



City of Ann Arbor

Formal Minutes

Planning Commission, City

301 E. Huron St.
Ann Arbor, MI 48104
[http://a2gov.legistar.com/
Calendar.aspx](http://a2gov.legistar.com/Calendar.aspx)

Tuesday, April 19, 2016

7:00 PM

Larcom City Hall, 301 E Huron St, Second
floor, City Council Chambers

Commission public meetings are held the first and third Tuesday of each month. Both of these meetings provide opportunities for the public to address the Commission. All persons are encouraged to participate in public meetings. Citizens requiring translation or sign language services or other reasonable accommodations may contact the City Clerk's office at 734.794.6140; via e-mail to: cityclerk@a2gov.org; or by written request addressed and mailed or delivered to: City Clerk's Office, 301 E. Huron St., Ann Arbor, MI 48104. Requests need to be received at least two (2) business days in advance of the meeting. Planning Commission meeting agendas and packets are available from the Legislative Information Center on the City Clerk's page of the City's website (<http://a2gov.legistar.com/Calendar.aspx>) or on the 1st floor of City Hall on the Friday before the meeting. Agendas and packets are also sent to subscribers of the City's email notification service, GovDelivery. You can subscribe to this free service by accessing the City's website and clicking on the 'Subscribe to Updates' envelope on the home page.

1 **CALL TO ORDER**

Chair Woods called the meeting to order at 7:03 p.m.

2 **ROLL CALL**

Planning Manager, Ben Carlisle called the roll.

Present 8 - Woods, Clein, Briere, Peters, Mills, Bona, Milshteyn, and Gibb-Randall

Absent 1 - Franciscus

3 **APPROVAL OF AGENDA**

Moved by Milshteyn, seconded by Peters, that the Agenda be Approved as presented. On a voice vote, the Chair declared the motion carried.

4 **INTRODUCTIONS**

5 **MINUTES OF PREVIOUS MEETING**

[16-0584](#) February 17, 2016 City Planning Commission Minutes with Live Links

The minutes were unanimously postponed to the next Planning Commission meeting.

6 REPORTS FROM CITY ADMINISTRATION, CITY COUNCIL, PLANNING MANAGER, PLANNING COMMISSION OFFICERS AND COMMITTEES, WRITTEN COMMUNICATIONS AND PETITIONS

6-a City Council

Councilmember Briere reported that last night the Council agreed to offer the position to a new City Administrator. She noted that the candidate has served as the head of the public works in Austin, Texas, and in that role he's also been a member of the Building Board and the Planning Commission. She said their conversations have been broad and very pertinent to what they are doing here and she looks forward to working with him.

Briere further reported that Council is in the middle of preparing for budget approval, and the draft budget was presented to them last night. She said Council may amend the budget if it chooses and will do so by the second meeting in May, and if Council doesn't approve the amended budget, then the draft budget stands as the budget. She noted that the budget included additional staff that will benefit the Commission, and she looks forward to seeing a slightly increased workforce, because we have been lean in the City for some time, especially in the Planning Department.

6-b Planning Manager

Ben Carlisle agreed with Briere's comments on the leanness in the Planning Department. He noted that the Ordinance Revisions Committee meeting on the 26th of April had been cancelled and the May 10th Working Session meeting will be the unofficial kick start of the revised ZORO process, and at that meeting they will go over the background of the process as well as a calendar of next steps for approval.

Carlisle further reported that Council had a very busy night last night in regards to Planning actions; the Jewish Resource Center Site Plan and PUD was approved, the Sun Baths Site Plan was approved, and 603 East Huron Site Plan was also approved.

6-c Planning Commission Officers and Committees**6-d Written Communications and Petitions**

16-0579 Various Correspondences to the City Planning Commission
Received and Filed

7 **AUDIENCE PARTICIPATION (Persons may speak for three minutes about an item that is NOT listed as a public hearing on this agenda. Please state your name and address for the record.)**

None

8 **PUBLIC HEARINGS SCHEDULED FOR NEXT BUSINESS MEETING**

16-0580 Public Hearings Scheduled for May 4, 2016 Planning Commission Meeting
Chair Woods read the public hearing notice as published.

9 **UNFINISHED BUSINESS**

16-0581 2016-2017 City Planning Commission Meeting Schedule
Moved by Clein, seconded by Mills to approve the 2016-2017 City Planning Commission Meeting Schedule. On a voice vote, the Chair declared the motion carried.

10 **REGULAR BUSINESS - Staff Report, Public Hearing and Commission Discussion of Each Item**

(If an agenda item is tabled, it will most likely be rescheduled to a future date. If you would like to be notified when a tabled agenda item will appear on a future agenda, please provide your email address on the form provided on the front table at the meeting. You may also call Planning and Development Services at 734-794-6265 during office hours to obtain additional information about the review schedule or visit the Planning page on the City's website (www.a2gov.org.)

(Public Hearings: Individuals may speak for three minutes. The first person who is the official representative of an organized group or who is representing the petitioner may speak for five minutes; additional representatives may speak for three minutes. Please state your name and address for the record.)

(Comments about a proposed project are most constructive when they relate to: (1) City Code requirements and land use regulations, (2) consistency with the City Master Plan, or (3) additional information about the area around the petitioner's property and the extent to which a proposed project may positively or negatively affect the area.)

- 10-a** **16-0582** Proposed Amendments to the Zoning Ordinance (Chapter 55) of the Ann Arbor City Code. Accessory dwelling units (ADU's) are proposed to be a permitted use in part of the existing home (in the basement, attic or addition), as well as in an existing detached accessory structure such as a garage or carriage house located in the R1A, R1B, R1C, R1D, R1E (Single-Family Dwelling) or R2A (Two-Family Dwelling) Districts. To build an ADU, the minimum lot size would have to be 5,000 square feet for an ADU with a maximum size of 600 square feet. If a lot is 7,200 square feet or greater, the ADU could have a maximum size of 800 square feet. More information of the proposed amendments is available at www.a2gov.org/ADU Staff Recommendation: Approval

Chris Cheng provided the staff report.

Teresa Gillotti, Washtenaw County, continued the report providing the power point presentation.

PUBLIC HEARING:

Peggy Lynch, 805 W Huron Street, Ann Arbor, said she was strongly in favor of ADUs for the following reasons, the need for affordable housing in the City. She said her last stop before coming to the meeting was to help a Mom who had a couple of kids who go to school here, who has no affordable place to stay tonight, so they were getting her into a hotel for a couple of nights until her next paycheck, so she has personal experience on the benefits that ADUs would bring to Ann Arbor. She asked that the Commission consider extending ADUs to R3 and R4 Zoning because they are that important, and because Ann Arbor has an unfortunate reputation for economic inequality in housing, and the R3 and R4 Zoning tends to be more expensive and she wants them right where she lives to help mitigate the economic disparity in the same spirit of the

amendments that are being discussed right now.

Ethel Potts, 1014 Elder Blvd., Ann Arbor, said she thinks the goals for which this is intended are excellent, but she is not sure these accessory units would be affordable. She said with this proposed amendment you are in effect doing away with single-family dwelling in the R1 districts of Ann Arbor and another structure on an R1 lot does not presently conform to the R1 zoning and the zoning would have to be rewritten. She said a second structure like in a garage is not being required to conform to R zoned setback requirements to any side and would be an eye-sore to the abutting neighbors being close up to the rear and side lot lines of neighbors, and few lots are large enough to have 2 required setbacks so she thinks we need to consider setbacks if it is a separate dwelling. She was also concerned with the enforcement of the owner occupied aspect of it, and she thought the owner occupied part of this was excellent, so these aren't just all rental houses, but she expressed it might be difficult if not impossible to monitor and enforce the owner-occupied aspect, given that the current rental housing inspectors check this every 2 years and that would not be enough to keep track, adding that they would need to be checked every few months. She noted that the City would never have enough inspectors on staff to verify this aspect given the amount of added units along with the current rental housing violations in the City. She said she didn't think this proposed amendment is known to the hundreds of homeowners in the R1 zoning all over the City and she felt they need to be individually notified that the zoning they count on is about to be changed and we are not ready for this.

