

## MEMORANDUM

TO: Mayor Taylor and City Council

FROM: City of Ann Arbor Planning Commission

DATE: March 15, 2017

SUBJECT: Resolution R-17-020 – Evaluate Regulations to Encourage Active Street Level Uses on Downtown Shopping Streets

On January 17<sup>th</sup>, the City Council enacted Resolution R-17-020, which directed staff and the Planning Commission to consider active use regulation, which was previously considered as part of a series of zoning amendments during the 2009 A2D2 effort.

### **Proposed Active Use Regulation**

Active use requirements are a strategy to require active street-level uses in core downtown districts. The development of these amendments are toward the goal of minimizing the presence of those uses that more typically have a “9-5” intensity and lead to areas that are lacking in activity in core downtown blocks. The proposed ordinance language was originally included a package of amendments that resulted from the A2D2 Downtown planning initiative.

The proposed language intends to ensure, through ordinance requirement, that building uses at the ground level of core downtown streets (referenced on map) would be restricted to those that typically provide an extended and/or evening focused operation. This ordinance intends to limit uses that are less active (e.g. banks, residential lobbies, and other office uses that close around 5:00) to occupy no more than 40% of a building’s ground level. There would be no restriction on such uses on upper floors of buildings in the designated areas, or in other areas downtown.

In 2009, the Planning Commission recommended several ordinance changes to the City Council, including Active Use regulation. During the City Council’s consideration of the proposed ordinances at that time, the Council struck the proposed active uses language from the final adopted version. The regulation failed to gain support, presumably, due to concerns expressed about how such language could limit leasing options for such buildings and other concerns.

Here is the language originally considered in 2009 and again this year:

*Buildings located in the D1 district and fronting retail streets must contain street-level uses that comply with the following requirements. For purposes of this section, retail streets are defined as:*

- *North Main, from Huron to Miller (west side)*
- *South Main, from Huron to Packard (both sides)*
- *West Washington, from Ashley to Main (both sides)*
- *East Washington, from Main to Fifth Avenue (both sides)*
- *West Liberty, from Ashley to Main (both sides)*
- *East Liberty, from Main to State (both sides)*
- *South State, from Washington to William (both sides)*

- *North University, from State to Thayer (north side)*
- *South University, from East University to Washtenaw (both sides)*

*1. A minimum of 60 percent of each building frontage at street level must be occupied by Active Uses. The Active Use(s) shall be located within the building and have a minimum depth of 25 feet from the exterior of the front wall. The remaining 40 percent of each building frontage at street level may contain other permitted uses and/or shared lobbies or vehicular entrances. Active Use(s) are:*

- *Retail Sales*
- *Restaurant or Bar*
- *Personal or Business Services*
- *Theater*
- *Entertainment, General*

*2. Pedestrian access to required street level uses shall be provided directly from the public sidewalk or through a shared lobby with an entrance from the public sidewalk. Pedestrian entrances in buildings constructed after the effective date of this section (\_\_\_\_\_, 2017) shall not be located more than 2 feet above or below the grade of the public sidewalk unless the pedestrian entrance is at the same elevation as the abutting public open space.*

### **Planning Commission Consideration**

On January 24<sup>th</sup>, the Ordinance Review Committee (ORC) considered this amendment. Discussion at the Committee was extensive over the proposed ordinance. The discussion framed this language as one component of several possible approaches toward the proposed outcome of active streets. The proposed active use regulation links to other initiatives that have or would promote similar goals, such as the Downtown Streetscape Manual and design standards, which would require transparency in downtown buildings.

The Ordinance Review Committee expressed concern over this approach, as some communities in the past have had negative experiences in this regard, and the lack of flexibility that would result for the long-term use of such spaces. There was also discussion regarding the active uses definitions, and concerns over the general nature of some categories. If moving forward, the ORC discussed the importance of clarifying such definitions, particularly around financial services, banks, and/or offices.

The ORC discussed the design standards incorporated into the recently drafted premium language as an alternative approach to pedestrian experience and active use support. This language, that follows, requires transparency and other standards along a wider range of downtown areas than the drafted active uses.

