately upon its passage and publication.

First Reading:

SEC. 21.501.03. FINAL DEVELOPMENT PLANS.

(a) **Purpose.** The purpose of the final development plan application process is to:

(1) Ensure that new development within the Planned Development Overlay District comply with City Code requirements or receive necessary approvals for flexibility;

(2) Ensure that sufficient information is provided by the applicant to determine the extent of compliance with City Code requirements and the public benefit related to proposed City Code flexibility; and

(3) Ensure that approved development not yet constructed is consistent with City Code requirements.

(b) **Where Required.** Final development plan approval is required in the Planned Development Overlay Zoning District prior to the issuance of any permit for a new building, building addition, site characteristic or parking lot expansion.

(c) **Review and Approval.** New final development plans and major revisions to previously approved final development plans must be reviewed by the Planning Commission and acted upon by the City Council, which has the authority to attach conditions of approval. Minor revisions to previously approved final development plans will be reviewed and acted upon by the Planning Manager, who has the authority to attach conditions of approval. In the event that an application for a minor revision to a final development plan is denied by the Planning Manager, the applicant may appeal the decision to the City Council by submitting an appeals request and any supporting materials within three days of the decision.

(d) **Revisions.** Revisions to final development plans are considered minor if:

(1) There is no increase to the proposed number of dwelling units;

(2) Any proposed increase in the floor area of structures on site does not exceed five percent or a total of 10,000 square feet;

(3) All proposed revisions comply with City Code requirements;

(4) There is no alteration to any condition of approval previously attached by the City Council; and

(5) There is no alteration to a plan modification previously required by the City Council.

(e) **Findings.** The following findings must be made prior to the approval of new final development plans or revisions to previously approved final development plans:

(1) The proposed development is not in conflict with the Comprehensive Plan;

(2) The proposed development is not in conflict with any adopted District Plan for the area;

(3) The proposed development is not in conflict with the approved Preliminary Development Plan for the site;

(4) All deviations from City Code requirements are in the public interest and within the parameters allowed under the Planned Development Overlay Zoning District or have previously received variance approval;

(5) The proposed development is of sufficient size, composition, and arrangement that its construction, marketing, and operation is feasible as a complete unit without dependence upon any subsequent unit;

(6) The proposed development will not create an excessive burden on parks, schools, streets, and other public facilities and utilities which serve or are proposed to serve the planned development; and

(7) The proposed development will not be injurious to the surrounding neighborhood

MEMORANDUM

TO: **Planning Commission**

FROM: **Cary Teague, Planning Director**

RE: **Zoning Ordinance Amendment – Revision to Approved Site Plans**

DATE: **September 28, 2011**

The City Council has directed staff to draft an ordinance amendment to clearly define when changes may be made to approved site plans. Current Edina Ordinance is not clear. "Minor changes" are not defined. (See below.) The Council advised that the Ordinance could be patterned after the City of Bloomington's regulations. (See attached.)

Attached is the draft ordinance amendment that was considered by the Planning Commission on June 29, 2011. The Commission tabled the item for staff to conduct a survey of how other city's dealt with minor changes to a site plan. The table on the following page summarizes the survey of cities.

The proposed ordinance would allow staff to administratively approve changes to a site plan up to a 5% increase or a total of 10,000 square feet, the same as the City of Bloomington. The Planning Commission is asked to consider the proposed amendment, and if comfortable with the language, make a recommendation to the City Council.

Existing City of Edina Ordinance:

I. Plan Modifications. Minor changes may be authorized by the Planner. Proposed changes to the approved site plan affecting structural types, building coverage, mass, intensity or height, allocation of open space and all other changes which affect the overall design of the property shall be acted on, reviewed and processed by the Commission and Council in the same manner as they reviewed and processed the site plan.