Ellen Ramsburgh, 1503 Cambridge, Ann Arbor, said she went to 2 of the meetings where she heard lots of support for the goals and she supports those goals, but one of her concerns is the rather lenient amendments as it is currently written and will it achieve the goals. She noted the reference to the examples in Massachusetts and that the City needed to incorporate those things if they were truly going to find affordable units, such as the plans must receive site approval, so the City has some idea what is going in and where it is going in, and that they must be rented to persons or families whose income is 80% or less than the AMI, nor exceed rents that are established by HUD for low income and they must execute deed restrictions and restrict the use of 1 unit to persons that meet those affordability guidelines. She said if they are truly going to find affordability, especially in the R2A where you have lots of student rentals and you have that pressure of student rentals which is a competitive market and you can charge more for it. Other requirements, she noted, that are sadly lacking in the proposed language is that pre-existing

non-conforming structures should not increase the non-conformity and that newly constructed detached ADUs shall comply with setback requirements, and that property owners shall submit applications. She said, what scares her is that this is a 'permitted use' and that there is no application for it and that when such an application would come in, a public hearing should be held, because when you are changing R1 zoning use to essentially R2 zoning use and you don't have a public hearing you don't alert people to the changes around them, which she felt was unfair. She noted that in Portland the required setback for a detached unit are 60 feet from the front lot line, 6 feet behind the house with an 18-foot maximum height limit, and the combined lot coverage for a detached and local unit shall not exceed 15% of the total area of the site. She concluded that these are restrictions and requirements that we really need to consider.

Richard Norton, 524 Third Street, Ann Arbor, said his wife and he have been residents for about 15 years and they have just bought a house in the Old West Side. He said they bought their historic home with a garage that was caving in on itself so they had to tear it down and they are building a 2-car garage with a knee-wall so at the end of this they will have a very nice studio/office. He said if this proposal were adopted they would have a nice small efficiency apartment. Norton said the reason they want to do this is because they still have 4 living parents; his parents and his in-laws and he would truly like to use this, if possible, as a granny flat for their parents to be able to live with them. He said this was a good policy measure that he hoped he could personally benefit from. He said this proposal is being presented as a way of providing more affordable housing, and since he has been to a number of the public meetings on this issue, he has heard some of the objections from the public which include that this isn't going to solve all the problems or that it has problems itself. He said nothing ever is and we didn't get to the affordable housing problems we are facing now in one fell swoop, and it won't be solved in one fell swoop, so we should be asking if this proposal is a step in the right direction, which he felt it is. He thought this could have an effect on the market force housing and be a good step in that direction if nothing else. He said he understands the possible disruption that this could cause, especially when it comes to students in a college town, but he thinks the protections that have been built in are very thoughtful and have been crafted in a way that provide as much protection as one could hope for, especially the residency requirement, since no resident is going to rent out an ADU to an occupant whom is disruptive to the neighborhood because they are going to be disruptive to them, so he felt it was a very necessary protection to have in place. Norton said they hope

to be able to use their detached garage as an ADU and if you pile on requirements for setbacks you will eliminate the possibility of detached ADUs; he explained that their side windows of their house are closer to their neighbors than any windows in their garage, and it won't be any more disruption to add an efficiency unit upstairs in their garage, than if they turned their house into a detached home and rented it to students, which they could do. He felt this is a very well thought through proposal that has been crafted carefully and he encouraged the Commission to move it forward.

Lisa Jevens, 1312 Cambridge Road, Ann Arbor, asked the question, What is affordable? She said that has never been defined, and she didn't know what affordable is in Ann Arbor and she would like that to be answered, along with how this proposal ensures affordability; however it is defined. She thinks the City is grossly misrepresenting this whole ADU issue to the public as affordability when there is nothing in the presentation that relates to what rents can be charged or what the limits would be; there is no rent control . She said most students currently pay \$ 600-\$700 per bedroom per month in an old house and you can double that in the high-rises. She asked, what do you think an apartment or stand alone house is going to rent for? She said she knows people that pay \$ 200 a month to rent a parking space in Ann Arbor. She said this is the third meeting she has attended and has never heard the answer to how this proposal is affordable and she finds it very disconcerting that the City and the County are trying to portray this as an affordable housing initiative when it is in no way, shape or form any guarantee to be that, so she finds it very disingenuous and as previously stated it is completely wrong and unfair to up-zone people in the R1 to R2, who have no idea that this is even happening because they haven't even been notified. Jevens said this would be by-right and no one has a vote on it and there have been many meetings but apparently it is still going through. She asked for the affordability issue to be addressed and she would also like the people in the R1 and the R2A to be physically notified that they are going to be up-zoned and they don't have a vote.

Caleb Poirer, 805 W. Huron, Ann Arbor, thanked attendees for showing up after putting in a long days work or while being sick. He asked those who are fans, or are in favor of ADUs in Ann Arbor or who are friends of The Mission Non Profit, to stand up in the Chambers, adding that he was very proud of them for coming out and grateful for their support. He said if we don't include R3 and R4 zoning districts, we very well may be engaging in the unintended consequences of a policy change which would be the acerbating of the disparity between the wealth gap. He said if

you just open up the ADUs to the R1, those folks typically have less expensive homes than the people who live in the R3 and R4 so if we have a couple of years of those lesser priced homes creating ADUs, someone who lives in an ADU, is also likely to have a lesser income, so he sees the action taken as accidentally making worse the wealth disparity. He said some people live in the R3 and R4 and they have just 1 house; those folks who live in the R3 and R4 and could have up to 3 or 4 households, should be allowed to have an ADU in the same spirit that has been extended to R2. He said the R3 and R4 zoning which is for density it seems like a strange thing not to allow denser zoning categories to be occupied. He gave thanks for working through the lengthy process and the public input, noting that he had 8 public opportunities to speak on this as the Washtenaw Urban Planners were going around soliciting input.

Wendy Carmen, 2340 Georgetown Blvd, Ann Arbor, said she has lived on the northeast side for over 40 years, and while she understands the goals that being pursued and that people have dedicated a lot of time towards this goal, she agrees with many of the points being raised by the opponents. She said the proposed changes to Chapter 55 are not as satisfactory as they were described by the earlier presentation this evening and there are a number of attempts of the City to address public concerns but there are a number that still need further work. She noted that the new text is sometimes vague and inconsistent with other parts of the zoning, and there are still serious questions about the consequences of ADUs . She said in addition, what is the goal of the ordinance change can already be accomplished, or at least most of what is being proposed, by our zoning ordinances, the only real difference is that this will become a right in R1 for a property owner to turn their property into a duplex; a duplex where the second unit does not necessarily have to abide with the setbacks that are usually required between R1 lots. She said her biggest concern is that the process of trying to bring this about doesn't seem correct; in an attempt to participate in a social engineering opportunity the ordinance will have violated the primary tenant of single-family zoning that there is only 1 unit. Carmen said you will be de-facto zoning all single-family properties into duplexes without giving each property owner the individual right to protest, and the public will not, does not realize what is happening now. She said since she has been interested in planning issues for many years she knew about this issue but her next door neighbor new nothing about it at all and the public does not realize and won't realize until, if it passes, someone tries to take advantage of it, and then it will be the surprise of their life that there is a new building and apartment being built in their backyard. She said she thinks the supporters of this change need to go back to the drawing board to

determine a better approach than trying to re-zone without a re-zoning process, single family homes to duplexes.

Peter Nagourney, 914 Lincoln Avenue, Ann Arbor, said he was concerned because he was hearing unreasonable promises being made tonight, which would result in many people being disappointed. He said when we think about the financial implications of creating an accessory dwelling unit for a home owner and transferring that into affordable rent, it is just not going to happen. He said last time this was presented it was \$45,000 and now it is \$80 or \$90,000 and then we add the permitting fees , and the cost for utility hook-ups, higher tax assessment s on the property, the fact that now your property may be assessed for code violations, new mortgage, interest costs , changed interest rates, changed insurance rates, your maintenance and repair costs along with other unanticipated costs are going to make this something that is not affordable. He said people who want to build this for their parents or relatives and are not going to be charging rent is another category, and no doubt some of those people will feel that it is worthwhile to invest \$ 60-\$100,000 so their relatives can live with them. Nagourney said turning that into an affordable rent is just not going to be possible, so giving people promises that this is going to be affordable when it is not is an example of the City trying to transfer their burden of creating affordable housing, which the City says it is committed to doing, to the citizens and having them do the work for the City is just not going to happen. He said we have allowed the developers to buy off from creating affordable housing in their units and now we are asking the citizens and the homeowners to do the affordable housing building for the City. He said if the City wants affordable housing they should build it, but thinking that homeowners are going to do it and create affordable rents with these units is just not possible. He said in looking at the proposed specifications, they are much improved from last time, but he was hoping to see the promised worksheet for homeowners to be able to calculate all of the possible costs in order to get a true sense of the costs involved to see if they can offer a truly affordable rent, which he is concerned would be possible.

Noting no further public speakers, the Chair closed the public hearing unless the item is postponed.

Moved by Clein, seconded by Mills, that The Ann Arbor City Planning Commission hereby recommends that the Mayor and City Council approve the amendments to Chapter 55 (Zoning), Section 5:1 (Definitions), 5.10.2 R1A, R1B, R1C, R1D, R1E single-family dwelling district.

