Community Planning and Economic Development Planning Division Report
Zoning Code Text Amendment

Date: April 28, 2007

Initiator of Amendment: Council Member Hodges

Date of Introduction at City Council: March 21, 2008

Ward: Citywide **Neighborhood Organization: (If Applicable):** Citywide

Planning Staff and Phone: Jason Wittenberg (612) 673-2297

Intent of the Ordinance: The intent of the amendment is to authorize the zoning administrator to further extend compliance deadlines for approved development projects with five or more residential dwelling units and require site maintenance and improvement plans for stalled development projects.

Appropriate Section(s) of the Zoning Code:
Chapter 525: Administration and Enforcement

Background: The City Council, in an action taken on December 21, 2007, directed staff to "develop and recommend…a formalized process to address the increasing number of projects whose completion timelines are being extended due changes in the housing market…" The zoning code requires that applicants obtain permits and commence construction within one year of approval of their respective land use applications (two years for planned unit developments). The Zoning Administrator is authorized to extend deadlines up to one year.

CPED-Planning staff has collaborated with staff from the City Attorney's office, Regulatory Services, and Public Works to propose an amendment to the zoning code that would authorize the Zoning Administrator to extend land use application compliance deadlines up to an additional two years for residential or mixed use development projects with five (5) or more dwelling units approved by the City Planning Commission or City Council between June 1, 2005, and December 31, 2006. The range of dates includes a period of time before and after the rapid nationwide decline in the for-sale housing market and the sub-prime lending crisis that has accompanied the shift in market conditions.

The proposed amendment recognizes that the sudden shift in the housing market has caused significant hardship for developers who had residential or mixed use development projects approved during much of 2005 and 2006 and offers extended compliance deadlines for those who intend to complete those projects if market conditions become more favorable in the near future. In order to take advantage of extended compliance deadlines, developers will be required to submit a site maintenance and improvement plan, further described below, to address any negative impacts caused by long-term/inactive construction sites.

The amendment, as proposed, would essentially become irrelevant at the end of 2010. Staff anticipates that this ordinance amendment would be stricken at some point in time and the City would return to previously adopted compliance deadlines and authorized extensions.

Purpose for the Amendment:

What is the reason for the amendment?
What problem is the Amendment designed to solve?
What public purpose will be served by the amendment?
What problems might the amendment create?

The reason for this amendment is to recognize that rapid changes in the residential housing market have made it impractical to meet compliance deadlines for multi-family and mixed use development projects approved by the City Planning Commission and City Council immediately prior to and during the widely publicized market downturn. Financing has become difficult to obtain for both developers and those seeking a mortgage. The proposed amendment would provide additional time to "weather the storm" and complete development projects as approved by the City.

As proposed, the amendment would provide relief to developers who need more time to complete projects approved between June 1, 2005, and December 31, 2006. Also, stalled development projects have, in some cases, resulted in situations that negatively affect the communities in which they are located. A "site maintenance and improvement plan" would be required as a prerequisite prior to extension of compliance deadlines under this ordinance. The zoning administrator would have the authority to require that developers address a range of impacts associated with inactive development sites. Such sites may be graded and vacant lots or they may include partially constructed buildings. Staff has worked with other City departments to list the types of issues that are likely to be addressed in site maintenance and improvement plans (e.g., obstructions in the right of way, stormwater management issues, site security, signage, etc.). The zoning administrator may set and enforce deadlines for such improvements.

The amendment would serve the public purpose by addressing problems caused by construction sites that may be inactive for significant periods of time and by providing additional time to complete development projects that have been deemed to meet policy objectives and regulatory requirements.

Planning staff does not anticipate significant problems arising from the amendment. Developers who utilize the additional extension will be expected to develop their projects consistent with the plans approved by the City Planning Commission and City Council. Significant changes to proposed development projects, as defined in the zoning code, would require that the project go back through the public hearing process and the cross-department preliminary development review (PDR). Note that the amendment authorizes the Zoning Administrator to extend compliance deadlines for *land use applications* and is not intended to override the authority of any City department or public agency to administer and enforce other ordinances or applicable regulatory deadlines. Also note that the amendment does not apply to strictly non-residential development projects.

Timeliness:

Is the amendment timely?
Is the amendment consistent with practices in surrounding areas?
Are there consequences in denying this amendment?

The amendment is very timely given the recent and ongoing difficulties in the for-sale housing market.

Staff is unaware of others municipalities that have taken similar steps to proactively address the issue of stalled development projects by altering compliance deadlines.

The consequences of denying the amendment are that all approved development projects would be required to repeat regulatory processes in spite of the fact that such projects may not have changed since prior approvals were granted. In addition, denying the amendment may prevent staff from requiring substantial improvements to inactive construction sites.

Comprehensive Plan:

How will this amendment implement the Comprehensive Plan?

The Minneapolis Plan has numerous policies that promote enhancement of the City's neighborhoods, corridors and nodes. The proposed amendment would assist with implementing this vision by providing an opportunity for developers to endure current market realities in order to complete projects that have been deemed by the City Planning Commission and City Council to be consistent with the City's policy objectives and regulatory standards. **Policy 9.18** of the Minneapolis Plan states that "Minneapolis will establish land use regulations, in order to achieve the highest possible development standards, enhance the environment, promote flexibility in approaches and otherwise carry out the comprehensive plan."

Recommendation of The Community Planning and Economic Development Planning Division:

The Community Planning and Economic Development Planning Division recommends that the City Planning Commission and City Council adopt the above findings and **approve** the zoning code text amendment.

AN ORDINANCE
OF THE
CITY OF MINNEAPOLIS

By Hodges

Amending Title 20, Chapter 525 of the Minneapolis Code of Ordinances relating to the Zoning Code: Administration and Enforcement.

The City Council of The City of Minneapolis do ordain as follows:

Section 1. That Section 525.40 of the above entitled ordinance be amended to read as follows:

525.40. Period of decision. (a) *In general.* No decision of the zoning administrator or planning director, or zoning approval granted by the city planning commission, board of adjustment or city council, except zoning amendments, shall be valid for a period longer than one (1) year from the date of such decision unless the building permit is obtained within such period and the erection or alteration of a building is substantially begun and proceeds on a continuous basis toward completion, or the use is established within such period by actual operation pursuant to the applicable conditions and requirements of such approval. The zoning administrator, upon written request, may for good cause shown grant up to a one (1) year extension to this time limit.

(b) *Additional extension*. Due to substantial and unforeseen changes in the residential marketplace, the zoning administrator may further extend the period of decision and compliance deadline an additional two (2) years for developments with five (5) or more dwelling units approved by the city planning commission or city council from June 1, 2005, to December 31, 2006. Prior to approval of such extension, a site maintenance and improvement plan shall be submitted for development that has begun (including abandonment or demolition of existing structures, site alteration, and/or commencement of new construction) but has not proceeded on a continuous basis toward completion. The zoning administrator may impose conditions and completion deadlines on any such plan as deemed reasonable and necessary to protect the public interest and to ensure that the construction site does not negatively affect nearby properties. The zoning administrator may revoke the extension based on failure to comply with such deadlines. The plan shall include, but shall not be limited to, the following:

(1) Right of way access and maintenance plan.

(2) Stormwater management and erosion control plans addressing the temporary condition.

(3) Temporary groundcover and/or landscaping.

(4) Site security plan.

(5) Fences and walls.

(6) Signs.

(7) Equipment storage.