



A COMMUNITY OF CHOICE

Planning and Development Department

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MEMO

To: Honorable Mayor Patrick Collins and Members of the City Council
From: Charles Bloom, AICP, Planning and Development Director
Subject: Substitute Ordinance - An ordinance amending the Unified Development Code (UDC) to create a Common Landscaping Plan and definition of Development Footprint.
Date: April 1, 2022

Background:

The item for consideration is a **UDC Text Amendment**. This item was introduced on February 14, 2022, and was postponed on third readings on March 14, 2022, and March 28, 2022, to allow for preparation of a substitute to address development community concerns.

The proposed substitute ordinance incorporates the prior amendment of requiring a minimum eighty-acre size for common landscape plan eligibility, adds a new definition for decorative fence (Section 2 of the substitute ordinance), and replaces section 3 with new text for better understanding and workability.

In working with the modifications to the Common Landscape Plan, Palma Land Planning created several drafts illustrating potential landscape plans that could result from the code as drafted. The latest concept plan is attached and is based on this proposed revision. Staff notes this plan meets the proposed requirements under the assumption that all internal tree points were transferred to street frontages. Typically, not all internal tree points will be transferred to the right-of-way. In the event they do not qualify for transfer, internal trees are encouraged to be planted in parking lots, near main entrances, and employee gathering areas. In conjunction with a landscape plan submittal, a written narrative will be required detailing how the internal landscape tree requirements will be met or if they will be transferred to other areas, in whole or in part.

Summary of Changes:

New definition

Decorative Fence. A fence constructed out of materials such as wood, stone, or metal, or a combination thereof, primarily for aesthetic purposes to enhance the appearance of a property and generally not obstructing the visibility into or out of a property. A decorative fence shall not include chain link, wire, snow fences, or a standard wooden or vinyl privacy fences."

Common Landscape Plan Changes

Below is a detailed comparison of changes made to the ordinance. These changes were formulated after multiple meetings with staff and several members of the development community. All changes below are reflected in the proposed substitute ordinance.

Notable changes include:

- Increasing the ability to locate street trees within one-hundred feet of the right-of-way.
- Allowing pine trees to substitute some street trees.
- Increased the administrative tree reduction percentage from 20% to 25% subject to payment of an in-lieu fee to be used for other tree planting in the City.
- Establishing a lot coverage basis based on lot size (Table 6.13.1).
- Allowing up to 25% of required trees to be substituted for other non-tree items (subsection e. and Table 6.13.2) like wayfinding signs, decorative fences, and large boulders.
- Modification to the UDC general tree-diversity requirements to a level more appropriate for large 80+ acre developments that utilize this option.

Tracked Changes:

“6.3.10 Common Landscape Plan

As an alternative to individual site landscaping, developments of eighty (80) acres or larger in Light Industrial (LI) and Heavy Industrial (HI) zoning districts may submit a ~~common~~Common landscape plan that would contribute to uniformity of a ~~development's~~Development Area's collective appearance. Common landscape plans shall focus on providing landscaping that is beneficial to the public, consistent with the general landscape character and context of the area, creative urban design, and water conservation. Common landscape plans shall be administratively approved by the Director.

a. **Submittal Requirements.** -Applications for a common landscape plan may be initiated by all property owner(s) of all property subject to the common landscape plan, or an agent or entity authorized by all property owner(s) through mutual agreement or a property owner's association.

b. **Application, Submittal, and Phasing.** An applicant shall submit a conceptual common landscape plan, prepared by a licensed landscape architect, for the entire development based on ~~presumed development footprints for the plan area. Table 6-13.1 for the plan area and a project narrative detailing the landscape plan approach and proposed uses within the development.~~ Installation of landscaping may be developed in phases and the developer shall submit phasing plan in conjunction with submittal of common landscape plan. -Phasing plans shall show general locations of landscaping, materials, plantings, groundcover, anticipated development footprints, and any transferred points within the plan area. -As development occurs ~~on lots within the development area~~, site / landscape plans shall be submitted and reviewed by the City to determine that each site meets the intent of the common landscape plan.

c. **Common Landscape Plan Standards.** -The landscape standards of Chapter 6.3 of the UDC shall apply, except as set forth below.