COMMISSION DISCUSSION:

Bona expressed special thanks to Teresa and Brett for all their hard work on this. She wanted to confirm a few things she had heard related to the ADUs. She said in her initial understanding it was finding a way to do ADUs where we were not substantially changing what was possible on a site, possibly just different entrances into the primary structure and what would be allowed is allowed today, even if you didn't have separate entrances. She said particularly she heard a lot of concern relative to accessory structures and the number of occupants allowed on a site and the setback requirements, and she asked staff to explain what was different with this proposal compared with what you can do today.

Cheng explained, you have 2 different types of structures, one attached and one detached. With the attached, in the R1 zoning district you are going to put an addition onto your house it would still need to meet the R1 setbacks for side and rear. The difference with the detached is that it could be something along the size of an existing garage that is conforming, you could still under what is proposed, have a conforming setbacks for a detached accessory structure, and in this case though, it is typically 3 feet with a garage or 5 feet, if it is something that is going to be lived in, from the lot line, which is no different than if someone would build an accessory structure or garage on their site; so there are no proposed changes to any setbacks whether this is an addition or a detached type of structure.

Cheng said as to the proposed number of people they are proposing that it falls under the definition of Family, no different than it is proposed now. He said you could have a family living in your primary residence which would be considered 1 unit of the group of what is defined as a Family, and you could have 2 additional unrelated adults who may have an offspring that would be permitted to live in the accessory dwelling unit.

Bona asked about the total occupancy of the site.

Cheng said that's where it gets tricky because it is going to vary from site to site, depending on the current homeowners and how big is their family. He said typically if we are going to have an accessory dwelling unit we would permit up to 2 unrelated individuals.

Bona commented that what she heard from Teresa was that in the last 40 years, the number of occupants in Ann Arbor dwelling units has dropped

by 1 full person. She said this would be allowing in essence some of those properties make up for lost ground.

Cheng said, statistically speaking yes.

Peters asked staff about rent control and AMI restrictions, noting that the State of Michigan forbids us to do rent control by law. He asked if AMI plays into these restrictions.

Brett Lenart, Washtenaw County, said yes, indirectly because the ban is to restrict rents in any way and the reason you care about Area Medium Income (AMI) is so that you are sizing the rent at appropriate levels to that household income, so by extension, it does have the impact if you achieve affordability by an AMI factor, you are restricting rents.

Peters asked even if we wanted to do it we couldn't do it because of State law.

Lenart said correct; the better way to approach it were if you had this prototype available then the next step is to look at how do you incent people to voluntarily seek affordability, possibly through fee waivers or other possibilities where you are not regulating it but you might incent a lower rent for those units.

Briere asked about the mentioned 2 people and their child in reference to the Accessory Dwelling Unit. She said she realized it was possible to be a single parent with multiple children, and it is possible for someone to be part of a couple with multiple children. She asked if on any level there was a restriction that would be enforceable that would say, more than 3 individuals cannot live in the accessory dwelling unit.

Cheng said yes, he believed that those with multiple offspring would be permissible per City code.

Briere asked if it would be legally permissible for someone to have 2 or 3 or 4 children in 1 accessory dwelling unit.

Cheng said yes, per our housing code standards, per our zoning definition of Family, they could have 4 plus offspring living in there. He said he wouldn't know how practical that would be, knowing the average size of the units being no more than 600-800 square feet.

Briere said she felt it was important to acknowledge that point even if the

scenario might be very unlikely, because there aren't that many families that have quite so many children these days, while it's also true that the families that do have that many children are often financially strapped and have need for affordable housing.

Briere asked about the conceptual \$600 a month rent which nobody can say will ever really happen, would make this imaginary \$600.00 a month unit affordable for somebody making \$ 30,000 a year or more, but not for somebody making significantly less than \$30,000. She asked if there was any estimate what a homeowner might expect in return on their investment of an ADU as an external detached or internal attached unit if this could possible be affordable.

Lenart said, no, he didn't have that answer because of the variation of the cost of that unit in a variety of scenarios could be so different so pinpointing the unit cost is hard enough, let alone the financial return on that investment. He said currently in the City you do have the opportunity of creating these types of units for various circumstances to help an ailing parent or a child with a disability, situations which go beyond economics.

Briere commented that the report from staff was nice in that it showed the proposed changes, but there was nothing about the R2 in the attachment.

Lenart said he believed you can do everything in R2, so it is inherent in that way.

Briere said currently to put 2 units in R2A requires 8,500 square feet of property, which is clearly significantly more than the required 5,000. She asked if we could achieve the same goal in R2 by reducing the number of square feet required for 2 units to 5,000 square feet.

Cheng said yes, you could but that would require going back in and changing the R2A minimum lot size standards to allow for additional units.

Lenart said it would probably still not allow for detached duplexes.

Briere said since you are opening up the ordinances you can make all kind of changes.

Lenart said they could take on R2A as their next project.

Gibb-Randall asked if you have a detached garage could you increase

the footprint of the existing or could you only go up.

Cheng responded that you could do both, and the way they have written it is if you already have a legally conforming accessory structure then you could create an accessory dwelling unit or if you already have something on your property that is at least a minimum 200 square feet, you could tear that down and rebuild. He said we do have zoning regulations on that you can't take up more than 35% of your rear yard, like any garage would be you would still have to meet the minimum setbacks.

Gibb-Randall asked if she had a gardening shed could she turn that into an accessory dwelling unit.

Cheng said it would depend on how big the gardening shed was; he noted that anything over 200 feet requires a building permit.

Carlisle said the reason they chose the 200 feet is that a typical garage is 20x10 feet, so not to allow garden sheds to be converted into an ADU.

Clein asked about the differences in R1 and R2 zoning districts.

Cheng said currently any homeowner living in a single-family home, regardless of lot size, can rent out to 3 unrelated individuals, and they wouldn't have to register it or get it inspected; so as for occupancy you currently can be 4 unrelated individuals living in a single-family home or R2, which is 2-family. He said as for changes we are not going to try to increase the occupancy of these neighborhoods. He noted that he wouldn't know how many people would be living as a functional family unit in the principal structure but they are trying to cap it with 2 and their possible offspring in any type of accessory dwelling unit.

Clein asked about the thought of inspecting potential ADUs, but not the owner occupied units.

Cheng said they would definitely have the Accessory Dwelling Unit registered and the Housing Department would also like to look in the main structure if there is anything that is shared or common areas, such as utilities, closets, laundry-rooms, to ensure they are safe.

Clein said as for owner occupancy, the discussion has been that the City is looking for the community to play a role in this if you are a neighbor and you feel you are not seeing who you think is the property owner, there might be a call that goes to the City to alert us, since we are not out there

patrolling looking for these situations.

Cheng agreed, adding that the City is not out there looking for these types of code violations. He explained that most code enforcements begin with neighbors filing complaints which result in City staff making site visits and inspections to verify if there are any code violations.

Carlisle commented that this question had been run by the City's Assessing Department that confirmed there are multiple ways to verify owner occupied status, so they were not worried about that being a condition of the ordinance.

Clein asked if that meant there would be extra monitoring of registered ADUs in this regard.

Carlisle said that would be a part of the inspection enforcement program.

Cheng read from an email from the City Assessor office noting they use the following information; State of Michigan tax returns, driver's licenses, voter's registration, and utility bills, as some of the ways they verify if owners are being honest with the City. He noted that they can go back for 3 years on these records.

Clein said he sees that by potentially increasing the number of units in any given area, it might help to marginally lower rents for people. It might also provide a little extra income for people who might want to age in place or a potential for people who don't need their big house anymore and want to live in the smaller unit and rent out the large house and still remain in the area. He said he didn't think this proposal was going to solve the affordable housing issue, but would probably be a step in the right direction. He agreed that we probably do have an affordable housing issue in Ann Arbor and while it is not insurmountable like in some places like San Francisco, it's probably beyond being solved without some huge effort but if these types of efforts help chip away at it, we might be able to help stabilize what we are seeing for housing prices in the next 10 to 20 years.

Mills asked about required notice on a zoning change.

Cheng said if this gets approved it is not like a site plan where we have public notification within 1,000 feet and public hearing notices within 300 feet. He said notification has been done through egov-deliveries, numerous meetings have been held, advertisements have been made,

websites have been updated to include this, and in moving forward, we will continue to inform the public what the next step is, whether that is a postponement, or if it moves on to City Council for public hearing and discussion.

A public hearing notice was printed in the Washtenaw Legal News as well as being sent to all registered neighborhood groups in the City, and neighboring jurisdictions and those required to be notified of proposed zoning amendments.

Mills asked if there were a large rezoning, what type of notice would be required.

