

PLANNING AND DEVELOPMENT SERVICES STAFF REPORT

For Planning Commission Meeting of October 6, 2020

SUBJECT: Amendments to Chapter 55 (Unified Development Code) to regarding planned project site plan modifications

PROPOSED CITY PLANNING COMMISSION MOTION

The Ann Arbor City Planning Commission hereby recommends that the Mayor and City Council approve the August 2, 2019 drafted amendments to Chapter 55 Unified Development Code, Section 5.18.6 Premiums to incentivize affordable dwelling units in the downtown zoning districts.

STAFF RECOMMENDATION:

Staff recommends that these amendments to the Unified Development Code be discussed and validated, then postponed so staff can make any requested changes, prepare a comprehensive ordinance amendment document, and include regulations for administrative procedures for approved planned project site plans.

SUMMARY:

A proposed amendment to delete Section 5.30.1 Planned Project Site Plan Modifications and add three new paragraphs, in Sections 5.18.3, 5.18.4 and 5.19.6, offering flexibility to setbacks in multiple-family residential, mixed use, and nonresidential and special purpose zoning districts, exceptions to height limits for sustainable and affordable housing developments, and parking waivers for sustainable and affordable housing developments, respectively. These amendments are intended to replicate the majority of benefits offered and realized by the current Planned Project modifications in a less complicated, more straightforward, predictable, and intuitive manner.

BACKGROUND:

The Planned Project Site Plan Modifications, UDC Section 5.30.1, "provide an added degree of flexibility in the placement, design, and interrelationship of the Buildings within a site planned development" by allowing "modifications to the area, height, placement, and design requirements and lot sizes." These modifications are considered when developments provided at least one of nine features, summarized as follows:

- i) Open Space
- ii) Increased Setbacks

- iii) Preservation of Natural Features
- iv) Preservation of Historical or Architectural Features
- v) Solar Orientation or Energy Conserving Design
- vi) Arrangement of Buildings That Provides a Beneficial Design
- vii) Affordable Housing for Lower Income Households
- viii) Conservation Easement for Permanent Open Space
- ix) Maximizing the Downtown Design Guidelines (D1 and D2 only)

The modifications to area, height, placement, and design requirements have no limitations, and there are no standards or guidance on the amount or extent of features that should be provided to justify a modification. Rather, an applicant can request any number of feet to increase a building's height or change a building's or parking lot's setbacks. And the Planning Commission and City Council can accept (or deny) any degree of open space, increased setback, preservation of natural features, or number of affordable housing dwelling units, and so on, for whatever is requested as long as the general standards for approval are met.

Because of the ambiguities in equating modifications from normal standards and the proportional value of the set beneficial features, and because the list of features has become outdated, the Planning Commission initiated a review and request for recommended changes.

At first, the work to recommend changes focuses on keeping the current format and adding minimums and maximums and enumerating the exact designs which merit approval. It soon became evident that the goal-like set-up of planned project site plan modifications could not be transformed into a metric system in a simple, straightforward manner. Draft amendments ballooned into long, rambling, unwieldy language, with complicated formulas. Early drafts proved analogous to a cure being worse than the ailment.

Work then shifted to analyzing the fundamental intent and basic goals of Planned Project Site Plan Modifications. The Ordinance Revisions Committee, through several meetings, and the Planning Commission in a working session, reaffirmed that there should be a way for projects to have a path for some increased height and some flexibility in setbacks, the two most-used modifications, outside of the PUD or variance processes. It was also determined that increasing the percentage of open space by a few points was no longer a redeeming development quality, and other amendments to the development standards have made "an arrangement of buildings that provides a beneficial design" to be unnecessary. Sustainability and affordable housing were agreed to be the only two features on the list that concretely further adopted master plan goals.

A new approach was taken to retain the most useful and most used flexibility of the Planned Project Site Plan Modifications and offer them in a defined, discrete, and clear method. This new approach, proposed here, adds three new paragraphs in existing sections of the UDC.

First, in Additional Area, Height and Placement Standards (Section 5.19.3), setback flexibility is offered for mixed-use and nonresidential and special purpose zoning districts almost exactly as it has always been offered for multiple-family residential zoning districts, except a 50% limitation is included. The multiple-family residential zoning district flexibility is currently found in a footnote of Table 5.17-3 and will be relocated to proposed subparagraph 5.18.3.C.1 for consistency. Offering the ability to shift the width and depth of Front, Side and Rear Yards gives designers a measure of elasticity to plan around existing elements on a site, perhaps a landmark tree, or better align with adjacent features, while maintaining adequate yards. The setback line and yard alternatives in this proposed subsection are intended as rough proxy for all of the current planned project modification features except solar orientation and energy conserving design, and affordable housing for lower income households.