1. **Required Internal Landscape Area.** The Required Internal Landscape Area of Section 6.3.3 shall be ten (10) percent of the development footprint.
~~calculated pursuant to Table 6-13.1.~~ Required internal landscaping may be

transferred to other areas within the area subject to the plan. ~~The use of required internal landscape trees within and adjacent to parking areas and as an addition to required street trees, is encouraged. Required internal landscape is encouraged to be placed in the most highly visible and used areas in the development, such as at critical intersections, along streets and highways, entry monumentation, parking areas, building entrances, employee gathering areas, sites heavily-trafficked by the general public, and Service, Employment, and Commercial Use development sites within the plan boundary.~~

2. Street Trees and Tree Boulevards. The Street Tree standards of 6.3.6 shall be adjacent to arterials, collectors, local streets, and interstates subject to City Forestry's standards for street trees and the Street Design Standards of Section 4.3, at the rate of one tree per sixty (60) feet of street frontage. Street trees ~~shall may~~ be proposed in the adjacent public right-of-way or ~~seventy-five (75)~~within one hundred (100) feet of the property line adjacent to a street right-of-way ~~if circumstances unique to the site prevent. In the event an easement restricting the placement~~planting of ~~street~~ trees exists within the ~~right~~ boulevard area, the distance may be increased in an amount equal to the width of the easement. Street trees may be substituted with large growing evergreen trees provided they do not interfere with necessary sight distance requirements. Street trees are encouraged to be clustered at or near intersections, rather than evenly spaced.

3. Development Footprint Basis. The Development Footprint shall be calculated based on the area of each individual lot in the development, as shown in Table 6-13.1 below. Development Footprints may be adjusted based on site constraints, such as topography, easements, Natural/Cultural Resource Areas identified in PlanCheyenne, or similar, that precludes developing portions of constructed lots. A determination of land area adjustments shall be at the discretion of the Director.

| Table 6-13.1 Development Footprint Basis | |
|--|------------------------|
| Size | Lot Coverage Basis |
| <u>Less than 5 acres:</u> | <u>90% of Lot Area</u> |
| <u>5 acres to less than 10 acres:</u> | <u>75% of Lot Area</u> |
| <u>10 acres to less than 25 acres:</u> | <u>60% of Lot Area</u> |
| <u>Greater than 25 acres:</u> | <u>50% of Lot Area</u> |

d. Tree Reduction and Relief of Requirements Allowance.

a. Up to a twenty ~~(20-~~five (25) percent reduction of the required number of internal and/or street trees may be granted by the Director based on specific site conditions and to best meet the development's collective appearance. If a tree reduction is approved:

1. A per tree monetary donation shall be made by the applicant to the City, for every tree reduced, to be deposited in a specific fund for use in purchasing and

installing trees for the Greater Cheyenne Greenway and other City lands, including but not limited to, open spaces, park areas and rights-of-way.

2. The City Forester shall determine the monetary donation per tree yearly on January 1st of each year, based on the average wholesale and installation cost of trees from three regional ~~wholesale nurseries~~landscape contractors. This fee shall be in effect for the calendar year and be available to the public.
3. A per tree monetary reduction can count toward the point system as a new tree.