City	Can staff allow revisions to approved Site Plans?	What is the threshold?
Apple Valley	Yes	Staff may approve minor revisions *
Bloomington	Yes	5% increase of total s.f; no increase in density
Coon Rapids	Yes	Community Development Director may revise*
Cottage Grove	Yes	CD Director may approve minor changes *
Eagan	Yes	Staff may approve minor revisions *
Lakeville	Yes	Zoning Administrator may approve minor changes *
Maple Grove	Yes	"Substantial" changes to the approved plan require Council review *
Minnetonka	Yes	"Substantial" changes to the approved plan require Council approval* In practice a 10% expansion of the building
New Brighton	Yes	In practice a 10% expansion of the building *
Plymouth	Yes	Zoning Administrator may approve minor changes *
St. Louis Park	Yes	Staff may approve minor revisions *
Eden Prairie	Yes	Staff may approve minor revisions *
Wayzata	Yes	Building Official can approve changes – changes are not defined *
Edina	No**	All changes brought to CC
Minneapolis	Yes	Zoning Administrator may approve minor changes *

** Site Plan allowed change threshold is not defined by Ordinance*
*** Per City Council Policy*

As shown above, most cities allow staff to approve revisions to approved Site Plans; however, in most instances the threshold for determining what changes can be made on a staff level is not specifically defined by ordinance. In general the threshold is determined by what requires a site plan approval in the first place, which is a 10% expansion of a building.

Ordinance Considered Nov. 9, 2011

ORDINANCE NO. 2011-__

AN ORDINANCE AMENDING THE ZONING ORDINANCE CONCERNING REVISIONS TO APPROVED SITE PLANS

The City Council Of Edina Ordains:

Section 1. Subsection 850.04. Subd. 3.l is amended to read:

l. Plan Modifications. Minor changes may be authorized by the Planner only one time. ~~Proposed changes to the approved site plan affecting structural types, building coverage, mass, intensity or height, allocation of open space and all other changes which affect the overall design of the property shall be acted on, reviewed and processed by the Commission and Council in the same manner as they reviewed and processed the site plan.~~ Changes are considered minor if:

1. There is no increase to the proposed number of dwelling units, and

2. Any proposed increase in the floor area of structures on site does not exceed five percent (5%) of the gross floor area; and

3. All proposed revisions comply with City Code requirements.

All other plan modifications shall be acted on, reviewed and processed by the Commission and Council in the same manner as they reviewed and processed the site plan.

Section 2. This ordinance is effective immediately upon its passage and publication.

First Reading:

Second Reading:

Published:

Existing text – XXXX
Stricken text – ~~XXXX~~
Added text – XXXX

CITY OF EDINA

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Phone 952-927-8861 • Fax 952-826-0390 • www.CityofEdina.com

MEMO

Date: December 14, 2011

To: Planning Commission

From: Cary Teague, Planning Director

Re: Zoning Ordinance Amendment – Revision to Approved Site Plans

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The Planning Commission discussed the Ordinance amendment at last month's meeting, and tabled the item for further changes. (See attached minutes.) As a result of the Planning Commission discussion, staff has revised the Ordinance to address the concerns. Conditions #4 and #5 were added to ensure that minor changes to site plan approval does not include changes to any condition required, including building material or color; and no changes may occur in a Heritage Preservation District.

Ordinance Considered Dec. 14, 2011

ORDINANCE NO. 2012-__

AN ORDINANCE AMENDING THE ZONING ORDINANCE CONCERNING REVISIONS TO APPROVED SITE PLANS

The City Council Of Edina Ordains:

Section 1. Subsection 850.04. Subd. 3.I is amended to read:

> **I. Plan Modifications.** Minor changes may be authorized by the Planner only one time. ~~Proposed changes to the approved site plan affecting structural types, building coverage, mass, intensity or height, allocation of open space and all other changes which affect the overall design of the property shall be acted on, reviewed and processed by the Commission and Council in the same manner as they reviewed and processed the site plan.~~ Changes are considered minor if:
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> 3. All proposed revisions comply with City Code requirements
>
> 4. There is no change to any condition required in a site plan approval, including building materials and colors
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> 5. The property is not located in an Edina Heritage Landmark District.
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> All other plan modifications shall be acted on, reviewed and processed by the Commission and Council in the same manner as they reviewed and processed the site plan.

Section 2. This ordinance is effective immediately upon its passage and publication.

First Reading:

Existing text – XXXX
Stricken text – ~~XXXX~~
Added text – XXXX

6-29-11
P.C. Minutes

Vote: The Motion carried. 6-1-1 (Scherer opposed, Schroeder abstained).

Commissioner Schroeder joined the meeting at this time.

