

PLANNING AND DEVELOPMENT SERVICES STAFF REPORT

For Planning Commission Meeting of October 5, 2016

SUBJECT: Amendment to Chapter 55 (Zoning Ordinance), Sections 5:10.19, 5:10.20, 5:64, 5:65, 5:68, 5:70 related to Downtown Zoning Districts, Premium Floor Area and Planned Project Modifications, and Chapter 59 (Off-Street Parking), Section 5:169 related to Special Parking Districts.

PROPOSED CITY PLANNING COMMISSION MOTION

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, 5:10.20 Downtown Character Overlay Zoning 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.

STAFF RECOMMENDATION

Staff recommends that the proposed amendments to Chapter 55 (Zoning Ordinance) and Chapter 59 (Off-Street Parking Ordinance) of the City Code be **approved** because the amendments are consistent with the Council Resolutions R-13-078 and R-14-025 and will further goals of the Downtown Plan, the Master Plan Land Use Element, the Master Plan Sustainability Element, and the City's affordable housing goals.

STAFF REPORT

Following a public hearing held on April 19, 2016, the Planning Commission postponed proposed amendments to the Zoning Ordinance (Chapter 55) and Off-Street Parking Ordinance (Chapter 59) related to the floor area premium options, planned project modifications, and special parking district to allow additional time to discuss and revise the amendments.

Since April 19, the downtown premium amendments were discussed on [June 13](#) at a joint working session of the City Council and Planning Commission, and by the Planning Commission at a regular meeting on [July 14](#) and a working session on [August 9](#).

BACKGROUND

In March and April 2013, City Council passed resolutions directing the Planning Commission to review certain aspects of the downtown zoning ordinance and provide recommendations for any necessary amendments. In July 2013, ENP & Associates was hired to assist in that evaluation of the existing downtown zoning regulations. ENP's report was completed in October 2013.

The Planning Commission reviewed the report and received additional comments from the public at six meetings. After evaluating the information it received, on December 13, 2013 the Planning Commission endorsed eight recommendations for changes to the zoning map, the zoning ordinance and the development review process. Two of the recommendations were to reduce the residential premium with the goal of encouraging the use of other existing or proposed premiums to compensate for this reduction, such as increased energy efficiency certification, open space with landscape, active ground floor use, balconies and workforce housing, and to eliminate the affordable housing “super premium”.

On January 21, 2014, City Council [directed](#) the Planning Commission to begin the process of implementing the eight recommended changes along with two additional charges, and asked for a report back to City Council by October, 2014. Several recommendations have been completed since then, including two rezonings and two code amendments. The Premium Evaluation is one of the last remaining tasks to be addressed.

ENP was asked to continue working with the Planning Commission and staff specifically to revisit the premium section of the Zoning Ordinance and facilitate public input. The goal of the community engagement process was to determine what, if any, amendments should be made to align the downtown premiums with community goals. The Planning Commission asked for three focal points to be explored with the public: quality design, energy efficiency, and housing affordability.

Work on the Premium Evaluation began in the spring of 2015 and included the following [public engagement](#) highlights:

- Working session discussions with the Environmental Commission, the Mayor’s Downtown Marketing Task Force, the Downtown Citizens Advisory Council, the Housing & Human Services Advisory Board, the Historic District Commission, the Energy Commission, the Design Review Board, and the Ann Arbor Preservation Association.
- Focus groups were offered for affordable housing residents, young families and young professionals
- Five community coffee hour and happy hour drop-in sessions
- Interviews with an architect and a developer (separately) who have designed or developed a downtown building using a premium incentive, Washtenaw County Office of Economic and Community Development staff, Chamber of Commerce staff, and real estate brokers marking a downtown site for the City
- A community-wide survey through Ann Arbor Open City Hall
- A community meeting

The Planning Commission discussed various aspects of the Premium Evaluation at their working sessions on [March 3, 2015](#), [June 9, 2015](#), [January 8, 2016](#), [February 9, 2016](#), and [July 19, 2016](#) and [August 9, 2016](#) as well as a joint session with City Council on [June 13, 2016](#). The Ordinance Revisions Committee did the same at their meetings of [March 20, 2015](#), [October 6, 2015](#), and [September 18, 2015](#). A public hearing was held on [April 19, 2016](#).

DESCRIPTION OF PROJECT

The Zoning Ordinance currently offers premium floor area, or additional square footage beyond the normal maximum allowed for each zoning district, when certain uses or features are provided. Premiums for residential use, affordable housing, green building, historic preservation, pedestrian amenity, and public parking premiums are currently offered.

