

DIVISION 4. SITE PLAN REVIEW AND APPROVAL*

***State law references:** Site plans, MCL 125.584d.

Sec. 34-601. Statement of intent.

- (a) The purpose of site plan review is to ensure that each proposed development and its components, appearance, and function is in compliance with this article, other city ordinances, and state and federal regulations. It shall be the further purpose of this division to provide for consultation and cooperation between the land developer and the city in order to accomplish the developer's objectives in harmony with the existing and prospective use and development of adjacent properties. These purposes apply to development of previously unimproved sites; to the redevelopment, expansion, contraction or alteration of existing sites; and to the alteration or replacement of existing uses.
- (b) Further purposes of site plan approval shall include: privacy; efficiency for the public and local government servicing; preservation of the landscape; emergency access; effective drainage; vehicular and pedestrian safety and convenience; prevention of air, water and noise pollution; and limitation of obnoxious odors, glare, and exposure to toxic substances and wastes.
- (c) The site plan review procedures and standards in this division are intended to provide a consistent and uniform method of review of proposed development plans. Through the application of the following provisions, the attainment of the city master plan will be ensured, and the city will develop in an orderly fashion.
- (d) The provisions of this subsection shall apply in those instances where property within or abutting a CMD-1 or CMD-2 district may be affected by an adjoining or bordering development of land.

Recognizing the importance of a vibrant downtown with well-planned quality development, the downtown development authority has adopted a urban framework design plan (UFDP) for the city's downtown area. The creation of the CMD-1 and CMD-2 districts is based upon careful evaluation, study and an implementation plan for the UFDP. The goal of these districts is to transfer into reality the visions set forth by the UFDP which aim to preserve and enhance the "main street" character of Clawson with limited height structures, enhanced pedestrian traffic, reduced roadway access and mixed commercial and residential development and existing residential properties.

The creation of these districts proposes specific design elements for the downtown area to act as a unifying streetscape. Therefore, compliance with specific standards listed under the CMD-1 and CMD-2 district regulations shall be required in conjunction with any site development, redevelopment, alteration, expansion or reoccupancy of a building with the said districts. To the extent of impact on adjoining or bordering properties consideration shall also be given to the potential impact of air, light, open space, noise and hours of operation.

(Ord. No. 408, § 21.01(1), 7-21-1992; Ord. No. 647, 12-6-2005)

Sec. 34-602. Approval.

Site plan review required. A site plan shall be submitted to the planning Commission for review and approval for the following:

- (1) Any permitted or special land use within the city, except single-family detached and two-family dwellings and their accessory buildings and uses, including home occupations, as defined by section 34-481;
- (2) Any new construction, except single-family detached and two-family dwellings and their accessory buildings and uses including home occupations, as defined by section 34-481;
- (3) For the City Center district (also known as CMD-1), any use involving change of ownership of business, if the existing business does not have record of site plan approval from the planning commission and/or is not in conformance to the standards of the district as currently established in the chapter. For the purposes of this division, change of ownership shall not include transfer of ownership within a family (defined as "a basic unit in society traditionally comprising of one or two parents and their children") as part of inheritance of the business;
- (4) Any development or use for which submission of a site plan is required by any provisions of this article;
- (5) Any proposal to construct, move, relocate, convert or structurally alter a building, including accessory buildings, except single-family detached dwellings and their accessory buildings and uses. A structural alteration shall be defined as one that changes the location of the exterior walls and/or the area of the building;
- (6) Any use or development subject to the Michigan Condominium Act, Act 59 of the Public Acts of 1978, as amended;
- (7) Any proposal to fill, excavate, or grade land, or temporarily store fill, which involves more than 15 cubic yards of earth being disturbed in any one-year period, except for gardening or for construction for which a permit has been obtained.
- (8) Any change and/or conversion of use as permitted and regulated by this division that may result in an increase in the intensity of the use by means of moving the use from one use group to another. A use group is defined as a collection of various uses, all of which share similar characteristics (such as parking requirements, traffic generation rates, etc.) and are identified by the type of business and/or service they provide i.e., retail, education, office etc.