Cheng said they would then notify every household within 1,000 feet of the area being affected.

Cheng clarified that this is not a rezoning, and that these parcels are staying R1 zoned, and this proposal is a text amendment, and there will not be individual mailings sent out; he encouraged everyone to follow the next steps by going to the City's webpage.

Carlisle explained that this is considered a zoning text amendment just like the Premium Downtown Zoning amendments that will also be heard tonight and not all residents in the downtown were notified but we have tried our best to send out as much notification as possible in regards to this. He said since he is a member of Next Door, he is aware of a number of posts on there from his neighborhood, related to this proposal, as well as at the grass roots level of these zoning amendments.

Mills said she was satisfied that this would happen in incremental steps and that it might be more palatable to stick with the zones that we currently have, then potentially expand this, is her hope in the future if this moves forward, that single-family homes in R3 and R4 would have this opportunity in the future.

She said this was something that they did discuss and this was a pragmatic choice to hopefully make this palatable so this could happen in baby steps.

Bona asked about existing penalties that are part of the Rental Housing process.

Cheng said staff tries to work with owners first, sending them a warning letter, talk with them and try to rectify the situation. He explained that if it

gets to the ticket proceedings, it's a maximum of \$500 as a civil infraction from the Courts. He said his experience is that it is rare that we get up to the \$500 fine because we usually get it resolved before it goes that far as a court appearance, but hypothetically if it is something that goes on, the City can issue tickets on a daily basis, which is enough to deter someone from saying it's only a \$500 ticket and is something that they would like to nip in the bud.

Carlisle explained that there had been a long discussion with the City's Rental Housing Department regarding enforcement in which they felt very confident in being able to enforce and monitor the situation from a staffing level and they did not want that to be a limitation on why this should not move forward.

Bona asked about noted future steps if the amendments were adopted as outlined in the staff report; the development of a guide for homeowners as well as possible incentives as they are related to affordability. She said she felt these were extremely important and she wasn't sure she felt comfortable adopting this without those two items in place and being included in the motion.

Carlisle responded that right now they are looking for a motion from the Planning Commission on the text amendment language to go to the City Council, and it has always been our intention to put that document together because we understand how valuable it is. He said the Commission could add that in their suggestion to Council that they require staff to do that if this does get adopted.

Briere said she echoed what Bona said and suggested that if this moves on to Council that at least draft text be available for both of those things before first reading. She noted that while staff is short staffed she gets the hours that are involved in this, but Council will be uncomfortable with discussing something where we don't know how we are going to implement it and it will be really important not to have the final information, but to have some concept of framework that is more precise than this right now.

Carlisle said we can certainly have a draft available for first reading for City Council if this does move forward.

Bona suggested regarding communicating with the public that Council communicate with their constituents which would be one more avenue to make sure people are aware of this and those most interested would be

easy to reach in that way.

Clein concurred with Bona and Briere on the importance of having the information ready for Council and will help in that discussion. He commended City and County staff for working together on this, noting that it is an important thing that needs to happen and probably more so in the future, not only in Ann Arbor but everywhere to help do things more efficiently and effectively.

Woods noted a comment from a public speaker, about this being a step in the right direction. She said in working on this over the past few months that is what she is taking away from this that while it is not perfect, it is a step in the right direction and she realizes there will be things that staff will still have to do but she commended City and County staff for all their hard work and all the meetings held and for answering all their questions. She said she was certainly in favor of moving this forward.

On a voice vote, the Chair declared the motion carried. VOTE:8-0

Yeas: 8 - Wendy Woods, Kenneth Clein, Sabra Briere, Jeremy Peters, Sarah Mills, Bonnie Bona, Alex Milshteyn, and Shannan Gibb-Randall

Nays: 0

Absent: 1 - Sofia Franciscus

10-b [16-0583](#)

Proposed Amendments to the Zoning Ordinance (Chapter 55) and Off-Street Parking Ordinance (Chapter 59) of the Ann Arbor City Code to revise the premium floor area options in downtown zoning districts and supporting regulations to the planned project modifications and the off-street parking requirements. Amended sections include §5:10.19 (Downtown Zoning and Character Overlay Districts), §5:64 and §5:65 (Premiums), §5:68 and §5:70(Planned Projects), and §5:169 (Special Parking District). The proposed amendments change the required conditions to acquire premium floor area; create a two-tiered program to acquire bonus floor area in the D1 and D2 districts; offer incentives for residential uses, workforce housing, energy efficiency and certifications; introduce building design requirements; allow design requirement modifications with planned projects; and, limit the maximum amount of private off-street parking. A complete draft of the proposed amendments is available at www.a2gov.org/premiums <<http://www.a2gov.org/premiums>>. Staff Recommendation: Approval

Alexis DiLeo provided the staff report.

Megan A. Masson-Minock, AICP, ENP & Associates, PO BOX 1838, Ann Arbor, Consultant on this project provided a presentation on the Downtown Premiums.

PUBLIC HEARING:

Faramarz Farahanchi, 115 ½ East Liberty, Ann Arbor, said he was a property owner in Ann Arbor. He said he was trying to use the sheet for calculations and it wasn't matching, for example the 1 parking per 1,000 square feet and if someone wants to go more they can only go twice, but they have to give it to somebody else, like the City or the DDA. So 120,000 square foot new high-rise, 50,000 square feet of office, 70 units, that is 120 max. And if they want to do more they can do 240 but they have to give 120 of it to the City to operate or something, but if they want to do 350 to address the lack of parking or give 2 parking per each unit they can't because there is a maximum. He said this is unheard of, how can you put a maximum on this; usually if you want to address the parking you put a minimum requirement. He asked why would the City put a maximum to prevent people from making parking; if the developer wants to go deep underground to put parking, you want to restrict them? He said what that leaves us is to sit down and talk about the parking issue in Ann Arbor over and over-don't build it so we can talk about it. He said the Commission just passed the ADUs which is great because it increases the supply of housing, and while it doesn't address the problem, it helps, now restricting or reducing the current premiums and making it more difficult and more expensive it only results in the increased rent for the current properties, it increases the rent on the ADUs. He said for example, City Place charges \$3,150 for the 2 bedroom/2 bathroom and if you guys reduce it going from 350 to 100, then the new buildings are not going to have that many, the new rents are going to go to \$4,500. He said if they are collecting that kind of rent the ADU guys are not going to say, I'm going to charge \$600 or \$700, when I can get \$1,200; why not, because more money is nicer. He said the same thing happened with student housing, when high rises went for \$1,200 a room, the student housing landlords their \$500-\$550 a room in 2008, went up to \$900 right now. He said not bad, it worked out pretty good for the landlords.

Ethel Potts, 1014 Elder Blvd., Ann Arbor, said she was glad that they have addressed the premiums that date back to when developers were not building housing which is very much needed, and that is why the code is so generous and now we are getting developers who want to build housing and we're giving them premiums for what they were going to do

anyway, and it doesn't make much sense. She said she thinks we are still being very generous in the tier 1 housing option in giving developers premiums for doing what they came to do. She said since premiums have been so generous developers have not needed or wanted to make use of the other premiums. She noted that now we have some of the public benefit premiums notably the pedestrian amenities premium. She said these premiums deserve another chance and sadly bringing back these pedestrian amenities come too late to improve the buildings that are already built and being proposed. She said the recently proposed building on Huron Street would have been much better with open space and some front setback, like the elegant Campus Inn, next door. She said most recent buildings would have benefitted from plazas, courtyards, arcades, front setbacks, like at the corner of Division and Huron, if the setbacks would have been required that they be along the side of the historic houses, that would have been much better instead of permitting the buildings to stick way out to the sidewalk. She said she feels that most of these premiums have been an improvement but she regrets that they are proposing to still let developers buy their way out of affordable housing –payments in lieu, which means we will continue to keep lower income people out of the downtown. She said she does not like the maximum permitted on the parking, because we are so short on parking and the neighborhoods are suffering from the overflow parking. She said when she wants to go downtown she can not get parking. She said these premiums are well worth your approving tonight but your work is not done and there are a lot more amendments needed to the D1 and the D2 which she hopes we will get to.

