

## January 5 CPC Public Hearing Summary

On January 5, 2023, the City Planning Commission held a new public hearing on the subject request as proposed within the draft text amendment ordinance dated December 14, 2022. Please see the attached copy of the public hearing notice containing a summary of the draft ordinance as published for the January 5 public hearing. At the January 5 meeting, staff presented Commissioners and the public with a summary of the proposed text amendment and supporting information contained in the staff report. Below is a summary of this discussion. See Public Comment – Speaker 3 for a summary of the minimal updates that were requested and occurred to proposed amendment following the January 5 meeting.

### Commissioner Discussion

Below is a summary of the main points of Commission discussion.

#### Financial Impacts:

- Commissioners asked if there are any existing financial incentives that the city offers to property owners to offset the cost of improvements such as required screening or upgrades to fencing.
  - **Staff response:** *Staff is not aware of any existing city programs that are used specifically to fund site improvements to screening or fencing. If a development project is eligible for financial assistance from the city, state, or another agency, that reduces the overall cost of a project to the developer and any financial assistance could be factored into the cost of site improvements that may be required.*
- Commissioners requested an estimated cost breakdown of the four buffer types proposed to be required.
  - **Staff response:** *P&DD staff produced sample cost estimates that were presented at the January 19 meeting, see slide 24 of the attached January 19 presentation.*

#### Compliance and Permitting:

- There was a general discussion on the compliance and permitting process managed by BSEED, including compliance for existing fences that may be failing and how the proposed text amendment would be implemented through the permitting process.
- Additionally, the second speaker during the public hearing requested that any business that is found to be in violation of the fence standards of the City Code, which includes the ZO, be required to correct the violation using the standards within the proposed text amendment.
  - **Staff response:** *Chapter 8, Article XV, of the City Code, Property Maintenance Code, includes the following requirements:*
    - *Section 8-15-108: “Fences shall be maintained in good repair”*
    - *Section 8-15-201: “All exterior surfaces, including fences, shall be maintained in good condition and be free of broken, crumbling, loose, missing, rotting, or inadequately finished materials” with additional standards specific to materials.*
  - *Under Section 8-15-108, it should be noted that while this section requires existing fences to be maintained, it does not specify fence material or height standards under the Property Maintenance Code as these standards are under the ZO. This is an intentional separation of property maintenance standards (grouped with the Building Code) and zoning standards within the City Code.*
  - *Currently, the ZO does not specifically address how existing fences that may not conform to current or proposed standards for material or height should be treated*

*when they are being maintained, extended, or otherwise altered. This lack of direction is not necessarily a flaw as it allows BSEED to work with property owners on a case-by-case basis to correct fence violations that may only be occurring on a portion of a site.*

- *However, if it is the desire of City Council to specifically address fences that may become nonconforming under the proposed text amendment, staff could consult with the Law Department to explore potential avenues to address the maintenance, repair, and/or replacement of fences that do not conform to the proposed standards. This type of requirement is not currently included in the proposed amendment and staff has not fully vetted this option with BSEED or the Law Department for administration or legality under Michigan zoning law.*

Other:

- Commissioners asked if there is a total available of the number of sites the proposed text amendment would apply to.
  - **Staff response:** *Staff does not believe that an accurate total number of sites that are currently required to provide screening could be produced easily based on city records and the large number of commercial and industrial sites within the city. For example, there are over 1,000 records of permits or business licenses for locations with auto-related uses in the city. While we have access to detailed records of auto-related uses, other uses that would be impacted by this proposed amendment, such as “wholesaling, warehousing, storage buildings, or public facilities,” are not as closely tracked by location. These additional non-auto uses complicate the ability to create an accurate total number or list of sites that would be impacted by the proposed amendment. Lastly, the current and proposed requirement that certain site features be screened, such as loading docks or open/outdoor storage areas, make it very difficult, if not impossible, to create an accurate list of applicability as there are an unknown number of sites within the city that currently have these or other site features that currently require screening.*
  - *However, it is possible for staff to accurately provide the total number of specific land uses that would be impacted by the proposal as a proportion of all specific land uses addressed by the Zoning Ordinance:*
    - *The ZO currently provides five Use Categories (Residential; Public, Civic and Institutional; Retail Service and Commercial; Manufacturing and Industrial; and Other) that contain at least 240 specific land uses that are used to administer zoning.*
    - *Of these 240 specific land uses, only nine currently require screening.*
    - *The proposed text amendment would add four specific land uses for a total of 13 specific land uses out of 240 that would be required to provide screening, this equates to five percent of all specific land uses.*
    - *These 13 specific land uses currently occupy an unknown number of sites within the city. As there are over 1,000 records of permits or business licenses for locations with auto-related uses in the city, which are specific land uses that are included in the 13, it is very likely that these 13 specific land uses occupy significantly greater than five percent of all land within the city that is currently zoned to permit these 13 specific land uses. This highlights the importance of zoning for these uses given that they are so widespread within the city.*
- Commissioners noted that there is an opportunity for the city to lead by example by implementing the proposed standards through city departments involved with maintaining and

improving city-owned property.