(Ord. No. 408, § 21.01(2), 7-21-1992; Ord. No. 625, § 3, 7-2-2002; Ord. No. 658, pt. I, 3-6-2007; Ord. No. 669, pt. I, 1-6-2009)

Sec. 34-603. Application submittal.

- (a) *Application form.* Every site plan submitted to the planning commission shall be accompanied by an application form as approved by the planning commission. Fees are required to be paid at the time of application based on the fee schedule in effect as

established by the city council.

- (b) *Site plan information.* Each submittal for site plan review shall be accompanied by a detailed site plan which shall consist of an accurate drawing, showing the entire site and all land within 100 feet of the site. The scale of the site plan shall be not less than one inch equals 50 feet if the subject property is less than three acres, and one inch equals 100 feet if three acres or more. If multiple sheets are used, each shall be labeled and the preparer identified. The following information shall be included:
- (1) Name of development and general location sketch; name, address and phone number of owner, developer, and designer; north arrow, scale, and date of original drawing and revisions; and a legal description and address of the property in question.
 - (2) The seal of one of the following professionals registered in the state: registered architect, registered civil engineer, registered landscape architect, registered land surveyor, or registered professional community planner. The architectural plans of the buildings shall be prepared by and bear the seal of a registered architect. A site plan for an alteration or addition to existing structures may be prepared by the builder or contractor.
 - (3) The area of the site in square feet and acres excluding all existing and proposed public rights-of-way. The site plan should indicate the dimensions of all lots and property lines, showing the relationship of the subject property to abutting properties. The boundaries of the subject property shall be clearly indicated on the site plan, differentiated from other contiguous property. If the parcel is a part of a larger parcel, boundaries of total land holding shall be indicated.
 - (4) Existing topographic elevations at two-foot intervals, including ground elevations of all existing buildings, drives and/or parking lots, and any adjacent unusual surface conditions. Indicate direction of drainage flow. For sites involving existing parking lot areas and structures with no new construction proposed, finished floor elevations shall suffice.
 - (5) Location and type of significant existing vegetation, including location of all existing trees over two and one-half inches in diameter. Indicate any significant site amenities and unique features.
 - (6) Existing land uses and zoning classification of the subject parcels and adjacent parcels.
 - (7) All required minimum setbacks from the existing or proposed right-of-way and from adjacent properties.
 - (8) The location and dimensions (length, width, height) of all existing and proposed structures on the subject property and all existing structures within 100 feet of the subject property. Also show the location and width of all existing public roads, rights-of-way or private easements of record, abutting streets, alleys, and driveway locations to abutting streets.
 - (9) For all proposed buildings, provide building height, floor plans and elevations, indicating architecture (front, rear and side facades) and barrier-free entranceways. For multiple-family residential developments, provide typical floor plans for each type of unit indicating principal entrances and service entrances,

relationship of typical unit within each structure, number and uses of rooms, including a breakdown of the number of one bedroom, two bedroom and three bedroom units. For nonresidential developments, provide a floor plan to scale indicating the interior layout of the building, what each room is to be used for, and the floor area of each room. Buildings built on speculation shall be so indicated when floor plans are finalized.