Chris Crockett, President of the Old Fourth Ward Association, said she has attended many of these premium meetings, and she agreed with former speaker Potts. She said parking should not be limited; if they want to put in more parking underground and the reason it should not be limited is not because we can walk through town, but because people bring cars here and store them and its better to store them underneath the building. She said if we can encourage that kind of parking through our premiums then let's do it. She said in her neighborhood, which is a near downtown neighborhood and cars are parked bumper to bumper for 24/7. She said they are different cars and rarely do people get out of their cars to get into a house, no they get out of their cars and walks towards the hospital or Kerrytown, and there are commercial vans in their neighborhood, belonging to local businesses, which can be identified by their logos on the side of the vans, and they are using the neighborhoods for parking and not just the Old Fourth Ward but the Old West Side. She said we need more parking for car storage. She said she was happy that

the design standards have been tightened up, and she wishes that would have happened before that monstrosity at 413 had been built. She said they fought against that hard and now they all have to live with it. She said she agrees with Potts on the City being able to offer workforce housing and by offering the option of payment in lieu it doesn't encourage workforce housing. She said we need to provide workforce housing downtown where people are going to work and those people are also probably going to be without cars and so they can walk to jobs and to the University and to different locations in the downtown. She said it makes good sense if you provide that kind of housing then you will have a place for people who are working commercially to stay in these areas. She said she hopes that they look at these premiums very hard and reconsider the parking, and we do not need any more residential premiums, that should be abundantly obvious, because every developer she has met in the last 5 years wants to come to Ann Arbor and build apartments, so why give premiums. She said let's shape our City by giving premiums for what we desire here and what we see our needs for, not what the developer wants.

Sean Havera, 30100 Telegraph Road, Bingham Farms, MI, spoke as the representative of the South Area Association, as well as the representative of several property owners in the downtown. He thanked the consultants for their presentation putting forth the proposed amendments. He read from his prepared statement which was provided to the Commission as following: First, let me thank the Commissioners and their consultants for their time and effort in putting forth the proposed amendments. While there are several areas that improve upon current zoning, there are specific area that we feel would be an impediment to future developments which add to the vitality of our community not to mention its tax base. Specifically:

- 1. We support the increase in the required Front Setback to 5 feet as it allows property owners and developers to design innovative uses along the frontage of their property.*
- 2. We support the Building Design Requirements, noted in letters b through f as they provide a clear definition on the design intent for pt floor space.*

However, we have significant concerns with the Floor to Ceiling Height as presented. We agree that a 12ft minimum height should be adopted, and in fact has been implemented in numerous other municipalities.

However, the proposed maximum height of 14ft is detrimental to first class, first floor space development for several reasons.

- a. Today's commercial tenants demand high ceilings on the pt floor as it provides maximum flexibility and branding of their space within a large open floor plan.*

b. In mid-rise and high rise buildings, a number of building systems such as plumbing, HVAC and structural components all converge in the ceiling of the first floor. As an example, at the Landmark Student housing site, the first floor ceiling height was approximately 20ft. However after appropriate allowances for the building systems were made, the finished height of the ceiling was only 16ft. By setting the maximum height of 14ft, the finished ceiling height could be as low as 10ft which would not permit the openness which current commercial tenants desire. If setting a maximum ceiling height is something that absolutely must be considered, we would strongly suggest setting that limit at 20ft.

3. We would encourage you to remove the requirement noted in Section 5.65, Section 1c. By permitting the use of multiple premium options to achieve additional floor area, it allows developers and property owners more flexibility in their design.

4. We would encourage the removal of the requirement to have a Pedestrian Amenity Provision for a number of reasons.

a. A significant number of parcels in Ann Arbor have front footages that range from 20 to 40ft. Having this requirement apply to these small parcels, significantly impacts the design flexibility for developers and property owners. If this requirement remains, we would encourage that a minimum 85 foot lot frontage be required before the property is subject to this provision.

b. First floor leasable space commands the highest lease rate. This requirement removes this space from future projects thereby negatively impacting the financial viability of projects. Additionally, the removal of first floor commercial space also reduces the tax revenue by reducing the FAR of buildings.

c. Private property owners have legitimate concerns that mandating public spaces on private property will have a negative effect on commercial traffic while raising the possibility of increased costs to secure and maintain those public spaces. With the large homeless population in Ann Arbor, the concern is that these spaces will provide an area for the homeless to congregate, as has occurred in the Liberty Plaza space.

d. Additionally, developers already make sizable contribution to the "livability" of the city through the parks contribution required on new projects. This contribution should be earmarked to improve existing public downtown spaces in lieu of more "suburban" park locations within the City limits. With the high property taxes and the high cost of land within the city core, adding another perceived "cost" of doing business in Ann Arbor by mandating an additional level of public contribution only increases the rents which have to be charged in order to achieve financial

viability for a development. A recurrent lament is that Ann Arbor is losing its "small town" nature as "mom and pop" operations go out of business. Unfortunately, the higher the costs associated with a project, the higher the rents that must be achieved which unfortunately local businesses are often not able to meet.

5. As currently structured, it is our considered opinion that many of the Tier 2 premium options will not be implemented by property owners or developers. While we certainly applaud the goals that these premiums are designed to achieve, there must be a more balanced, cost to reward ratio. As an example, as currently proposed, the Workforce Housing Premium in Tier 2, designed to provide more affordable housing in the downtown area, will in fact have the opposite effect. The costs of applying this requirement to the entire building would, in our opinion, make it highly unlikely that a property owner would apply for this premium. Effectively, as written, the developer would be required to reduce the revenue on 10% of the rental area to provide Work Force Housing. Unfortunately, the costs of building or maintaining that space does not likewise decrease. If the City truly wants to increase housing for this segment of its population, then we would strongly suggest that this requirement be amended to require that the 10% Work Force Housing only be applied to the additional FAR above the 550%.

6. We find that the definition for determining parking for Residential use is very confusing. The original language of 1space per 1,000SF above 400% FAR is much more intuitive to understand and implement and therefore we recommend that it remain as currently written. In conclusion, while these changes provide for a number of improvements, the implementation of a maximum first floor height, Pedestrian Amenity Requirement, and Tier 2 premium will most likely result in less density in the downtown area as well as significantly limit the design ability of property owners and developers.

Jarod Malestein, [Township address] said he was in favor of limiting the parking and spreading it out throughout Ann Arbor more because building more parking encourages people to drive more which causes more traffic, congestion, and makes things more inconvenient for people just trying to get around with other modes of transportation. He said he had a lot of focus on the materials and street life around the buildings, and he encouraged the Commission to consider adding another requirement to new buildings, that architects, rather than providing the aerial views of the buildings, which look very nice, but the reality is that most of us won't be experiencing the buildings in that way, so if you could require developers to provide renderings that are at street levels or across the street, this will force them to look at what their building actually

looks like from a pedestrian point of view and perspective that will encourage them to put more focus on the street life and how their building will actually look and how most people will interact with it.

Daniel Ketlaar, 225 S. Ashley, Ann Arbor, real estate developer in Ann Arbor, for over 25 years, said he has seen downtown change dramatically in that time. He commended the report and all the work that has gone into it and questioned some of the results of it. He said there seems to be a sense that the developers should be penalized for creating housing and viability downtown, and he doesn't understand that. He said as a developer we create homes for people, we create activities downtown, movement downtown and these are good things, and these are the things why we have a downtown that is the envy of the State. He said these zoning amendments we have on the premiums to him are down-zoning and are not to be implemented. \$90,000 for affordable housing –payment in lieu of; no one will do it. There is a practicality to all of this, what will be built, and can someone actually get financing for the zoning as has been suggested here tonight; you won't be able to. He asked what a workforce housing rent would actually create. He said he met with the Planning people some time ago and asked if anyone had done an analysis of cost of implementing these things. He said he didn't think there has been, and this sounds all interesting on paper that you go to LEED GOLD 4, but what is the cost to implement that, and can you actually implement that in a way that will continue to create housing downtown and create the viability that we want and the sustainability that we want in our downtown. He said he doesn't think so, and in fact he knows so. He said he has run the numbers and he was instrumental in 601 Forrest, The Landmark and 618 S Main, and based upon this zoning he said those projects would not be developed. He said he thought they need to look at the viability the practicality of creating a sustainable downtown based upon what will work, not what you wish would happen, because that is what these are, they are wishes; the idea that you can change the zoning, the premiums, in this dramatic way, is a down-zoning, and it will detract from what we want in a downtown.

Ray Detter, commended staff and their efforts on their work related to the downtown zoning. He said even if these proposals move ahead, there is still many more that need attention. He said it was a very exhaustive review and complex and he is delighted to see higher premiums for energy quality and efficiency and he is glad to see the option from 1 to 5 feet in the front of buildings instead of right at the sidewalk line. He said he is also glad to see the encouragement of specific building design requirements, and it is something that he has raised again and again. He

said no premiums should be given unless developers appear twice before the Design Review Board, once before they complete their site plan and a second time in order to respond to recommendations, not mandatory, of the Design Review Board, and possibly even in seeing ways they can be getting premiums in some point in the future. He said 603 E Huron site plan was approved last night at the City Council and not one vote against it, adding that they went twice before the Design Review Board and benefitted greatly from it and produced a really good building. He said what we had with 413 was a situation where they arrived, they had their building already drawn based upon what they thought and then argued with us if we didn't allow them to build by-right and they did what they did on that corner based on the premiums they received. He said he hopes that premiums would not be granted to projects that would have a negative impact to nearby historic and residential neighborhoods as a general sort of approach and he is glad to see importance of historic compatibility within the nature of the changes. He said he supports the continued review and revision of premiums every three years. He said they also take opposition in eliminating the premium for parking downtown.

