



PLANNING AND ZONING COMMISSION REPORT

Meeting May 3, 2018

Date:

Agenda Item: 5R

Case Name: TA18-02: Site Plan Review Text Amendment

Case TA18-02

Number(s):

General Application Information

Proposal:

A comprehensive amendment to the existing site plan review section of the Zoning Ordinance for the purposes of modernizing the code and updating the site plan appeal criteria and process.

Location:

N/A

Project Acreage:

N/A

Applicant:

City of Peoria

Project Description

A request to consider a city-initiated comprehensive amendment to Section 21-320 ("Site Plan Review") of the City Code.

Recommendations:

Recommend approval of Case TA18-02 to the Peoria City Council.

ATTACHMENTS:

Description

Staff Report

Exhibit A - Proposed Section 21-320 Site Plan

Exhibit B - Existing Section 21-320 Site Plan

BACKGROUND

Context

Prior to the submittal of construction and permitting documents, a proposed development will undergo Site Plan Review. In this phase, the conceptual development program is reviewed for compliance with the Zoning Ordinance and any associated conditions, Design Review Manual, infrastructure guidelines and all other relevant codes and ordinances. A multitude of factors are assessed including drainage, building setbacks, parking, fire access, ingress/egress, architectural / site design, and others. This phase ensures that the conceptual plan is compliant before detailed construction and civil plan review documents are drawn up.

Site Plan Review applications are reviewed administratively by staff from multiple city departments. This process takes into consideration the proposed design, the function, location, operational aspects for the type of use, and compatibility of the proposal with the surrounding area to ensure that individually, and cumulatively, any potential adverse impacts are mitigated if appropriate, and to protect and promote the public health, safety, and general welfare.

The City of Peoria's current standards for Site Plan Review have remained largely unchanged since their adoption by City Council. The subject amendment seeks to modernize the code through the following:

- Refine the process by allowing the Department Director to determine when site plan appeals are valid and the appropriate hearing officer for the appeal.
- Realign the designated hearing officer with the technical nature of the appeal.
- Modify appeal deadlines to be consistent with the City's stated hours of operations.

PROPOSAL

Goal/Purpose of Request

The purpose of this city-initiated text amendment is to address the aforementioned factors by creating a streamlined, easy to follow ordinance.

DISCUSSION AND ANALYSIS

Regulations within Section 21-320 of the Zoning Ordinance identify how city staff review a Site Plan application. If collectively city staff determines the proposal in conformance with the stated criteria, then the Zoning Ordinance gives the authority to the City to grant Site Plan Approval and/or impose such conditions and safeguards as deemed necessary to satisfy the provisions of the Zoning Ordinance. Additionally, the Zoning Ordinance allows an appeal to be filed if a party believes an error was made in a decision or determination in the enforcement of the Zoning Ordinance or applicable

regulatory requirements.

This text amendment proposes a number of refinements to the site plan appeal criteria, which are intended to safeguard the appeal rights of persons aggrieved by City decisions, while also ensuring that appeals are conducted fairly and expeditiously manner that protects the rights of all parties. Additionally, the refinements within the appeal portion of the proposed Code provide the applicant more finality regarding the city's land use decisions and development permitting process.

The following summarizes the proposed changes to the Zoning Ordinance and the reasoning for the modifications as noted in italics:

- An appeal may only be filed by the applicant, a City of Peoria property owner, or property owners within the prescribed notification area.

These refinements reduce the potential for a business competitor or individual to use the appeal process to slow down, or place added financial burden on a project as a means for competitive advantage. Additionally, it appropriately confines an appellant to an area of impact coinciding with the notification radius.

- Appeals must be received by the Department within fifteen (15) calendar days after the Notice of Decision has been issued. The deadline shall be extended to the end of the next business day when the deadline occurs on a non-business day.

The deadline now aligns with the City's stated hours of operation.

- Appeals filed with the intent to contest the proposed land use, the zoning designation, or an approval of a conditional use permit shall be determined by the Department Director to be invalid and shall not be forwarded to an appeal body for consideration.

Not all appeals are valid, as they are often filed with the intent to challenge a previous decision, such as a rezoning, made by the City Council or the Planning and Zoning Commission. Additionally, the existing language potentially allows an appeal to be filed as a means to oppose a particular business or land use.