- (10) Proposed parking lots, including layout and typical dimensions of parking spaces, aisles, number of spaces provided (including parking calculations per ordinance standards), and type of surfacing.
- (11) Proposed traffic and pedestrian circulation patterns, both within the site and on the public streets adjacent to the site, and the proposed location and dimensions of required pedestrian sidewalks. Designate any loading and unloading areas, barrier-free access, fire lanes, and carports. Include the location of and dimensions of proposed streets, drives, curb cuts, and access easements, as well as acceleration, deceleration and passing lanes, if any, serving the development.
- (12) Proposed finish grade of buildings, driveways, walkways, and parking lots.
- (13) Proposed type of building materials, roof design, projections, canopies, overhangs, roof-located mechanical equipment (air conditioning, heating units, transformers etc.) that will be visible from the exterior, along with details of screening to be provided.
- (14) Proposed water service including any proposed tap-ins, main extensions or extensions for adequate fire hydrant spacing, and/or considerations for extensions to loop other public water mains. Indicate locations of existing and proposed fire hydrants with reasonable access for firefighting, police and other emergency equipment.
- (15) Proposed sanitary sewer facilities and location of all existing utilities, easements, vacations and the general placement of lines, manholes, tap-ins, pump stations, and lift stations.
- (16) Proposed stormwater management plan including location of sewers, outlets, and retention or detention ponds. Sufficient data shall be provided to permit review of the feasibility and permanency of proposed drainage patterns.
- (17) Location of all other utilities on the site including, but not limited to, natural gas, electric, cable TV and telephone.
- (18) Soil erosion and sedimentation control measures during construction.
- (19) Detailed landscaping plan indicating number, location, types and sizes of material. A landscaping maintenance plan and schedule for pruning, mowing, watering, fertilizing, and replacement of dead and diseased materials shall be provided. Cross sections of any berms shall be provided along with proposed methods for irrigating berms and greenbelts.
- (20) All proposed screening, fences and freestanding walls, including typical cross sections and the height above ground on both sides.
- (21) The dimensions and location of all signs, both wall signs and freestanding signs

and of lighting structures and shielding.

- (22) Location, size and specifications for screening of all trash receptacles and other solid waste disposal facilities.
 - (23) Location and specifications for any existing or proposed outdoor or belowground storage facilities.
 - (24) Easements for proposed public rights-of-way, utilities, access, shared access, and drainage.
 - (25) Notation of any variances which have been or must be secured; and any performance guarantees to be provided including amounts, types, and terms.
 - (26) Information and statement of how the applicant proposes to comply with state, local and federal laws, as applicable to the site or intended use. Indicate any permits that are required.
 - (27) Any additional information and special data which may be critical to the adequate review of the proposed use and its impacts on the site or city. Such data requirements may include traffic studies, market analysis, environmental assessments, including inventory and data on any hazardous materials to be used on the site, demands on public facilities and services, and estimates of potential costs to the city due to failures as a basis for performance guarantees.
 - (28) Other data which the planning commission may reasonably deem necessary for adequate review.
- (c) *Phased development.* For developments that are of a scale to warrant phased development, the phasing of construction shall be indicated. A detailed site plan need be submitted only for that portion of the property for which a building permit will be applied for. A general concept plan which clearly indicates the overall project intent may be submitted for the remainder of the site.

(Ord. No. 408, § 21.01(3), 7-21-1992; Ord. No. 658, pt. I, 3-6-2007)

Sec. 34-604. Criteria for granting site plan approval.

- (a) The following criteria shall be used by the planning commission as a basis upon which site plans will be reviewed and approved. The city shall adhere to sound planning principles, yet may allow for design flexibility in the administration of the following standards:
 - (1) The proposed site plan shall be in conformance with all provisions and requirements of this article.
 - (2) All elements of the site shall be harmoniously and efficiently designed in relation to the character of the proposed use and adjacent properties. The site shall be developed so as not to impede the reasonable and orderly development or improvement of surrounding properties for uses permitted on such property.
 - (3) The vehicular circulation features within the site and the location of vehicular parking areas shall be designed so as to ensure the safety and convenience of both vehicular and pedestrian traffic both within the site and in relation to access streets. The design of such features shall also promote satisfactory and

harmonious relationships between the development and adjacent land uses.