- **Staff response:** *Staff agrees that the city can lead by example on the issue of required screening and fencing standards. One example of meeting the intent of the proposed fencing standards is the ongoing construction of the Joe Louis Greenway project being led by the City. The first segment of the Greenway that has been completed passes through an area that includes some industrial and auto-related uses along and within view of the Greenway. Below is an image of the type of fencing that has been installed along both sides of the first segment. One purpose of this fencing is to screen and enclose the Greenway from adjacent sites that may not have been previously screened or fenced off from the corridor now being developed for the Greenway. The type of fencing material installed in this example would be classified as “welded wire, woven wire, louvered, or die-cut metal panels” in the proposed standards table. While this type of fencing is similar in design and classification as chain link fencing would be under the proposed standards, this type of fencing is a good example of a newer fencing style that is similar to chain link fencing but has a more durable appearance and construction, is more secure than chain link fencing, and provides some level of screening properties adjacent to the Greenway without using a completely solid fence or wall.*



*Joe Louis Greenway Fencing*

- Commissioners also desired that the city be proactive with notifying affected property owners should the proposed amendment be adopted. This could include mailing a letter or brochure to industrial property owners that summarizes the impact of the text amendment.
  - **Staff response:** *If adopted, staff will explore opportunities to proactively notify property owners of the changes, weighing the time and cost of creating and distributing communication materials. Staff will also continue to work with BSEED and the DEGC to see if we can leverage any existing contact lists or programs they have to spread the word.*

#### Public Comment

Four meeting attendees spoke during the public hearing. Below is a summary of comments.

- Speaker 1 stated their primary concern is what’s occurring behind fences. The Commission requested that staff meet with the first speaker to understand their general land use concerns better. Information to contact CPC staff was provided to the speaker, no communication has yet been received from the speaker.
- Speaker 2: See Commissioner Discussion – Compliance and Permitting
- Speaker 3 requested that two additional transportation-related uses, including school bus storage lots and ambulance staging, be added as a specific land use that requires screening.
  - **Staff response:** *Staff agrees with this request as “open areas for the parking of semi-trailers, buses, and other operable commercial vehicles, not including limousines and taxicabs” is currently included as part of the specific land use term definition that currently requires screening per Section 50-12-355. However, the full list of uses in the ZO definition is not carried through into Section 50-12-355 where the screening requirement is located, which implies that these uses not listed would not currently require screening unless they are spelled out in this section. Staff believes this is a ZO organizational oversight. The draft ordinance has been updated to clarify that these uses, listed in subsection (d) of this section, and site features require screening. This clarification is the main update that has occurred to the draft text amendment ordinance considered at the January 5 meeting.*
- Speaker 4 asked how the proposal would impact motor vehicle filling (gas) stations and screening of Interstate Highways.
  - **Staff response:** *Section 50-12-267 currently requires screening for motor vehicle filling station buildings when facing, abutting, or adjacent to residential. This existing requirement for screening is maintained within the proposed amendment.*
  - *No part of the proposed text amendment would impact or require that screening be installed within the rights-of-way of the Interstate Highway System as rights-of-way are legally exempt from zoning. Within Michigan, these areas are maintained and improved by the Michigan Department of Transportation (MDOT), which may contract with private companies for this work.*
  - *However, this spring MDOT is set to enter into a three-year agreement with the City to allow the city to manage and improve the appearance of highway rights-of-way (including on-ramps, off-ramps, embankments, service drives, and other adjacent areas) with MDOT reimbursing the city for maintenance work. This temporary switch in management from MDOT to the City would allow the City to manage and increase the number of grass cuttings, and would allow the City to install new trees, gardens, and fencing to beautify highways in advance of Detroit hosting the National Football League draft in the spring of 2024. (Source: Livengood, Chad. “Livengood: Duggan wants to clean up Detroit freeways. Have at it, MDOT says.” The Detroit News, Jan. 14, 2023).*