

ITEM #:	<u>38</u>
DATE:	<u>06-11-24</u>
DEPT:	<u>P&H</u>

COUNCIL ACTION FORM

**SUBJECT: &NBSP;ZONING TEXT AMENDMENT TO ALLOW FOR PLANNING
DIRECTOR APPROVAL OF 20% ALTERNATIVE DESIGN ADJUSTMENTS
TO GENERAL AND BASE ZONE DEVELOPMENT STANDARDS**

BACKGROUND:

The City Council initially referred to staff a review of planning permitting processes and the history of zoning text amendments. A staff report describing the review authority, permitting processes, and zoning text amendments was presented to the Council on November 14, 2023. **The requirements of zoning are primarily defined locally, but once established, state law governs how to amend standards or to grant variances and exceptions to zoning standards. Zoning by its nature is typically not flexible in its application and requires ordinance changes to modify requirements. Because of this, the City has amended the Zoning Ordinance 42+ times in response to developer-initiated issues since 2015.**

In recent months the City Council has set a goal of providing more flexibility and options for development. Part of the focus of the goal of flexibility is to allow for some variations of standards to help development projects move forward when it does not conflict with other City standards or to improve conditions for the site. Council directed staff to solicit developer feedback regarding development issues and report back on options for changes to zoning.

City staff reported back findings from developer outreach efforts on March 18th regarding specific development standards and the potential value of a 20% alternative design option to allow for adjustments to certain numeric standards. **At the March 18th City Council meeting, the City Council directed staff to prepare an ordinance for allowing an administrative exception process (alternative design) that permits up to a 20% allowance to deviate from the numeric standards of Base Zones, certain other Special Purpose and Overlay zones, and the Article 4 development standards.** (See Attached Summary Chart).

DEVELOPMENT STANDARDS:

Under state law, a variance to zoning standards is a process of providing relief for a hardship to a specific property, and it is a responsibility of the Zoning Board of Adjustment to approve or deny such an application based upon formal criteria. **However, zoning for “use” can be distinguished from building and site development standards within in a zoning ordinance, and an exception or alternative approval process can be utilized differentiated from a true variance.** Currently, the City has some minor exceptions (parking dimensions, setbacks encroachments, etc.) that are reviewed by the Zoning Board of Adjustment. Staff has minimal discretion to vary from any development standards.

As a result of this distinction, the proposed ordinance is written to apply to only identified development standards and as an Alternative Design approval process. This process can be applied to any site development plan or zoning permit, but the adjustment must be approved in writing by the Planning Director. This means that it is a case-by-case review of the request, and it is not a unilateral 20% reduction of all standards for all existing sites and future sites.

The City's Zoning Ordinance identifies uses and development standards by both zoning district and as general standards applicable to all sites. Generally, the City uses Base Zones for the majority of the City and uses specialized overlays and special purpose districts for unique areas to address more specific or unique issues. **A large part of development review process is guided by the tables in the base zone standards for setbacks, design standards, lot coverage, storage area, etc.**

The general development standards in Chapter 29, Article 4 in the Ames Municipal Code address issues that apply city-wide, generally independent of individual zoning districts. These issues relate to fences, screening, parking, landscaping, accessory buildings, and other individual requirements. See Attachments B & C for a summary of the numeric design items in both the Base Zones and Article 4 General Development Guidelines. The Base Zones and Article 4 of the Code often end up determining the majority of site layout as well as the restrictions that guide how elements of the site are developed.

The draft ordinance (Attachment A) identifies which types of standards can be adjusted and a specific list of issues that are not eligible. Non-eligible requests include fence height, density, Accessory Dwelling Units and Duplex standards, lighting output, rock size in Campustown Service Center, building story limitations, and certain parking/driveway location and design requirements for vehicle maneuvering.