- (4) There shall be a pedestrian circulation system that is insulated as completely as possible from the vehicular circulation system. In order to ensure public safety, pedestrian underpasses or overpasses may be required in the vicinity of schools, playgrounds, local shopping facilities, and other uses that generate considerable amounts of pedestrian movement.
 - (5) All streets shall be developed in accordance with state subdivision regulations and county road commission specifications. The arrangement of public or common ways for vehicular and pedestrian circulation shall respect the pattern of existing or planned streets and pedestrian walkways in the vicinity of the site.
 - (6) All buildings or groups of buildings shall be so arranged as to permit convenient and direct emergency vehicle access.
 - (7) Appropriate measures shall be taken to ensure that site drainage will not adversely affect adjoining properties or the capacity of the public storm drainage system.
 - (8) Adequate services and utilities, including sanitary sewers and public water, and improvements shall be available or provided, with sufficient capacity to properly serve the development. No structure in a residential district shall be more than 300 feet from a fire hydrant, and no structure in a commercial or industrial area shall be more than 150 feet from a fire hydrant.
 - (9) A showing of compliance with all laws, regulations and ordinances governing fire and explosive hazards, toxic and hazardous materials, erosion control, barrier-free access requirements; and requirements of the state fire marshal. Site plan approval may be conditioned on the applicant receiving necessary state and federal permits before final site plan approval or an occupancy permit is granted.
 - (10) All development shall be subject to the requirements of the state building codes, liquor control commission (LCC) codes and all other state codes and/or requirements.
- (b) An objective of site plan review shall be to protect and to promote public health, safety and general welfare. The planning commission may require the screening, buffering and landscaping of sites and parking lots which will serve the following: reduce wind and air turbulence, heat and noise, and the glare of automobile lights; reduce the level of carbon dioxide and return oxygen to the atmosphere; prevent soil erosion; provide shade; conserve and stabilize property values; relieve the stark character of parking lots; conserve energy; provide visual and sound privacy; and otherwise facilitate the preservation and creation of a healthful, convenient, attractive and harmonious community.
- (c) It is an objective of site plan review to improve the quality of existing developments as they are expanded, contracted, redeveloped or changed in keeping with sound site development standards of the city and with the city master plan. An objective of site plan review is to encourage the design and construction of structures compatible with adjacent structures. It is also an objective to get a site plan approved for each site in the city for which a site plan is required.
- (d) A major objective shall be to retain, enhance and protect the quality, value and privacy of

residential land uses.

- (e) All development phases shall be designed in logical sequence to ensure that each phase will independently function in a safe, convenient and efficient manner without being dependent upon improvements of a subsequent development.
- (f) The proposed site plan must be in accord with the spirit and purpose of this article and not be inconsistent with or contrary to the objectives sought to be accomplished by this article and principles of sound planning.

(Ord. No. 408, § 21.01(4), 7-21-1992; Ord. No. 658, pt. I, 3-6-2007)

Sec. 34-605. Site plan approval process.

- (a) *Planning commission approval.* The city planning commission is authorized to review and approve, with or without conditions, or to review and deny approval, all site plans submitted under this article. Guidelines for consideration of each case shall follow this article and other applicable ordinances. When the planning commission approves a site plan with conditions, the applicant shall be required to submit a revised site plan with a revision date, indicating such conditions on the site plan.
- (b) *Record of action.* Each action taken with reference to site plan review and approval shall be duly recorded in the minutes of the planning commission.
- (c) *Final site plan.* When site plan approval is required, no building permit shall be issued until three copies of a final site plan, which includes all conditions of approval, a revision date and notation of all variances has been signed by the planning commission or its designee. Prior to issuance of a building permit, one copy of the final signed plan shall be filed with each of the following: clerk, building official and the applicant.

(Ord. No. 408, § 21.01(5), 7-21-1992)

Sec. 34-606. Issuance of building permit.

Complete construction plans including component phases shall be submitted for review by the building official. Upon review and finding that the construction plans meet with the requirements of site plan approval and other applicable ordinances of the city, a building permit for such construction shall be issued.

(Ord. No. 408, § 21.01(6), 7-21-1992)

Sec. 34-607. Effective period of site plan approval.

- (a) Site plan approval under this division is valid for a period of one year from the date of the approval. If an applicant is unable to obtain a building permit within one year after site plan approval, the site plan approval shall expire and is of no further force or effect, unless extended by the planning commission upon the request of the owner and/or applicant or their agent. Revocation of any approved site plan shall be communicated in writing by certified mail to the property owner at the expiration of one year.
- (b) Site plan approval, at the discretion of the planning commission, may be extended for a period not to exceed six additional months when the applicant or his agent or representative has made a substantial demonstration that construction could not have

commenced within the time frame of the original site plan approval.