e. Substitutions for Required Trees. Up to twenty-five (25) percent of required trees (street and internal trees) may be substituted at the quantities and rates below:

| Table 6-13.2 Tree Substitution Equivalent | | |
|--|---|---|
| Substitute Item | Rate | Quantity Required to Replace Single Tree |
| <u>Large Shrub > 10' height at maturity</u> | <u>Per plant</u> | <u>2</u> |
| <u>Medium Shrub 4' – 10' height at maturity</u> | <u>Per plant</u> | <u>4</u> |
| <u>Small Shrub < 4' height at maturity</u> | <u>Per plant</u> | <u>8</u> |
| <u>Ornamental Grasses & Perennials</u> | <u>Per ornamental grasses or perennials</u> | <u>10</u> |
| <u>Wayfinding Sign(s)</u> | <u>Per 40 sq. ft. combined face area</u> | <u>1</u> |
| <u>Monument Sign Identifying Development</u> | <u>Per 100 sq. ft. face area.</u> | <u>1</u> |
| <u>Decorative Fence</u> | <u>Per 200 lineal feet</u> | <u>1</u> |
| <u>Specimen landscape boulders > ½ ton each</u> | <u>Per ½ ton</u> | <u>1</u> |
| <u>Others (e.g.: Art, gateway features, etc.).</u> | <u>Determined by the Director based on financial investment</u> | |

f. Tree Species Diversity. As an alternative to UDC 6.3.7.d, Tree Species Diversity, developments utilizing a common landscape plan may incorporate the following:

1. A minimum of two deciduous species from different genera with each genus not to exceed thirty (30) percent of the total tree count of the area covered by the plan, and
2. A minimum of two evergreen species from different genera not to exceed thirty (30) percent of the total tree count of the area covered by the plan.

d.g. Review Criteria. In reviewing, providing comments, and making decisions on a proposed common landscape plan, the Director shall use the following criteria:

1. The proposed alternative design achieves the intent of the subject design standard to the same or better degree than the subject standard; achieves the goals and policies of PlanCheyenne to the same or better degree than the subject standard;

- and results in benefits to the community that are equivalent to or better than compliance with the subject standard; or
2. The required landscaping on each lot is not practical because of location, topographic, or site constraints while the alternative design can accommodate site-specific issues.
 3. The plan represents a logical phasing plan for the development.
 4. Adequate utilities exist to serve the landscape elements detailed in the plan.
 5. The plan shall not place an undue fiscal burden on the City or other public entities.
 6. An entity has been identified for maintenance of common landscape plan elements and any necessary agreements can be executed within sixty (60) days of approval.
 7. Incorporates an area of at least eighty (80) ~~contiguous~~ acres. - For the purposes of area calculation, intervening rights-of-way shall be included in the measurement.
 8. The plan is prepared by a licensed landscape architect.

h. Amendments and Alterations. Amendments to the common landscape plan may only be initiated with the consent of all property owner(s) of all property subject to the common landscape plan or an agent or entity authorized by all property owner(s) through mutual agreement or a property owners' association.

e.i. Recording and Approval. Following approval of a Common Landscape Plan, the Director shall sign the plan and the applicant shall then record the plan on each affected lot or parcel in the office of the County Clerk and be responsible for any associated fees. The applicant shall provide a copy of the recorded plan to the Director prior to issuance of any building permits.

f.i. Abandonment of Plan. In the event the applicant wishes to abandon the approved Common Landscape Plan, the Director must determine that abandonment of the plan is not detrimental to the plan area and that the applicant has taken reasonable and necessary steps to mitigate any non-conforming site conditions on existing sites in the plan area. Requests for abandonment may be initiated by the Governing Body, the Director, by all property owner(s) of all property subject to the common landscape plan, or an agent or entity authorized by all property owner(s) through mutual agreement or a property owner's association. Upon Director determination that abandonment is acceptable, the Director shall sign any necessary releases to be filed with the office of the County Clerk."

Staff Recommendation:

Staff recommends approval of the substitute ordinance.

Attachments:

1. Substitute Ordinance
2. Concept Plan – Bison Business Park

ORDINANCE NO. _____

ENTITLED: "AN ORDINANCE AMENDING THE UNIFIED DEVELOPMENT CODE (UDC) TO CREATE A COMMON LANDSCAPING PLAN AND DEFINITION OF DEVELOPMENT FOOTPRINT."

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF CHEYENNE, WYOMING:

Section 1. That the Governing Body of the City of Cheyenne finds that the text amendment that is the subject of this ordinance meets the criteria specified in Section 2.4.1.d of the UDC.