Noting no further public speakers, the Chair closed the public hearing unless the item is postponed.

Moved by Mills, seconded by Gibb-Randall, that The Ann Arbor City Planning Commission hereby recommends that the Mayor and City Council approve the amendments to Chapter 55 (Zoning Ordinance), Sections 5:10.19 D1 and D2 Downtown Districts, 5:64 Premium Intent, 5:65 Floor Area Premium Options, 5:68 Planned Projects Statement of Intent, 5:70 Planned Project Standards for Approval, and Chapter 59 (Off-Street Parking Ordinance), Section 5:169 Special Parking Districts.

COMMISSION DISCUSSION:

Briere said the affordable housing issue was the big issue for her, noting that when they had the option to get 900% Floor Area Ratio [FAR] no one selected it and she has never heard that anyone could ever have used 900% FAR or seen evidence that it was possible without exceeding the massing on their site. She said this means they really haven't had an opportunity to talk about what that would mean on their site, until Mr. Ketelaar talked about putting affordable housing in his project at the corner of Madison and Main and he discovered what some of us already knew, that we have no mechanism today to legally require and enforce that requirement on affordable housing. She said she wants to know if we

have found a way to do this because we are talking about putting a premium out here and if there isn't a simple straight forward path for a developer to achieve the goal, this is a premium that won't be used and once again we will have failed to offer an opportunity for affordable housing.

Carlisle said, Briere was correct, under State law, we can not use rent control, so any affordable housing under this has to be owner occupied or for sale product. He said to address that concern about the construction of these and the cost to do so in the development we put that provision in there to allow for a payment in lieu and we felt that gave the viable option to the development community under which they could provide the units within the building itself or they can pay in lieu with the schedule adopted by Council what that equivalent would be. He noted that we are limited in obtaining affordable housing in part due to our limitation on limit on rent control and this is the only way we can achieve affordable housing by requiring it through owner occupancy and trying to give the option of payment in lieu.

Briere asked if someone offered us a condominium building where the owners bought the units, would we have restrictions on the future sale of those units so the owner of the affordable unit would not be able to see an increase on their investment.

Masson-Minock said not necessarily, noting that what is traditionally done is that the owner can see the property but they can only achieve a certain amount of profit off the sale and also keep it at a level that is still within an affordable range. For example, she would buy the property because she qualifies because of her AMI, five years later she wishes to sell the property, she can then only make a 5-10% profit and that sale price must also still be affordable within that 30-60 AMI range and the mechanism that makes sure this is done is a deed restriction that is put on the property. She said as part of your development agreement you would require that those deed restrictions be written, approved by your municipal attorney, then they would be put in place.

Briere said the ways laws are written, land is a profit making opportunity. She asked if there is a mechanism of requiring an affordable unit be owner occupied so the owner of record cannot rent it for market rate.

Minnick said there are deed restrictions that can be added regarding subletting. She said this would be an option that has been chosen by the developer and not the owner.

Briere said she didn't believe anyone would build condominiums under those circumstances and one of her biggest concerns is that we are putting an incentive out there that no one will find valuable enough that they will seek it out. She said 30% AMI is really attractive to her, but that boils down to a rental rate of less than \$500 a month. She said she fears that the only way we could get development that meets niche is if it is impossible for developers to build any other way than to include those units, and it is still inexpensive enough that they can afford to do it.

Briere noted that someone had pointed out that a lot of cities go to the option of payment in lieu, but they are actually unable to turn that revenue into significant amounts of new units. She asked if we have a model that shows significant (10%) amounts of new units can be built with payment in lieu fees and have been built with payment in lieu fees.

Minnick said Denver, CO has built units with payment in lieu fees, noting that she didn't have the data available as to the percentage of new units, but Denver, CO was used as a model. She explained that Denver struggled with getting the payment in lieu correct so they were generating enough in order to build units. She offered to provide the data if the item was postponed or to Council is the item moved on.

Briere said when she did the math, if they had a proposed structure with 100 new residential units taking advantage of the premium for the residential and taking advantage of the premium for affordable housing, that payment in lieu would be \$900,000 and she is very confident that is not going to build 10 units.

Carlisle commented that if you get \$900,000 on one development and for another development, the more you get of that \$900,000 contribution you can use that price down the costs of new units.

Briere said we haven't seen that be successful here, and she is struggling with this because she wants it to be successful. She said even when we did Planned Unit developments we can't point to that money being successfully spent on building new units. She noted that affordable housing is consistently supported in our community so it is as important as parking and design standards.

Bona asked about the energy efficiency for Tier 2 which includes workforce housing, LEED version 4 Gold or Platinum and 70% less green house gas. She said she appreciates the developer over LEED level 4,

and that LEED is finally changing the way we build buildings.

Bona noted the 70% less green house gas, which is the 2030 challenge, which is for new construction to be carbon neutral by 2030, so the goal is every 5 years that gets increased so buildings are more efficient but specifically have a smaller carbon footprint. She said as of 2015 that current requirement is 70%.

Bona noted that Masson-Minock had done some research into what that means in terms of building codes, which was the 2010 requirement of 60% was equivalent to the 2012 International Building Code. She said to put this into perspective our current Michigan Building Code is based on the International Building Code which produces 60% less green house gas emissions than the 2003 baseline. She said from the perspective of making the downtown buildings leaders in the community, this is our premium space, 70% doesn't sound like it's very aggressive. She asked how that compares to LEED version 4, which is a lot more than carbon.

Masson-Minock said LEED version 4 looks not only at energy efficiency, but at site design, and sustainability in a larger context taking in a host of sustainability factors and buildings are scored on a variety of menus and given points. LEED will give points for where a building is located, what materials the building is made out of, where the materials are sources from (are they local or from within 100 miles), are the materials sustainable, recyclable. She said the total points given from the scoring will determine if a building is LEED certified, silver, gold, or platinum. She said with version 4, which is coming on line in September, the minimums across the board are being amped up. She said for the AIA 2030 challenge it concentrates just on the carbon neutrality energy factor. She said the difference with the 2030 AIA challenge, the calculator scales to the type of building, the use, and its location, while LEED does not necessarily take those gradations into the same way that AIA does. She said that was part of the reason to have both. She said there were also factors in terms of what is known to developers and can get funded and what is not. She said AIA is not very familiar to the development community, while LEED is, so that was the reason to keep both of those, but there are differences in measures for certification from each of those.

Bona said the 70% less green house gas emissions, if we adopt the 2015 Commercial Code, adding that the State of Michigan has adopted the 2015 Residential Code, that the 70% may become a very small step. She said she hasn't seen any research how the 2015 Code compares. She asked if there is any way we can make sure there is a mechanism in this text that when that new code gets adopted by the State that we challenge

this number, because we could be giving away something very free and easy, if the Building Code already requires this.

DiLeo said she might have to consult on the best approach, noting that language could be inserted to the effect, as amended or latest version adopted, or alternatively throughout codes there are references to other documents, and it falls on staff to continually revise references to make sure it references correct codes. She said our zoning ordinance references several such codes, such as the International Fire Code and The Housing Code. DiLeo said it will take a concerted effort either amending this ordinance right now and for staff to stay on top of the references.

Bona said she felt this need to be flagged relative to when the State adopts the next Commercial Code the 70% green house gas reference could become a very small step.

Woods asked which page she was referencing.

Bona said Page 14, Section 3, 1st Paragraph.

Clein said he is not aware that the State Building Code refers to the EPA as its target finder, it uses ASHRI point 1, which is what the International Code uses so he thinks we are talking about 2 different measures, one being strictly energy efficiency and the other being green house gases.

Bona said she was referencing a study that was done by the 2030 AIA folks that said the 60% goal was met by the 2012 Building Code. Masson-Minock offered to send the report to the Commission.

Clein said he would be interested in seeing such a study, but wanted to be sure they weren't confusing comparisons.

Clein noted a comment from a public speaker about the floor to ceiling heights on the first floor. Clein said he wouldn't be opposed to it being 16 feet or it should be clearly defined as finished floor to ceiling height, so not to restrict them too much. He asked about prohibited or restricted materials.

Masson-Minock said the list could be found on Page 4, Item E.