VII. REPORTS/RECOMMENDATIONS

A. Zoning Ordinance Amendment – Revisions to approved site plans.

Planning Director Teague explained the City Council directed staff, at their last meeting to draft an Ordinance that clearly defines when changes can be made to a site plan. This was a result of the Waters Project that will be reviewed by the Planning Commission at their next meeting. At this time, all changes are brought back to the Council for review to be determined how to proceed.

Planning Director Teague stated the City of Bloomington's Ordinance was reviewed and a draft Zoning Ordinance Amendment was before the Commission this evening. He reviewed the language within the Ordinance in detail. Staff recommended the Ordinance amendment be forwarded along to the Council for approval.

Commissioner Schroeder questioned if a decrease in the building size was considered a minor change. Planning Director Teague indicated this was a considerable change and the language could read an increase or decrease in building size larger than 5% would be brought back to the Council.

Commissioner Staunton asked if this would apply to a Planned Unit Development. Planning Director Teague stated that it would apply.

Commissioner Forrest recommended the square footage pertaining to a change be reduced. She felt minor changes could be an issue and should be reviewed.

Commissioner Platteter inquired if a brick change would be considered a "minor change". Planning Director Teague stated this would require the site plan to come back before the Council. The applicant receives approval and must follow the conditions for approval.

Commissioner Carpenter suggested Staff review additional neighboring communities Ordinance's regarding site plan revisions. Planning Director Teague stated he would be reviewing additional Ordinances.

Chair Grabiel was supportive of the Ordinance amendment but recommended this item be continued to the next Planning Commission.

Commissioner Staunton moved to continue discussion on the Zoning Ordinance Amendment to a future Planning Commission meeting. Commissioner Carpenter seconded the motion. All voted aye; motion carried.

Sept. 28, 2011
P.C. minutes

Zoning Ordinance Amendment – Revisions to Approved Site Plans

Planner Aaker informed the Commission the City Council had directed staff to draft an ordinance amendment to clearly define when changes may be made to an approved site plan. Aaker explained that currently the Edina ordinance wasn't clear on this. Continuing, Aaker said that the draft ordinance would permit City staff the ability to approve minor changes. Changes which affect the overall design of the property shall be reviewed and processed by the Commission and Council in the same manner as they reviewed and processed them.

Commissioner Carpenter said with respect to administratively approved changes to a site plan up to a 5% increase or a total of 10,000 square feet (similar to Bloomington) the 5% should be clearly identified. Carpenter said he doesn't want an applicant to become serial and come in for an original 5%, and at another time come in for another 5%, and so on. Carpenter said in his opinion there should only be "one bite off the apple".

Chair Grabiel questioned if reduction in size needs review. Grabiel added that Carpenters comment on serial changes was a good one and agrees that administratively or otherwise one time should be it.

Commissioner Platteter said in his opinion the changes make sense.

The discussion ensued and Commissioners requested that Planner Teague revisit the proposed amendment and focus particularly on the impact of decreases, notification of changes (yes-no), and the 10,000 square foot allowance (seems too much).

Zoning Ordinance Amendment – Real Estate Sign Ordinance

Planner Aaker noted that recently the City received a complaint in regard to the size of real estate signs in the R-1 and R-2 zoning districts. Aaker clarified that at this time the City of Edina sign ordinance allows a traditional "for-sale" sign of six square feet. However, over time it has become standard real estate practice to add signs to the original sign, including open house information, web site information and real estate agent names. Aaker said the City has researched "for-sale" signs and found the industry standard had changed and the intent of the proposed ordinance amendment was to respond to this change. Real estate signs are now commonly larger than the six square feet presently allowed per ordinance.

Commissioner Potts said he agrees, adding that most real estate signs he sees had "ad-ons" and he can support the amendment as proposed.

11-9-11 P.C minutes

considered. Mr. Dovolis responded that parking spaces were established according to uses; however in the future it may be something worth considering.

Commissioner Potts commented that in his opinion this development was a good beginning as the City continues to pursue its goals outlined in the Comprehensive Plan. Potts said in his opinion the building holds the corner well.

Motion

Commissioner Staunton moved to recommend preliminary rezoning approval from PCD-4, Planned Commercial District to PUD, Planned Unit Development and Preliminary Development Plan approval based on finding and conditions provided in the staff report. Commissioner Potts seconded the motion.