As part of background research, staff reviewed other cities in Iowa to see what options they offered for flexibility. Cities such as Des Moines, Cedar Rapids and Iowa City have allowances for deviations or waivers of a given amount to be issued Administratively by staff. This analysis indicated that the 20% adjustment allowance is a common practice.

ALTERNATIVE DESIGN PROCESS:

The draft ordinance includes some minor changes to Article 1 and Article 3 of the Zoning Code to help define the authority for 20% adjustment process. The permitting criteria themselves are part of Article 15, Site Development Plan Permit process. **(See new Section 29.1502(7)) The proposed permitting process requires Planning Director consideration of general criteria to ascertain that a need for the adjustment exists or the alternative design is equal to or better than the current standards. The process will be administered through staff approvals. If a project requires a hearing, the same 20% allowance will be available for approval by the respective approval authority of a site development plan if it is not staff.**

Importantly, the approval of design alternative must be in writing by the Planning Director and accompany the actual permit approval for a project. This means that an applicant cannot just choose to adjust the plan in the field without conforming to the approved standards and the approved permit. Although staff will provide for a preliminary determination process to assist applicant early in the process, the approval of an alternative will only be valid with approval of an actual Zoning Permit or Site Development Plan Permit. If the alternative design is not approved by the Director, the typical appeal process related to the permit type will apply.

The draft ordinance allows for any remainder of a whole numeric number related to a unit, such as a parking space, to be rounded to the nearest whole number to the benefit of the applicant. For example, a 0.3 reduction of parking spaces would mean 1 space reduction.

As a result of staff review of other sections that are not included in this process, staff proposes to

relocate the drive thru separation standard to Article 4 from Article 13 to allow it to be part of the alternative exception process.

Ultimately, nothing in these new standards will change the authority of the Zoning Board of Adjustment with regard to existing Exceptions, Variances, Minor Area Modifications or Special Use Permits.

PLANNING & ZONING COMMISSION RECOMENDATION:

At the May 15th Planning & Zoning Commission meeting the Commission reviewed and discussed the proposed standards and general draft language. The Commission reviewed and discussed two separate options for how the ordinance could be structured. The first Option was the proposed approval criteria and standards that are being considered by City Council in this report. The second Option was to narrow the range of adjustments and provide a specific list of standards that could qualify and as a result minimal review criteria. After discussion of the intent of the changes, the Commission ultimately determined that Option 1 providing for more distinct criteria and a broader range of standards was most appropriate.

The Planning & Zoning voted 4-0 to recommend the City Council adopt the proposed standards.

ALTERNATIVES:

1. City Council can approve on first reading an ordinance that establishes criteria for considering a 20% alternative design for specified base zone and numeric development standards of Article 4 as outlined in the attached draft ordinance.
2. City Council can direct staff to modify the requirements for the 20% alternative design process or standards and approve the ordinance on first reading.
3. City Council could take no action to approve the draft ordinance and direct staff how to proceed.

CITY MANAGER'S RECOMMENDED ACTION:

Based upon City Council's intent to create additional flexibility within the Zoning Ordinance balanced with maintaining the positive elements of our current standards, the proposed 20% alternative design approach is being recommended. The proposal allows for a fairly large range of issues that could be adjusted through an administrative process. This process allows staff to assess the merits of the request and balance it with other expectations. The criteria for approval are general and will require the exercise of discretion by the Planning Director. Not all requests will likely be approved even though the goal is to be open to flexible application of requirements and new alternative design options. Staff believes this will provide for some flexibility for straightforward development issues, but as noted in the original review of permitting and zoning text amendment, it will not relieve Council from many of the text amendments that they have reviewed that are use based, fundamental standards, or processes within the Zoning Ordinance. Therefore, it is the recommendation of the City Manager that the City Council approval of Alternative #1.

ATTACHMENT(S):

[Attachment A Draft Ordinance \(Site Design Standards\)
Eligible Base Zone Chart.pdf](#)
[Attachment B.pdf](#)