Clein suggested that the E.I.F.S. should be higher than 5 feet off the ground since it wouldn't be very effective unless it is more than 8 feet. He

said he would also not call a split-faced block a high quality material, while split-faced stone is. He said split-faced block is often used because it is one of the cheaper materials and sometimes it looks good and sometimes not so good. He noted comments made by speaker Ketelaar that these are wishes and not practical, noting that ordinances have dual roles of expressing the wishes of the community in terms of what we are looking for downtown, but being able to be implementable and enforceable is the pragmatic side to the issue. He said the kinds of things we are trying to tweak and nudge and get results on the things that the community is looking for are not purely scientific so there is some testing and maybe trial and error that we have found over the years with this and it might not be practical. He said he has his doubts about the Tier 2 whether the balancing of the potential rewards and the risks and costs are such that they will get utilized, and we might find that we have to come back if we really want those things and make the rewards more significant or reduce the costs somehow. He said this Commission has had many discussions about everything we do increases costs of projects and most of those costs are passed on in sales or rents, so there is an awareness and consciousness that we are not just trying to pile things on, while on the other hand he believes they are good intentions and hopefully we are making some smart choices.

Clein said in regards to the comments about workforce housing it seems very challenging in our State to try to meet some of the goals in the community and as Council has asked us to look at in terms of affordability. He said comments have been made that we shouldn't be asking for the payment in lieu for workforce housing on the other hand if that is a way to get money in the housing trust fund, and maybe downtown isn't the place you are building the most affordable housing because of the cost downtown, but if we can generate enough income we can develop housing along transit lines that it may be a good alternative. He said he didn't believe that any of these things are going to be perfect. He said he still had concerns about the potential impacts on negative affordability downtown, as noted by a public speaker, when the high-rise went up instead of the prices going down for the smaller properties, they went up. Clein reiterated that he felt we are doing some great steps here and while we can probably fine tune it for another 6-12 months and still not have it right, at a certain point we probably have to say, we think we are 80% there and we need to try to implement it to do it and he felt we are approaching that point if we are not there already. He appreciated the work done on the amendments.

Woods asked if Clein was proposing an amendment under Section 5,

Building Design, floor to ceiling height as well as the exterior materials.

Gibb-Randall said it gets a little murky as there are many who don't finish the ceilings and show the ductwork so it got unclear where the finished ceiling would be counted from so putting the word finished in there might unintentionally lower things, so if there were a way to say floor to floor and raise it up to 20 people can do whatever they want with finishing or not finishing their ceilings. She said she didn't think the issue was that people are making them too tall but rather too short.

Amendment made by Clein, seconded by Peters, under Paragraph 5 A, that the floor to floor height must be no less than 15 feet but not exceed 20 feet, and under subsection E, be change from 5 feet to 8 feet, and under F, to recommend 'durable material' and to strike fiber cement siding, wood lap, split-faced block, as recommended materials.

DISCUSSION ON THE AMENDMENT 1:

Bona offered a friendly amendment under F, to recommend 'durable materials', and to strike fiber cement siding and wood lap, as recommended listed materials, but she would also not restrict them.

Clein and Peters agreed.

Bona said she wasn't sure she would even put a limit on the ceiling height of the first floor.

Masson-Minock said if it was a grand tall ceiling it could pose challenges for later uses, so the main thing is that it could be reused.

Woods said it could mean more heating required to heat that space.

Peters agreed that as long as there is the factor built in that would allow for signature buildings it would be a good balance.

Gibb-Randall said she was glad to see the scapehatch built in which give more flexibility if they want to be bold and do something different. She said she started paying attention to the buildings in town and she couldn't start to tell you how many historic buildings don't meet this at all. She said one of the things for the Commission to think about was that windows and doors being 2 feet apart could be too restrictive on the entire face, in regards to having some design freedom.

Masson-Minock said that could be expanded, and usually what happens now, is that people go out and measure by street and code it by street to allow for a visual rhythm. She said she didn't think that expanding that to 4 feet would cause any damage to the pedestrian experience.

VOTE ON AMENDMENT 1:

On a voice vote, the vote was as follows with the Chair declaring the amendment carried. Vote: 8-0

Yeas: 8 - Wendy Woods, Kenneth Clein, Sabra Briere, Jeremy Peters, Sarah Mills, Bonnie Bona, Alex Milshteyn, and Shannan Gibb-Randall

Nays: 0

Absent: 1 - Sofia Franciscus

COMMISSION DISCUSSION:

Gibb-Randall said she felt they would be getting at it by having that 60% transparency.

Amendment made by Gibb-Randall, second by Mills, to strike Section C which contains the reference '2 feet apart' and let the 60% transparency be the guide.

DISCUSSION ON AMENDMENT 2:

Bona asked if there was somewhere else in code where it would be addressing what transparency means. She noted the old Borders Store that had large windows that were blocked out and one couldn't see in.

DiLeo said the standard it to have the word have its everyday meaning, or to define it how we specifically mean it. She said right now windows are windows and transparent glazing would mean you can see in unobstructed to whatever the use is inside. She said the window displays as noted at Macy's, for example don't allow you to see into the retail operation but they are very active and pleasing and enrich the pedestrian experience.

Bona said her biggest concern is the signage that gets put up and if that makes them not transparent such that it wouldn't be allowed, for example if they had 80% transparent windows and covered 20% of it in signage.

Carlisle said if it was a concern of the Commission he felt the signage issue should be clearly stated in the ordinance itself.

Clein said if parts of the window were covered with displays, but you can still see into the operation that is a level of transparency, but if you cover the windows with signage which hinders you from seeing in then that no longer becomes transparent.

Bona said the sense of people being able to see inside and the ones inside seeing the people on the street is the activity, not just pretty displays, but she wasn't sure how much needed to be that visibility versus transparent.

Briere said she checked the sign ordinance and it stated no more than 20% of the window area can be covered by a sign. She said the amount of desired transparency will depend on the type of business.

Masson-Minock said she felt enforcement of the existing sign ordinance would alleviate concerns on the signage issue and she didn't think they needed a cross reference.

Clein said in regards to glazing, if you use tinted glazing it won't be transparent in the day. He said he was inclined to strike Section C as well.

VOTE ON AMENDMENT 2:

On a voice vote, the vote was as follows with the Chair declaring the amendment carried. Vote: 8-0

Yeas: 8 - Wendy Woods, Kenneth Clein, Sabra Briere, Jeremy Peters, Sarah Mills, Bonnie Bona, Alex Milshteyn, and Shannan Gibb-Randall

Nays: 0

Absent: 1 - Sofia Franciscus

COMMISSION DISCUSSION:

Milshteyn said the workforce housing premium has not been taken advantage of to the fullest but he noted that we would be in a shift of the market. He said we've had all these rental units come up and they've rented and values have gone so high, but here we are with For Rent signs all over the place, landlords saying they're having to reduce rents to get tenants into their buildings, so he thinks we are in a shift for another year, there will be new apartments being built, but as the market shifts, soon enough we're going to shift to where developers are going to build condos again and this is where this is going to come into play. He said it was in play in 2001, 2002, 2003, condos such as Northside Glen on the

northeast side of Ann Arbor, offered affordable housing, where there were units dedicated towards workforce housing, when everything else was selling for \$160-\$180,000 per unit, these units were \$90,000+ and they had deed restrictions that protected those units, and they weren't forever going to be a certain price. He felt that this premium is a carrot that has to stay there as the market is going to shift we need to be prepared that there will be someone down the road who will take advantage of this. But, in regards to rental units being built State law just doesn't allow for it and it's not going to happen. He said this carrot if only there for when developers start building condos again instead of just building apartments.

Milshteyn asked Masson-Minock why the parking recommendation is what is before them.

Masson-Minock said they are recommending what was put forth by the DDA's parking consultant, and the underlying philosophy is that the parking should be able to shift and adjust based on what is happening in the downtown, and also not to require minimum so that things get over parked, rather that you allow the developer to park as much as they want but they have a maximum they meet and if they exceed that maximum they have to contribute to supply of parking throughout the downtown that is available for everyone to use, whether that be the car sharing managed by the DDA or whether they manage it themselves as long as it is available to the public.

Masson-Minock explained that these amendments were put in within the last 2 months and was not vetted with the public, nor the development community as much as the other amendments were, so there hasn't been the same opportunity to refine them.

DiLeo added that this is in response to that there isn't enough parking downtown, since it will achieve more public parking options, Whether that is pay an hourly fee or get a daily permit pass and it allows the parking that is being built not to be exclusively for private use so people will not have to rely solely on the public system. She said across the country this is what is shown to be the best practice guise and to transform our current parking in a more smart system that increases flexibility and tries to address exactly the concerns that have been cited.

Milshteyn asked if that meant if a private developer provides public parking could they charge \$50.00 per hour while the DDA charges \$1.60 per hour.