Further discussion on motion:

Commissioner Platteter said on the site plan he observed a tree that could impede site lines and asked that landscaping be considered when reviewing the ingress and egress. **Chair Grabiel called for the vote. Ayes; Forrest, Scherer, Potts, Platteter, Cherkassky, Carpenter, Staunton, Fischer Grabiel. Nays: 0. Motion carried,**

VII. REPORTS AND RECOMMENDATIONS

Zoning Ordinance Amendment – Revisions to approved site plans

Planner Presentation

Planner Teague explained that the City Council directed staff to draft an ordinance amendment to clearly define when changes may be made to approved site plans. Teague explained that currently Edina's ordinance wasn't clear and "minor changes" are not defined.

Planner Teague reminded the Commission this issue was previously discussed with the Commission with the Commission directing staff to revise the amendments to include removal of the 10,000 square foot maximum. The 5% maximum was kept.

Planner Teague said no change was made in regard to a decrease in building size. As was the case with the Waters senior housing project, a decrease in the building size was not seen as a negative impact on the project, rather it was seen as a positive when compared to what could have been built. If a revision to a site plan, such as a building relocation were to occur along with a building size reduction, then the plans would be brought back to the Planning Commission and Council for review, as a change to an approved site plan.

Discussion

A discussion ensued with Commissioners questioning what constitutes change; is it a change in building color, change in exterior materials, increase or decrease in size , etc.

The Commission suggested the following:

- Change in building materials including color needs to be brought back before the Commission and City Council.
- A property cannot be located in an Edina Heritage Landmark District.

Chair Grabiel suggested that Planner Teague retool the amended ordinance to include those suggestions and bring the final draft back before the Commission.

Zoning Ordinance Amendment-Revision to Utility & Mechanical Equipment

Planner Teague reminded the Commission that utility and mechanical equipment was previously discussed with the Commission suggesting that more study needs to be done on size, setback, exempt/non-exempt equipment etc.

Discussion

A discussion ensued with the Commission making the following suggestions:

- 80-feet was too large. Consider reducing equipment size to 36 square feet.
- 6-feet may be too tall; reconsider height.
- Consider establishing a minimum setback for mechanical equipment
- Include these structures on the site plan when at all possible

Concern was also expressed on sites with numerous equipment pointing out there was no cap on "grouped" equipment. The Commission suggested a cap.

Commissioner Platteter commented that he views the majority of mechanical equipment as "eyesores" and amending the code to tighten up the standards was a good thing.

Chair Grabiel asked Planner Teague to "take another look" at the ordinance and bring back to the Commission a draft containing issues brought up at this meeting.

VIII. CORRESPONDENCE AND PETITIONS

Chair Grabiel acknowledged receipt of the Council Connection

IX. CHAIR AND COMMISSION MEMBER COMMENTS

12-14-11
Draft P.C.
minutes

Zoning Ordinance Amendment – Revisions to Approved Site Plans

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Planner Teague reminded the Commission that the Planning Commission previously discussed this issue and as a result of the past discussions staff revised the Ordinance to address the concerns.

Changes to the Ordinance were to Conditions #4 and #5.These changes were added to ensure that minor changes to site plan approvals do not include changes to any conditions required, including building material or color; and no changes may occur in the Heritage Preservation District.

Discussion

Commissioner Staunton asked Planner Teague to clarify for him what the "one time" constitutes. Is there a time limit? Planner Teague clarified that the "one time" has an expiration date of 2-years after final approval.

Motion

Commissioner Carpenter moved to recommend Ordinance Amendment approval as modified. Commissioner Scherer seconded the motion. All voted aye; motion carried.

Zoning Ordinance Amendment – Utility & Mechanical Equipment Ordinance

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Planner Teague said the Commission has reviewed the proposed amendment on a number of occasions and the following changes have been added.

- The size of the utility and mechanical equipment that must meet required setback has been reduced from 80 to 36 square feet.
- Grouped equipment that exceeds 36 square feet must also meet the required setbacks.

Discussion

Commissioner Carpenter asked for clarification on if the 36 square feet refers to the footprint of the utility equipment. Planner Teague responded in the affirmative.