### **Premiums Ordinance excerpt:**

- a) *Intent. These building frontage designations, in coordination with the downtown character overlay zoning districts, are designed to support the pedestrian-scale character of downtown streets.*
1. *Primary Street: Lot frontage where placement of buildings at the front property line is desired.*

2. *Secondary Street: Lot frontage where a range of building setbacks from the front property line is acceptable.*
3. *Front Yard Street: Lot frontage where a setback from the front property line is desired.*

(b) *Buildings and additions constructed after the effective date of this section (December 26, 2009) on lots zoned D1 or D2 in the downtown character overlay zoning districts shall comply with the building frontage standards in Table 5:10.20B, as applicable.*

<b>Table 5:10.20B – Downtown Character Overlay Zoning Districts Building Frontage Standards (Additional Regulations for the D1 and D2 Districts)</b>			
<b>Designation at Right-of-Way Line</b>	<b>Required Front Setback</b>		<b>Additional Requirements and Exceptions</b>
	<b>Minimum</b>	<b>Maximum</b>	
<i>Primary Street</i>	<i>0 feet</i>	<i>0 5 feet at the streetwall</i>	<p><i>(1) Up to 20% of the building frontage may exceed the maximum front setback requirement for entry court or plaza area, except in the Main Street Overlay Zoning District.</i></p> <p><i>(2) The maximum front setback may be exceeded up to a maximum of 16 feet from the back of curb to allow for pedestrian circulation.</i></p> <p><i>(3) Vehicle access shall be provided from a public alley, if accessible.</i></p> <p><i>(4) Recesses and alcoves on the level of the adjacent street to accommodate entry ways, display windows, planters, or similar features shall not be considered as setbacks, provided the streetwall of upper stories complies with the maximum required front setback.</i></p>
<i>Secondary street</i>	<i>0 feet</i>	<i>10 feet at the streetwall</i>	<p><i>(1) Up to 20% of the building frontage may exceed the maximum front setback requirement for entry court or plaza area.</i></p>
<i>Front yard street</i>	<i>15 feet</i>	<i>None</i>	<p><i>(1) The average of the established front setbacks of buildings within 100 feet may be used, if less than 15 feet.</i></p> <p><i>(2) Unenclosed porches may encroach 8 feet into the required front open space.</i></p>

(5) *Building Design Requirements on Primary and Secondary Streets.*

*Buildings and additions constructed after the effective date of this sub-section ([adoption date]) on lots in the downtown character overlay zoning districts with primary and secondary street frontages shall comply with the following building design requirements:*

- (a) The height of the street level floor, from its floor to the next floor above, must be no less than 15 feet but not exceed 20 feet.
- (b) A minimum of 60% of the street floor level façade must be windows or transparent glazing.
- (c) The bottom of all windows on the ground floor level of the adjacent street may not be more than 2.5 feet from the adjacent sidewalk level.
- (d) The following materials are restricted or prohibited on facades visible from primary and secondary streets: aluminum or vinyl siding, or an exterior insulation finishing system, except for accents eight feet from street level or higher.
- (e) The following materials are required: glass, brick; cut stone; cast stone; or high-quality finished metal. Other materials may be permitted if recommended by the Design Review Board and approved by the Planning Commission as part of a site plan.

The full Planning Commission reviewed the same at a Working Session held on February 14<sup>th</sup>. In a similar manner, the full Planning Commission held a similar discussion, and did not support moving forward with the proposed regulation. This discussion also focused on the potential of design standards rather than use regulations, as a higher priority approach to promote walkability and active districts. During this discussion, there was a significant amount of discussion on whether use definitions were the appropriate method to promote active uses. For example a restaurant that closes after lunch, could contribute to an inactive block, as much as an office that closes at 5:00. Additionally, office uses can span different hours of activity level and span of time active.

### **Recommendation**

Based on its consideration of the proposed ordinance change, the Planning Commission does not recommend pursuing active use regulation in the designated areas of the downtown area. The Planning Commission does recommend consideration of zoning standards that would enhance transparency, direct massing, and consider other development aspects that encourage vital, active districts.