Section 2. That the intent of this text amendment is to create a common landscaping plan and definition of development footprint.

Section 3. That on February 26, 2022, the Planning Commission conducted a public hearing, reviewed the proposed text amendment, and recommended approval of said text amendment with modifications.

Section 4. That Section 1.4.3 of the UDC is amended to add the following definitions:

"Decorative Fence. A fence constructed out of materials such as wood, stone, or metal, or a combination thereof, primarily for aesthetic purposes to enhance the appearance of a property and generally not obstructing the visibility into or out of a property. A decorative fence shall not include chain link, wire, snow fences, or a standard wooden or vinyl privacy fences."

"Development Footprint. The development footprint is the total land area that is permanently affected by development activities, and includes buildings, structures, hardscape, utilities, roads and parking areas, maneuvering areas, storage areas, areas associated with the use on the property, and areas cleared of natural vegetation and topsoil."

Section 5. That Section 6.3.10, is created to read as follows:

6.3.10 Common Landscape Plan

As an alternative to individual site landscaping, developments of eighty (80) acres or larger in Light Industrial (LI) and Heavy Industrial (HI) zoning districts may submit a Common landscape plan that would contribute to uniformity of a Development Area's collective appearance. Common landscape plans shall focus on providing landscaping that is beneficial to the public, consistent with the general landscape character and context of the area, creative urban design, and water conservation. Common landscape plans shall be administratively approved by the Director.

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purchasing and installing trees for the Greater Cheyenne Greenway and other City lands, including but not limited to, open spaces, park areas and rights-of-way.

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- g. ***Review Criteria.*** In reviewing, providing comments, and making decisions on a proposed common landscape plan, the Director shall use the following criteria:

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2. The required landscaping on each lot is not practical because of location, topographic, or site constraints while the alternative design can accommodate site-specific issues.

3. The plan represents a logical phasing plan for the development.
 4. Adequate utilities exist to serve the landscape elements detailed in the plan.
 5. The plan shall not place an undue fiscal burden on the City or other public entities.
 6. An entity has been identified for maintenance of common landscape plan elements and any necessary agreements can be executed within sixty (60) days of approval.
 7. Incorporates an area of at least eighty (80) acres. For the purposes of area calculation, intervening rights-of-way shall be included in the measurement.
 8. The plan is prepared by a licensed landscape architect.
- h. *Amendments and Alterations.*** Amendments to the common landscape plan may only be initiated with the consent of all property owner(s) of all property subject to the common landscape plan or an agent or entity authorized by all property owner(s) through mutual agreement or a property owners' association.
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- j. *Abandonment of Plan.*** In the event the applicant wishes to abandon the approved Common Landscape Plan, the Director must determine that abandonment of the plan is not detrimental to the plan area and that the applicant has taken reasonable and necessary steps to mitigate any non-conforming site conditions on existing sites in the plan area. Requests for abandonment may be initiated by the Governing Body, the Director, by all property owner(s) of all property subject to the common landscape plan, or an agent or entity authorized by all property owner(s) through mutual agreement or a property owner's association. Upon Director determination that abandonment is acceptable, the Director shall sign any necessary releases to be filed with the office of the County Clerk.”

Section 6. The aforementioned sections of the UDC are hereby amended as set out within this ordinance and sections currently existing within the UDC not set out within this ordinance remain unchanged.

Section 7. Sections, paragraphs, sentences, clauses and phrases of this ordinance are severable. If any section, paragraph, sentence, clause, or phrase of this ordinance is declared unconstitutional, such unconstitutionality shall not affect any of the remaining sections, paragraphs, sentences, clauses, and phrases.

Section 8. That this ordinance shall be in full force and effect upon approval and publication.

FIRST READING:

SECOND READING:

THIRD AND FINAL READING:

PATRICK COLLINS, MAYOR

(SEAL)

ATTEST:

KRISTINA F. JONES, CITY CLERK