

PLANNING AND DEVELOPMENT SERVICES STAFF REPORT

For Planning Commission Meeting of August 18, 2020

SUBJECT: Amendments to Chapter 55 (Unified Development Code) related to Accessory Dwelling Units, Security for Completion of Improvements, Building Materials, FAR Determination, Fence Graphic, Marijuana Processor, and Dimensional Tables

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 Unified Development Code, Sections 5.16.6.D, 5.28.8, 5.17.6.C, 5.17.4, and 5.26.2.A, including Tables 5.15-1, 5.15-2, 5.17-1, 5.17-2, 5.17-3, 5.17-4 and 5.17-5 to allow accessory dwelling units in the R2A district, expand security for the completion of improvements, regulate fiber cement boards, provide right-of-way for sidewalks in FAR determination, correct a fence graphic, correct marijuana processor use permission, and correct dimensional standards tables.

STAFF RECOMMENDATION:

Staff recommends that the presented amendments to the Unified Development Code be **approved**.

SUMMARY:

Several changes and corrections are proposed to the Unified Development Code. Changes including: reformatting existing ADU requirements for improved clarity, Title and reference amendments to Table 5.15-2, expanding the site improvements for which security can be posted prior to issuance of a temporary certificate of occupancy, prohibiting fiber cement products as a primary façade material in the D-1 and D-2 districts, allowing areas dedicated for public sidewalks to be considered as part of the lot area for FAR calculations, and amendments to presentation of dimensional tables.

Corrections include: allowing accessory dwelling units in the R2A district, correcting a fence graphic label, correcting a footnote reference, correcting marijuana processor use permissions, and correcting errors in dimensional tables.

REPORT:

Amendments to Title and Key of Tables 5.15-1 and 5.15-2 (Section 1 of attached Ordinance)

An amendment is proposed to the titles of Table 5.15-1 and 5.15-2 in Section 5.15 by deleting the word “permitted” to both. In addition, the Table 5.15-1 Primary Use Table key will be

amended to delete “A=Permitted Accessory Use” since there are none and the Table 5.15-2 Accessory Use Table key will be amended to delete “P=Permitted” and “E=Special Exception” for the same reason. These changes for clarity are proposed to reduce the possibility of misinterpreting the contents of the table.

Included in the amendments to the Primary Use Table and the Accessory Use Table are corrections related to accessory dwelling units in the R2A district and marijuana processors in the M2 district, discussed further below.

Amendments to Security for Completion of Required Site Improvements (Section 2 of attached Ordinance)

An amendment to **Section 5.28.8** is proposed to expand when security (generally, performance bonds) can be given for incomplete site improvements in order to receive a temporary certificate of occupancy. Currently, security can only be posted for pavement and plantings, and only when asphalt plants are closed in cold weather or it is not appropriate planting season. The proposed changes will expand the site improvements to all required site improvements on the approved site plan for any time of year or reason, but only when acceptable to the Planning Manager.

Staff has been confronted with many situations in recent years when a development is nearly complete and it would be a significant inconvenience to the pending residents to delay occupancy, and the outstanding work would not impact their quality of life or the functioning of the development. An example, a 50-unit condominium building has its entire structure complete including 10 units and all of its required site improvements except 10 of 20 bicycle parking hoops. The remaining 10 hoops are purchased but not installed because their location is being used to store finish materials for the other 40 units.

The proposed amendments are intended to expand what and why security can be posted, but with clarifying language to ensure that lack of planning or organization, or over promising, by a contractor is not a qualifying reason. All site improvements necessary to support the development must still be completed.

Amendment to Regulate Fiber Cement Board as Trim Material in D1 and D2 districts (Section 3 of attached Ordinance)

An is proposed to **Section 5.17.6.C** to add a new subparagraph indicating fiber cement board is permitted only as trim or accent material when visible from primary or secondary streets. The building design requirements in this paragraph are currently silent regarding fiber cement board. The proposed change is intended to address where this popular, but currently unregulated, building material is allowed downtown.