Premiums are used by many communities as an incentive to encourage uses and features that the real estate market is not generally providing. Since both the real estate market and a community's goals and priorities change over time, it is appropriate to periodically review the premium options offered. Sometimes demand for a use (e.g. residential units) becomes strong enough that incentives are no longer needed. Other times, a community decides its priorities have changed so new features should be encouraged (example, quality design).

The Downtown Zoning Premium Evaluation sought to determine whether the current menu of premium options is achieving their intended purposes and whether other types of premiums should be offered. The Premium Evaluation questioned if the incentives were aligned with the current development market and were consistent with goals for downtown Ann Arbor, especially with regarding to housing affordability, energy efficiency and quality design.

From the beginning, engaging citizens and downtown stakeholders was a priority. ENP prepared an [educational packet](#), outlining the evaluation process and providing background on how the premiums work in Ann Arbor. The materials also included brief case studies of other community's who offer premiums.

The suggested zoning ordinance amendments build upon the [prioritization feedback](#) and survey results from the public engagement process and a Planning Commission [policy choice exercise](#). Based on the input from all stakeholders – City Council's directive, Planning Commission, other Boards and Commissions, staff and citizens – the proposed amendment approach balances the stated city goals of a sustainable downtown and increased density in areas with existing utilities and transportation networks with the community desire to strengthen the premium requirements to incentivize unmet needs of environmentally sustainability, energy efficiency and workforce housing.

The proposed amendments include:

- Building design requirements on primary and secondary streets (applicable to both normal FAR and premium FAR developments).
- Allowing certain planned project modifications in the downtown zoning districts.
- Requiring energy efficiency standards as a condition to acquire premium floor area.
- Creating a two-tiered premium program. Tier 1 may acquire a 150% FAR bonus in the D1 district and 100% FAR bonus in the D2 district. Tier 2 may acquire a 300% bonus in the D1 district and 200% FAR bonus in the D2 district.
- Tier 1 options include residential use premium and energy efficiency premium.
- Tier 2 options include a workforce housing premium, LEED certification premium and 2030 [Carbon Neutrality] Challenge premium.
- Eliminating the option to contract for parking permits within the city's public parking system to meet off-street parking requirements for premium floor area in the downtown special parking district.

PROPOSED AMENDMENTS

A complete draft of the proposed amendments is attached. Below are brief descriptions of the proposed changes.

Building Design Requirements – A new section has been added to **Section 5:10.20 Downtown Character Overlay Zoning Districts** that require basic design requirements on primary and secondary streets. The building design requirements are focused on the first floor and address story height; transparency; openings; sill height; and building materials.

Planned Project Modifications – Because building design requirements that are applicable to all new development on a primary- or secondary-designated street are proposed, a method for relief in certain circumstances is proposed as well. Amendments to **Section 5:68 Intent** and **Section 5:70 Standards for Approval** will enable the Planning Commission to make a recommendation and the City Council to approve planned project modifications when strict conformance to the building design requirements would not meet the Historic District Standards and Guidelines (for properties in a historic district) or to propose an iconic design that furthers the intent and spirit of the Downtown Design Guidelines (for properties not in a historic district). Unlike the established acceptable justifications for planned project modifications which do not require support or a recommendation from another body, the newly proposed justification specifically for flexibility from the building design requirements requires support from the Historic District Commission or the Design Review Board as appropriate in order to be considered for approval.

Prerequisites – **Section 5:65(1) General Regulations** has been changed to clearly indicate that premiums are divided into two tiers and only one option may be applied to a development. The current general regulations simply require proposed developments using a premium option to achieve at least 2 points under the LEED energy and atmosphere credit category. This single prerequisite is proposed to be replaced with a performance standard requirement of 50% less fossil fuel, greenhouse gas-emitting, energy consumption performance than our regional average or a 25% improvement in performance over heating, cooling and ventilation code.

Tier 1 Premium – Amendments to **Section 5:65(2) Premium Options** establish a two-tiered system for premiums. Two options are offered in Tier 1 to achieve the half of the total maximum bonus floor area. A development in the D1 district may exceed the 400% normal FAR allowance by up to 150% for a total FAR of 550%, and a development in the D2 district may exceed the 200% normal FAR by up to 100% for a total FAR of 300%, by using one of the two Tier 1 options.

The two Tier 1 options are residential use premium and energy efficiency. No substantive changes are proposed to the residential use premium formula, however it has been simplified. One square foot of premium floor area is awarded for each square foot of residential use proposed. As a Tier 1 option, the total award is now capped at 550% total FAR in the D1 district and 300% total FAR in the D2 district.