As noted during study session presentation at the April 5, 2018 Planning and Zoning Commission meeting, City staff are prohibited from favoring one business or land use over another one during the site plan review process. Consequently, the proposed language allows the Department Director determine these types of appeals as invalid.

- Technical appeals will now be heard by the City Engineer acting in capacity of a Hearing Officer. Appeals regarding exactions or dedications, along with any other types of appeals will be heard by the Land Use Hearing Officer.

To process technical appeals in a more expeditious manner, the new language would allow the City Engineer to now act as a Hearing Officer in place of the Planning and Zoning Commission. These type of appeals would be related to items such as utility locations, grading and drainage, or traffic mitigation measures. In this manner, the City Engineer would be responsible for ensuring compliance with the City's adopted engineering standards and policies.

The hearing officer for exactions or dedications remains the same, which is a Land Use Hearing Officer. As part of the proposed modification, another universal category has been added to address the appropriate hearing body for all of other types of appeals that are not technical in nature. Depending on the exact nature of the appeal, the City Manager or designee may fulfill this role. The new language also allows the City Manager to appoint a third-party with technical or legal expertise to serve as the Hearing Officer to ensure impartiality and protection of rights of all parties are protected.

Conclusions

Currently, the vast majority of site plan appeals being heard by the Planning and Zoning Commission are filed by aggrieved persons disapproving of a particular use – something that would have been determined previously through the rezoning process. When this occurs, the appellant is often dissatisfied by the outcome, possibly feeling misled by the stated right to appeal, and the Commission often finds itself hearing an appeal, but having very limited authority to act in favor of the appellant, thereby frustrating the Commissioners, the applicant, the appellant, and the site plan process as a whole.

The proposed amendment provides a more user-friendly ordinance, which clarifies the site plan review and approval criteria, along with aligns filing deadlines with the city's stated hours of operation. More importantly, the proposed refinements streamline the appeal process, while ensuring that appeals are conducted fairly and expeditiously manner that protects the rights of all parties.

STAFF RECOMMENDATION

Staff recommends that the Planning and Zoning Commission make the following recommendations to the City Council:

- 1) Approval of case TA18-02 regarding Temporary Uses to the City Council, a request for a comprehensive amendment of Section 21-320, Site Plan, of Chapter 21 of the City of Peoria City Code.

REPORT PREPARED BY

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ATTACHMENTS:

Exhibit A:	Proposed Section 21-320 (Site Plan)
Exhibit B:	Existing Section 21-320 (Site Plan)

Exhibit A
Proposed
Section 21-320
Site Plan

Exhibit A – Proposed Section 21-320, Site Plan

21-320 Site Plan

A. Purpose and Applicability

1. New development and existing developments which are proposing qualifying building additions, alterations and/or site improvements shall be subject to Section 21-320 of the Zoning Ordinance ("Site Plan Review"). Detached or attached single-family units on individual lots shall not be subject to the Site Plan process.
2. The Department is authorized by the provisions of the City Code to review site plan applications, and make a determination that the proposed project, or alterations and site improvements are in compliance with the underlying zoning and other applicable ordinances, codes, and regulatory requirements.
3. The regulations provided herein are intended to facilitate the orderly present and future development of the City by promoting the public health, safety, and general welfare, and aesthetic character of the community.
4. This Section establishes the application requirements, review procedures, and approval criteria utilized by the Department when considering an application for a Site Plan.

B. Application Requirements

An application for Site Plan Review must include all information required in the official process guide and application packet for Site Plan Review applications made available by the Department, in addition to other information required by the Planning Manager or designee based on the nature of the proposed development.

C. Approval Criteria

1. The Department shall review Site Plan applications in accordance with applicable Zoning Ordinance regulations, Peoria Design Review Manual, applicable City Code provisions, and other regulatory requirements.
2. Approval of a Site Plan application shall be given only when in the judgement of the City, such an approval is consistent with the intent and purpose of this Section, and it is determined that the proposed application is:
 - a. Consistent with the health, safety, and welfare of the community;
 - b. In harmony with the purposes and intent of this Ordinance, the General Plan, and any adopted plan for the area; and
 - c. Will not cause traffic related concerns that cannot be mitigated as determined by the City Engineer.

D. Notice of Decision.

1. The Department shall notify the applicant, in writing, of the decision to approve or deny the application, and shall state any conditions for approval or reasons for denial in said letter.
2. The Department shall provide notice of the site plan decision to all required parties identified within Section 21-315.E.
3. If no appeal is filed within the specified timeframe within Section 21-322.E, than the decision of the Department shall be final.