Amendment to Include Right-of-Way Donated for Public Sidewalks in FAR Determination (Section 4 of attached Ordinance)

An amendment is proposed to add a new section to **Section 5.17.4** addressing determining FAR in Mixed Use zoning districts. The proposed section is modeled after the language in Section 5.17.3 (Determination of Number of Dwelling Units). As lot area for density purposes in residential zoning districts includes parkland donations, the proposed change will include right-of-way for public sidewalks in the lot area for FAR purposes. Clarifying language is included that right-of-way for new public streets or widening travel lanes does not count.

This amendment is proposed in response to a situation that recently came to light. A downtown site had just 8 feet of public sidewalk between the existing street curb and the lot line. The development standards required a 1-foot maximum front setback. An 8-foot wide sidewalk is uncomfortably narrow in downtown and does not have enough width to accommodate an amenity zone plus a walking zone. Only a walking zone could be provided within the existing 8 feet, no street trees other amenities could be installed, and pedestrians would have no buffer from the vehicle travel lanes.

There is already a provision that allows an increased setback to enable a 16-foot wide sidewalk downtown (see Section 5.17.6, Table 5.17-7, note 2 of additional requirements and exceptions for primary streets). However, the developer was reluctant to design the proposed development with an 8-foot front setback because it would have resulted in the loss of roughly 12,000 square feet of floor area (an 8'x125' footprint multiplied by 12 floors).

The proposed amendment will provide an additional tool to benefit both the City and developers to encourage and remove penalties for implementing plans and standards such as the Land Use Element and Street Design Manual.

Correction to Primary Use Table: Marijuana Processors Permitted in M2 (Section 1 of attached Ordinance)

In **Section 5.15, Table 5.15-1 Primary Use Table** is proposed to be corrected by indicating a Marijuana Processor is permitted in the M2 district. Ordinance ORD-17-21 provided Marijuana Processor regulations in the M1 and M1A districts. At the time of adoption, the M2 district allowed all permitted uses of the M1 and M1A districts. This was not carried forward with adoption of the UDC in 2018. No other corrections, such as changes to the use specific standards, are necessary to restore permission.

A correction to Marijuana-Product Infused Processor was advertised but is not needed nor proposed.

Correction to Accessory Use Table and Accessory Dwelling Unit Use Specific Standards: ADU Permitted in R2A (Sections 1 and 5 of attached Ordinance)

Similarly to the scenario described for marijuana processors above, a correction is proposed to an oversight during the adoption of the UDC in 2018. Ordinance ORD-16-16 revised and expanded the accessory dwelling units. The expansion included permitting ADUs in the R2A district because all accessory uses permitted in single-family districts were also permitted in the R2A district at that time. However, this was not carried forward in the Accessory Use Table during UDC adoption.

Two changes are necessary to correctly allow Accessory Dwelling Units in the R2A (Two-Family Dwelling) district. First, **Table 5.15-2 Accessory Use Table**, is amended by adding a P to the Dwelling Unit, Accessory/R2A cell. This indicates that an ADU is permitted in the R2A district.

Second, **Section 5.16.6.D** is amended by striking the word “permitted” from paragraph 1, to read “An ADU is permitted on a lot that has one Single-Family Dwelling as the principal use.” This change to the use specific standards more clearly ties the ADU allowance to the use of the lot (having a single-family dwelling) rather than the zoning designation of the lot (being in the R1

district). The Accessory Use Table still governs in which *district* ADUs are allowed. The proposed change to paragraph 1 reinforces and complements the change to use table.

Staff also propose amendments to update Section 5.16.6.D by converting paragraphs 4 and 6 into tables. These additional changes are intended for simplification and user-friendliness and do not amend the current requirements.

Correction to Fence Graphic Label (Section 6 of attached Ordinance)

The graphic provided in **Section 5.26.2.A** is proposed to be corrected with the proper terms for the front and middle portions of a lot. Middle is corrected to side yard, and front open space is corrected to front yard.

Correction to Dimensional Standards Tables (Section 8 of attached Ordinance)

A few omissions were found by staff in the dimensional standards tables in **Section 5.17**. The presented tables are consistent with the versions presented to the Ordinance Revisions Committee in July.

Prepared by Alexis DiLeo/Brett Lenart

7-17-20

Attachment: Ordinance to Amend Chapter 55 Unified Development Code (Accessory Dwelling Units, Security for Completion of Improvements, Building Materials, FAR Determination, Fence Graphic, Marijuana Processor, Dimensional Standards Tables)

c: City Attorney's Office