An energy efficiency track is offered as a second option in Tier 1. As proposed, the bonus FAR will be awarded when the development achieves a 30% of higher improvement over the state approved energy code (excluding renewable energy credits). This option may be especially attractive for a development that wishes to be entirely nonresidential.

Tier 2 Premiums – Also in **Section 5:65(2) Premium Options**, three options are now offered in Tier 2 to achieve the full maximum bonus floor area allowed in D1 or D2: workforce housing, LEED certification, or 2030 Challenge by the American Institute of Architects.

Bonus floor area is awarded for developments with at least 25% residential use, of which at least 10% is designated as affordable to workforce households earning between 30 and 60% of area median income. Developers may either provide the workforce housing units within the development or may contribute to the Affordable Housing Fund consistent with the in-lieu fee formula established by City Council. The in-lieu fee option may not be used to replace the residential units themselves, only to replace the affordability condition.

Bonus floor area is also awarded for developments achieving the US Green Building Council's Leadership in Energy and Environmental Design (LEED) current version Gold or Platinum Certification for Building Design + Construction or Homes. Currently, bonus floor area is awarded for developments achieving LEED version 3 Silver, Gold or Platinum Certification for new construction or existing buildings.

Finally, bonus floor area can be awarded for developments that achieve the performance standard for new buildings per the 2030 Challenge by the American Institute of Architects of 70% less fossil fuel, greenhouse gas-emitting, energy consumption performance than regional average/median for that building type baseline.

As currently, a monetary penalty will be due for failure to demonstrate full compliance for either the LEED certification or 2030 Challenge premium options.

Off-Street Parking – **Section 5:169(1)** has been revised to eliminate the option to contract for parking permits within the city's public parking system to meet off-street parking in the downtown special parking district. Remaining options for meet off-street parking requirements are providing the spaces on site or a payment in lieu.

STAFF COMMENTS

The following changes have been made to the proposed amendments since the April 19, 2016 public hearing for the 3/30/16 draft:

- The building design requirements in Section 5:10.20(5) have been revised to more clearly articulate the required and prohibited materials.
- The prerequisite to provide pedestrian amenities as part of any premium option in Section 5:65(1) has been removed.
- The Tier 1 energy efficiency required improvement percentage in Section 5:65(2)(b) has been lowered from 40% to 30%. To be awarded energy efficiency premium floor area, the building must achieve a 30% or higher improvement over the state approved energy code.
- The proposal to introduce a "soft" maximum parking limit and require shared parking if more than the maximum parking is proposed has been dropped. The only change to the off-street parking requirements has been eliminating the option to contract for parking permits within the public system.

- Wherever a brand name or trademarked measuring tool is mentioned, such as EQUEST or Target Finder, additional language has been introduced to make clear that an equivalent tool can be used as approved by the Building Official.
- Several paragraphs have been order formatted for consistent organization, edited for clarity without substantive changes, and outdated terms have been changed to current language, such as “usable open space” to “open space”.

Project consultant ENP, as requested, interviewed development companies that have recently either constructed or had buildings with premiums approved in downtown. They were asked about their concerns overall and specific questions about the energy efficiency options, the workforce housing option, and versions of LEED certification. Overall, the interview subjects expressed fair concerns and offered constructive criticism but none identified any insurmountable issues and none suggested they would stop considering new development projects in the downtown if the proposed changes were adopted. A full summary is attached.

Staff continues to support and recommend approval of the proposed premium amendments package. Staff believes it will balance strengthening the premium thresholds, prioritize uses and needs that the development market is not currently providing, and work toward ensuring a sustainable, efficient, and desirable downtown. In the proposed two-tiered approach, half of the maximum premium FAR allowance is designed to be relatively easily attained. Downtown developers will have ample flexibility to plan mixed use buildings, buildings with sufficient density to support mass transit, and buildings with the critical mass of occupants to support a 24-hour downtown. The relative ease of incorporating the Tier 1 premiums serves to further the goals of a wide variety of all of the City’s adopted plans and policies. Most developments using Tier 1 premiums will likely be considered mid-rise buildings, likely between six and ten stories tall.

Tier 2 options, however, will require significant investment by a developer and, as a reward, offer the greatest bonus floor area. In exchange for the possibility of a large-scale, high-rise development in the downtown, the City will gain one of two unmet and desired needs of our community – affordable workforce housing or an exceptionally low impact development.

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9/30/16

Attachment: 9/27/2016 Proposed Ordinance Amendments [Final Draft](#) and [Tracked Draft](#)
Developer Input Summary

c: City Attorney
Systems Planning
File