Exhibit A – Proposed Section 21-320, Site Plan

E. Appeal Criteria and Procedure

1. The Notice of Decision by the Department may be appealed by the applicant, or any City of Peoria property owner or property owners within the notification area identified within Section 21-315 Notices of the Zoning Ordinance.
2. The purpose of the appeal criteria provided herein is to fairly accommodate appeal rights of persons aggrieved by City decisions, while also ensuring that appeals are conducted fairly and expeditiously in a manner that protects the rights of all parties and ensures finality in land use decisions and development permitting.
3. An appeal of a Site Plan decision is limited to instances where the aggrieved party alleges there was an error in a decision or determination in the enforcement of the Zoning Ordinance or applicable regulatory requirements.
4. To initiate an appeal the Department's decision regarding a site plan application:
 - a. A written notice of appeal shall be submitted on a form prescribed by the Department and includes specific citations from the Zoning Ordinance or other regulatory documents in which the Appellant believes the Site Plan does not comply with; and
 - b. Be received by the Department within fifteen (15) calendar days after the Notice of Decision has been issued. The deadline shall be extended to the end of the next business day when the deadline occurs on a non-business day.
5. The filing of an appeal will be considered complete upon receipt of the written appeal by the Department Director within the specified timeframe and meets all of the appeal criteria as specified within 21-322.E above.

F. Determination by Department Director

1. Appeals filed with the intent to contest the proposed land use, the zoning designation, or an approval of a conditional use permit shall be determined by the Department Director to be invalid and shall not be forwarded to an appeal body for consideration.
2. Upon receipt of a valid appeal, the Department Director shall make a determination as to the nature of the appeal and shall determine the appropriate Hearing Officer to hear the appeal.
3. Appeals of a technical nature, such as but not limited to utility locations, grading and drainage, or traffic mitigation measures shall be heard by the City Engineer, or designee thereof, acting in capacity of the Hearing Officer.
4. Appeals regarding exactions or dedications associated with the site plan shall be heard by the Land Use Hearing Officer, which shall be the City Manager or designee.
5. For all other types of appeals, they shall be heard by the Land Use Hearing Officer, which shall be the City Manager or designee.

G. Action of Hearing Officer

1. The Hearing Officer shall hold a hearing and provide the appellant, applicant, Department staff, and those property owners and registered homeowner's associations within the required notification radius of the subject property an opportunity to present their position. Such hearings shall be informal and the rules of evidence and civil procedure shall not apply. The hearing officer shall have the authority to approve, deny, or modify the request.

Exhibit A – Proposed Section 21-320, Site Plan

2. The Hearing Officer's decision shall be in writing and shall be provided to the appellant, applicant, the Department, and any property owners and homeowner's association representatives who attended the hearing.
3. The decision of the Hearing Officer shall be final.

H. Building Permits Based upon Approved Site Plan

1. For all development subject to Site Plan review, an approved Site Plan and proper zoning are required prior to the commencement of any construction or development on the site.
2. The applicant shall obtain the necessary building and/or construction permits within eighteen (18) months of the date of approval of the Site Plan application, if not obtained within the eighteen (18) month time frame, the applicant may, prior to the date of expiration, file a request for an extension, whereupon the Planning Manager may authorize a one-time, six (6) month extension. If the time frame has expired, the applicant shall submit a new Site Plan, together with the applicable documents and fees as stipulated in the above provisions.

I. Amendments to Approved Site Plans

1. When a site plan has been previously approved and alterations to the proposed buildings or site improvements are desired, a site plan amendment will be required if those changes are deemed by the Planning Manager or designee to be substantial in nature.
2. Substantial changes may include, but not be limited to a ten (10) percent increase in a project gross land area, a building or buildings' square footage, or a multi-family project's density, or a material change to the project's land use, or an alteration to the project's circulation pattern.
3. A site plan amendments shall be submitted, reviewed and approved in accordance with the same Site Plan approval criteria as identified herein.
4. Any modification which does not substantially change the approved site plan, shall be not require the applicant to obtain new site plan approval and may be addressed through the building permit process.