(Ord. No. 408, § 21.01(7), 7-21-1992; Ord. No. 604, § 21.01(7), 8-18-1998)

Sec. 34-608. Conformity to approved site plan required.

- (a) Following approval of a site plan by the planning commission, the applicant shall construct the site plan improvements in complete conformity with the approved plan. Failure to do so is a violation of this article and subject to the sanctions of section 34-482.
- (b) Upon completion of the installation of required improvements as shown on the approved site plan, the property owner shall submit to the building department one copy of an as-built site plan, certified by an engineer or architect, at least one week prior to the anticipated occupancy of any building or occupancy. A certificate of occupancy shall be withheld by the building official in any case where the site plan and major conditions as approved by the planning commission have not been complied with. Any minor variations may be approved by the building official, and shall be reported within 30 days to the planning commission after the issuance of certificate of occupancy.

(Ord. No. 408, § 21.01(8), 7-21-1992)

Sec. 34-609. Consequences involving unauthorized changes to an approved site plan.

- (a) It shall be the responsibility of any applicant for site plan approval who subsequently determines that such an approved plan has been changed or needs to be changed from the approved plan to immediately notify the building official of such information. Before any change occurs, there must be an approval of that change by applying for relief under either section 34-605 or 34-611. Under such circumstances unless good cause is shown by the applicant, the additional costs incurred by the city and its consultants in reviewing such change and the need therefore, can in the discretion of the planning commission be assessed against the applicant.
- (b) In all other circumstances in which a change to an approved site plan has occurred without approval by the building official or the planning commission, the building official shall have authority to refuse to issue a certificate of occupancy or may deny public access to the property until such time as a hearing has been conducted before the planning commission which shall be held within 14 days after the action of the building official. At such a hearing, the applicant shall have the opportunity to show cause why such a change to an approved site plan was not approved by either the building official or the planning commission. After the presentation of information from the applicant and any other persons, the planning commission may do any or all of the following:
 - (1) approve the change without any costs or sanctions;
 - (2) Assess costs for the time spent by the city personnel, city consultants and legal counsel for the city in the preparation, and attendance at the hearing;
 - (3) Determine that all or a portion of the premises cannot be used because of the extent and nature of the unauthorized change and its impact on traffic, patronage; infrastructure and like considerations;

- (4) Deny the relief sought by the applicant;
- (5) Take such other action as may be authorized by law or statute.

(Ord. No. 408, § 21.01(9), 7-21-1992; Ord. No. 658, pt. I, 3-6-2007)

Sec. 34-610. Amendment of a site plan.

Any nonadministrative amendment to an approved site plan or an extension of time in which to commence building from an approved site plan shall be granted only upon the written agreement of the planning commission and the applicant.

(Ord. No. 658, pt. I, 3-6-2007)

Sec. 34-611. Administrative review.

In the following cases, the director of building and planning shall have the authority to approve a site plan without submission to the planning commission, but subject to all the criteria set forth in sections 34-603 to 34-604 hereof.

- (a) *Where applicable.*
 - (1) Accessory uses incidental to a conforming existing use where said use does not require any variance, further site modifications, special use approval and is not located on a nonconforming lot or structure.
 - (2) The conversion of an existing building from one permitted use to another permitted use within the same use group in the district provided the subject site is in conformance to the current ordinance standards, and has received site plan approval from the planning commission within the past 12 months of the date of the application.
 - (3) Provision for additional loading/unloading spaces, parking and landscape improvements as required by this article.
 - (4) Changes in use in a planned shopping center within the same use group, where off-street parking is not affected and a site plan has been approved within the past five years.
 - (5) Minor structural alterations to building intended to bring the building into compliance with the Americans with Disabilities Act requirements.
 - (6) Establishment of a home occupation as defined by and subject to the provisions of section 34-481.
 - (7) Change of use in a building within the City Center district where an existing building occupies the entire lot, and where minor external building façade or site changes are required or proposed, and parking is available off-site. All of the following changes shall be subject to administrative approval provided the changes are in conformance with the regulations and standards for the district as established in the section. Additionally, all such replacements and repairs shall be consistent with the vision of the city's master plan and design framework plan. All façade/site changes shall be reviewed by the city planner to verify compliance with the section

and to provide recommendations to the city administration. The administration reserves the right to grant final approval (with or without changes) or forward the proposed changes to the planning commission.