DiLeo said no, because it would have to be managed by the DDA or if privately managed, would have to be approved by the City and they would have to use the same formula.

Masson-Minock read from the provision.

Briere said since it wasn't clear in the code she wanted to know how the funds of privately owned developments whose parking was managed by the DDA would be handled. She felt that should be figured out before someone tries to build something using this code.

Masson-Minock said it wasn't clear in the code and suggested getting clarity from the DDA.

Briere asked the question posed by a public speaker, if developers would be penalized for building underground parking and if so, how do we avoid that.

DiLeo clarified that currently underground parking is not counted as floor area so it doesn't count towards your Floor Area Ratio [FAR], but if the number of spaces exceeds the soft maximum then they would have to go to these publically owned options.

Bona said one of the benefits of public parking is turnover while usually in private spaces you have one owner parking their car in the single space and you don't get the turnover so we provide parking for the same number of parking spaces. She said that turnover number should be included in this when it moves on to Council along with why public parking is so much more beneficial than having private parking.

Mills reviewed the current parking requirement and then asked if the proposed parking arrangements, maximum spaces would be based on the premium area.

DiLeo said the premium area and not the entire building.

Mills said so if right now she had an FAR of 400 she can provide parking if she wants.

DiLeo said yes, if she wants, and if she provides it underground it would be exempt from your FAR, but if you put it above ground it would count.

Mills asked about the new arrangement.

DiLeo said in the new arrangement you will have a soft maximum, and you can put it anywhere, underground or above ground and it won't count towards your FAR because it is your required parking, but if you want to exceed that soft maximum then you'll have to deal with two issues; FAR, and in order to not impact your FAR you'll have to put in underground because that's not counted, and the other issue will be switching it over from exclusive use to some sort of shared use.

Mills said even though she is not a fan of parking, if you are putting a maximum parking for a premium then it's a huge disincentive to any parking at all.

DiLeo said what she thinks she understood was that if you are in the normal range you have no parking required, but if you want to provide parking, would you then be subject to this rate as shown in the formula.

Masson-Minock reviewed the slide showing if you want premiums then you have to provide parking for that premium space.

DiLeo noted that however the Commission wants it to be, staff can then work on the particular language.

Mills proposed, on Page 22, Section A, the floor space should be based on the whole building and not the premium portion, because the way it is currently written it will seriously limit the amount of parking being provided.

Briere asked if Mills thought they should address the residential parking part of it.

Mills said she felt it should be done per dwelling unit in the entire building; 1.5 spaces for private use and 0.5 spaces for public use.

Woods noted the time getting close to 11 p.m. and the Commission's Bylaws would be kicking in on decision making. She noted that the issue of parking seems very complicated and she asked if the Commission was interested in moving the item towards postponement.

Carlisle suggested getting the issues on the table that would allow staff to address them so they wouldn't have to repeat this discussion.

Gibb-Randall said her understanding was that you cannot as a private

developer, have rental affordable housing, so if you are building rental downtown you would have to do the payment in lieu option in order to get premiums.

Briere said, you can have it, we just can't enforce it.

Masson-Minock said the enforcement mechanism at the State level for rental is missing because of the State law, but that could change at the State level before the City were to amend these again.

Masson-Minock said for the workforce housing option if one wanted to take that option and that is enforceable for the City there are 2 ways in which that could happen within these ordinance amendments; 1. They build the units and in order to be enforceable they have to be for-sale units, and as previously explained they would use a deed restriction. 2. They could pay the in-lieu fee.

Gibb-Randall asked where the in-lieu fee goes.

Briere explained it goes to the Affordable Housing Fund.

Gibb-Randall asked if the City could then go build affordable housing for rent.

Briere said that is the theory.

Carlisle clarified that it is legal but it is illegal for the City to require it because of rental controls; however, a developer in good conscience could lower their rent to meet the Affordable Index AMI.

Peters said he wanted to make sure the proposed changes suggested by Mills be included for next time because it's a very good carrot for the premiums you would be getting and helps address the issues brought up at this meeting about parking in all the neighborhoods, and adding capacity into the public parking system allowing those spots that would otherwise sit empty and become revenue generators while helping to solve issues in the near downtown neighborhoods.

Masson-Minock said Mills proposed changing the table on Page 22 to note that the parking was explicit to the entire building, both the premium and non premium space.

Woods asked if there could be any implication of taking of their parking if

the DDA were to manage their parking.

Commissioners responded that it would be voluntary because they chose to develop with premiums so it would not be by-right.

Woods asked if this would be going back past the City Attorney for their review.

Carlisle said, yes, adding that they have reviewed the first draft.

Mills asked about the parking provision 2 C. She said she found it interesting that the pedestrian amenities would be the set to unlock the premiums and as a pedestrian she appreciated those. She asked how those would work on the smaller lots.

Masson-Minock suggested bringing an example of how the layout would work on a smaller lot and where the 5% would go.

Milshteyn said it would be great if at some point the Commission could see a demonstration on what energy efficiency actually costs the developer to jump through these hoops; would that be 20% increased construction cost or double.

Briere said for the small lots she would be very happy if Masson-Minock could do one of those little block buildings that shows what the base FAR is and what the premium is and how tall a building could be. She noted that small lots usually have constraints and she is always concerned that we are incentivizing the combination of lots and she would like to get a sense for that.

Bona said she agreed on the small lots, adding that it has always been an issue to her not to disincentivize small lots as it is hard enough to develop them.

Bona suggested that the DDA review the revised parking amendments to make sure it meets their requirements. She said she didn't think we should be basing parking on the number of dwelling units, and the reason why the FAR works so well is because it is flexible, and you can have a lot of small units or a few big units. She said if she was a developer she would come to the City with a bunch of big units, get them built and then cut them in half. She said Sloan Plaza is a perfect example where commercial office space was converted to residential and that is wonderful it is allowed, so residential or non-residential floor area

downtown needs to be flat and we shouldn't be calculating parking differently, like we currently do it.

Mills commented on a request from a public speaker who had noted the importance of renderings showing the pedestrian experience. She agreed saying it would be most helpful if they could get such renderings more often.

Gibb-Randall agreed noting that the Design Review Board had made the same request to be included in proposed design review requirements.

Moved by Briere, seconded by Milshteyn to postpone taking action.

On a voice vote, the vote was as follows with the Chair declaring the motion carried.

Yeas: 8 - Wendy Woods, Kenneth Clein, Sabra Briere, Jeremy Peters, Sarah Mills, Bonnie Bona, Alex Milshteyn, and Shannan Gibb-Randall

Nays: 0

Absent: 1 - Sofia Franciscus

11 AUDIENCE PARTICIPATION (Persons may speak for three minutes on any item.)

Ethel Potts, 1014 Elder Blvd, Ann Arbor, thanked the Commission for discussing parking thoroughly, adding she would like to see buildings provide the parking they need for their own building, not necessarily extra for the public, otherwise she is seeing those people use her public parking, which makes less available to the public.

Faramarz Farahanchi, 115 ½ East Liberty, Ann Arbor, said if a developer can create double the amount of parking spaces needed, why not triple it, so instead of putting maximums, we should put minimums, because if someone is willing to go down underground at their own expense to create parking, why not allow them. He said we need parking. He said it was great that the Accessory Dwelling Units Zoning Amendments passed because we need more housing units otherwise we will be following Manhattan and San Francisco where the rents have doubled within the last 2 years. He said if we don't make the premiums more difficult the rent costs will go up. He said right now the cost per square foot in Ann Arbor is \$475 for condos in downtown. He said if you don't put more restrictions and choke the supply you are going to be looking at \$600 per square foot, which is in contradiction with affordable housing. He said technically

nothing in Ann Arbor is considered affordable, because if a property is valued at \$100,000, that is \$50,000 taxable value which is \$3,000 per year in property tax.

Sean Havera, 30100 Telegraph Road, Bingham Farms, MI, asked when the revised ADU language would make it to the 1st reading at City Council.

Carlisle said the amendments would have to make a final review through the City Attorney's office and that the City would keep everyone posted on the schedule.

DiLeo noted that she expected it could be June or July before the item reached City Council.

12 COMMISSION PROPOSED BUSINESS

13 ADJOURNMENT

Moved by Peters, seconded by Milshteyn, that the meeting be adjourned at 11:15 p.m. On a voice vote, the Chair declared the motion carried.

Wendy Woods, Chair
mg

These meetings are typically broadcast on Ann Arbor Community Television Network Channel 16 live at 7:00 p.m. on the first and third Tuesdays of the month and replayed the following Wednesdays at 10:00 AM and Sundays at 2:00 PM. Recent meetings can also be streamed online from the CTN Video On Demand page of the City's website (www.a2gov.org).

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