Exhibit B
Existing
Section 21-320
Site Plan

Exhibit B – Existing Section 21-320, Site Plan Review

21-320 Site Plan Review

A. Applicability

1. All development in the City of Peoria, except detached or attached single-family units on individual lots, shall be subject to Site Plan Review as provided in this Ordinance.

B. Application for Site Plan Review

An application for Site Plan Review shall be submitted to the Department on an official form provided by the Department. The application shall satisfy the submittal requirements as provided in the Site Plan and Design Review Process Guides. The application shall contain sufficient information for the City to determine whether the proposed development meets the development requirements of the City.

C. Plans Review

The City shall review Site Plan applications in accordance with the Process Guides. If the Department determines that the proposed Site Plan 1) is consistent with the health, safety, and welfare of the community; 2) is in harmony with the purposes and intent of this Ordinance, the General Plan, and any plan for the area; and 3) will not cause traffic related concerns that cannot be mitigated then the Department may grant Site Plan Approval and may impose such conditions and safeguards as the Department deems necessary to satisfy the provisions in this Ordinance. The Department may determine that the conditions required for approval do not exist and, thereupon, deny Site Plan approval. ^{*12, *19}

D. Appeals

The applicant or any member of the public may file a request to appeal: (a) the decision to approve or deny a site plan; (b) a site plan stipulation; or (c) an exaction or dedication associated with the site plan. ^{*7}

1. Appeal to Planning and Zoning Commission

The Planning and Zoning Commission shall hear appeals related to decisions to approve or deny a site plan, and for site plan stipulations other than stipulations for exactions or dedications. The Commission may approve in whole or in part, modify, or deny the request, or continue the appeal. The decision of the Planning and Zoning Commission shall be final.

a. Filing

The appealing party shall file a written appeal, to the Planning and Zoning Commission, within fifteen (15) calendar days of the Notice of Decision. The filing of an appeal will be considered complete upon receipt of the appeal by the Department Director. The written appeal shall include the specific reasons for the appeal. If no appeal is filed within the fifteen (15) calendar days of the day the notice of decision was issued, the decision of the Department shall be final.

2. Appeal to Land Use Hearing Officer for Exactions or Dedications

The Land Use Hearing Officer shall hear appeals related to exactions or dedications associated with the site plan, in accordance with Section 21-301 and Section 21-309.C.

E. Building Permits Based upon Approved Site Plan

1. For all development subject to Site Plan review, an approved Site Plan and proper zoning are required prior to the commencement of any construction or development on the site.
2. The applicant shall obtain the necessary building and/or construction permits within eighteen (18) months of the date of approval of the Site Plan application, if not obtained within the

Exhibit B – Existing Section 21-320, Site Plan Review

44 eighteen (18) month time frame, the applicant may, prior to the date of expiration, file a
45 request for an extension, whereupon the Planning Manager may authorize a one-time, six (6)
46 month extension. If the time frame has expired, the applicant shall submit a new Site Plan,
47 together with the applicable documents and fees as stipulated in the above provisions.

48 F. Amendments to Approved Site Plans

49 Any change or modification to an approved Site Plan shall be considered an amendment to the
50 Site Plan. For all Site Plan amendments, revised Site Plans incorporating the changes shall be
51 submitted to the Department. Site Plan amendments shall be classified as Major or Minor and
52 processed accordingly.

53 1. Criteria for Major Amendments

54 Any modification which, as determined by the Department, substantially changes the
55 approved site plan, shall be considered a major site plan amendment. The Department shall
56 consider all amendments that would increase project gross land area, building square footage,
57 or residential densities by more than ten (10) percent, materially change project land use, or
58 alter circulation patterns to be Major Site Plan Amendments.

59 2. Criteria for Minor Amendments

60 Any modification which, as determined by the Department, does not substantially change the
61 approved site plan, shall be considered a Minor Site Plan Amendment. The Department shall
62 consider changes such as minor dimensional building configuration and landscape changes, as
63 well as the addition of shade structures, to be Minor Site Plan Amendments.

64 3. Approval of Major Amendments

65 If the Department determines that an application is for a Major Site Plan Amendment, a new
66 application form together with the revised Site Plan, associated materials, and the application
67 fee shall be submitted to the Department and shall be subject to the Application, Site Plan
68 Review, and Appeal processes as herein set forth.

69 4. Approval of Minor Amendments

70 If the Department determines that an application is for a Minor Site Plan Amendment, the
71 Department shall approve or deny the application through the Building Permit process.