Minor façade changes shall include the following:

Cleaning and painting/repairing;

- Repair of existing exterior building material with similar materials only;
- Replacement or repairs of existing doors and windows;
- Replacement or repairs to existing awnings;
- Replacement of light fixtures;
- Restoration of original building architectural features (as supported by historical data);
- Replacement of existing signage;
- Installation of new signage;
- Removal of nonconforming signage;
- Addition of landscape elements such as planter boxes etc.;
- Addition of outdoor patio/café area;
- Installation of streetscape improvements such as benches, art pieces etc.

(8) Change of use in a "development-ready" building i.e., an existing building within the City Center district that has received site plan approval from the planning commission and is in conformance to the design criteria set forth in section 34-1146.

(b) *[Major façade changes.]* Major façade changes, including but not limited to the following, shall be subject to full site plan review and approval by the Planning Commission:

- Installation of new window and door openings where not previously existing;
- Remodeling of upper story facades, if not already approved by planning commission;
- Installation of new awnings or other window/doorway details not previously existing;
- Change of exterior building materials;
- Other changes not noted above, that would alter the appearance of the entire building.

(c) *Information required.* The director of building and planning shall require all applicable criteria set forth in sections 34-603 and 34-604 hereof to be met, and shall also have the authority to waive information required in section 34-603 hereof which is not necessary to determine whether site plan review requirements have been met. The director of building and planning shall also

have the authority to refer any site plan eligible for administrative review under section 34-611 hereof to the planning commission and/or any consultants employed by the city for the purpose of supplementing or initiating a site plan review.

- (d) Fees for administrative review shall be established by resolution of the city council which may assist in the reimbursement of consultant fees and time expended by the director of building and planning.

(Ord. No. 658, pt. I, 3-6-2007; Ord. No. 669, pt. I, 1-6-2009)

Sec. 34-612. Soil boring, bearing capacities and plot plans.

Accompanying any site plan required hereunder, the applicant shall provide from a licensed engineer soil borings at the proposed construction site to ascertain bearing capacity of foundations soils at the time of footing excavation to certify such soil conditions meet or exceed design capacity of the foundation to support the proposed structure. These requirements shall comply with policies of the city, copies of which can be obtained from the building department.

On residential properties soil bearing capacity test shall be done during the foundation excavation before the actual pouring to avoid any structures from sinking.

Accompanying the construction of any residential or commercial site, there shall be provided to the building department plot plan depicting water run off considerations for that particular site. Such information shall be compiled as required under the policies of the city, copies of which can be obtained from the building department. No certificate of occupancy shall issue until a grade certificate has been issued by the city or the city engineer has approved the submitted plot plan.

(Ord. No. 682, pt. III, 12-15-2009)

Sec. 34-613. Show-cause hearing.

Any situation in which there has been a deviation from an approved site plan, a violation of the landscape maintenance agreement (LMA), any policies or construction under which there has been no submittal of a required plot plan or soil boring plan, the building department may issue a citation for correction or a show-cause order requiring the applicant/owner/occupant to appear at a particular time and date before the Clawson Planning Commission to then and there show cause why sanctions should not issue as provided herein. At that hearing the party who has been show caused shall present evidence and witnesses to show there has been no violation of the site plan or the ordinances of the city. The city may present contrary evidence and after such submission, the planning commission shall make its decision of whether a violation has occurred or is excused. Upon any finding a violation has occurred of an approved site plan, any policies or any of the ordinances of the city, the planning commission may issue the appropriate sanction consisting in part but not limited to, the imposition of costs, fees and attorney fees incurred by the city in such a proceeding; requiring correction of the noncomplying act within a defined time period and at the expense of the applicant/owner/occupant; or may issue its order declaring the property to be vacated until such corrections are made and approved by the building department.

(Ord. No. 682, pt. III, 12-15-2009)

Secs. 34-614--34-630. Reserved.