Second, in Exceptions to Height Limits (Section 5.18.4), a 30% height increase is offered to developments that either have significant sustainability components or affordable housing. Significant sustainability is defined as developments with solar panels that would cover at least 30% of the building footprint and the ability to be fully electrified. Affordable housing are developments where 15% of the dwelling units or floor area are affordable housing dwelling units.

This new subsection could result in the following building heights:

Normal Height Limit (ft)	Zoning District(s)	30% Increase (ft)
30	R1x, R2x, R4C	39
35	R3, R4A, R4B, C1, M1, M1A, M2	45
45	R4A, R4B	58
50	C1B, R5	65
55	O, C2B, C3, RE, ORL	71
60	South University, Liberty/Division, Main Street, Kerrytown, First Street	78
120	R4D, East Huron 1, Main Street	156
150	South University	195
180	State Street, Liberty Division, East Huron 2, Midtown, Main Street	234

The exception to height limits for sustainable and affordable housing developments narrows the current planned project modifications to focus solely on height, and clearly defines the necessary qualities to use the exceptions. A building step-back is required when within 300 feet of any residential zoning district, borrowed from similar height limitations in the O district, to further mitigate any impacts of the increased height beyond the new 30% cap.

Third, a new component is proposed in the spirit of Planned Project Site Plan Modifications to waive the car storage aspect of the off-street parking requirements for sustainable and affordable housing developments. The current Planned Project modifications do not address parking – only area, height and placement standards. However, in the case of sustainable developments, devoting land to car storage is contrary to the premise of sustainability. For affordable housing developments, parking lots are often a large chunk of the development budget that can often be better used for other features or to increase affordability. A new subsection is proposed to waive the off-street parking requirements for sustainable and affordable housing developments, using the same definitions for the height increase provisions, with tailored restrictions to still provide bicycle parking and address person and package logistics to minimize any negative impacts in the vicinity.

STAFF COMMENTS:

In response to the Planning Commission's concerns at its September 9, 2020 working session, staff offer the following comments:

- Staff reassessed the 30% height increase metric and continue to find it within the range of previously approved planned project modifications. A lower metric would not offer a meaningful increase for districts with 30 and 35-foot normal height limits. Planned project modifications for height have enabled taller, more slender buildings located farther away from lower-scale adjacent development, and this beneficial ability should be preserved. The Planning Commission could consider a do-not-exceed provision of perhaps 30 or 40 feet to still enable lower height districts have useful height increase while moderating the ability of higher height districts.
- The previously proposed 30% coverage of a building's footprint has been increased to 60% after consultation with the Office of Sustainability and Innovation.
- The previously proposed setback modifications has been changed to setback line and yard alternatives, without the need for sustainability or affordable housing, in response to comments concerning the high threshold for this relatively minor flexibility particularly in light of the shifting nature (rather than increasing nature).
- Staff have and continue to engage the development community on the practicality of the proposed amendments. Feedback thus far has been positive and further updates will be provided following the public hearing. However, the Commission should keep in mind that it is solely the City's discretion to offer any flexibility from strict conformance with the development standards provided in the UDC. The reimagined modifications are not meant to actively encourage particular land uses by offering incentives through higher FAR. Nor are they meant to solve hardships or fix bad code. Both the current planned project

modifications and the proposed reimagined alternatives, increases and waivers are meant to be acceptable deviations from dimensional standards.

Staff note that the approach to setback line and yard alternatives has a clear relationship when decreasing setback lines. Decreasing one setback line will cause another to be increased in order to maintain the cumulative required setback area for the site. The offsetting benefit is not as direct when increasing a setback line. Only one type of setback can be increased, maximum front setback. If a maximum front setback is increased, the cumulative required setback area is automatically increased by this action and may not cause another setback line to change to offset the increase.

Overall, the contemplated replacement of Section 5.30.1 Planned Project Site Plan Modifications with three new subsections for alternatives in setbacks and yards, increases in height limits for sustainable and affordable housing developments, and parking waivers for sustainable and affordable housing developments, represents the most useful provisions and achieves the most valuable features of Planned Project modifications in a much clearer and definitive manner. Although the process was not linear, it has produced an example of how zoning regulations can be simplified while achieving the overall purpose of zoning.

Should the proposed amendments be validated by the Planning Commission, staff will incorporate any requested changes or revisions that may follow the public hearing, as well as prepare a comprehensive ordinance amendment document that includes Section 5.17.3 (for moving Footnote A(2)), deleting Section 5.30.1 and inserting administrative procedures for recognizing previously approved planned project site plans as conforming, allowing future site plans for administrative approval, and requiring conformance with these replacement provisions if site plans for Planning Commission or City Council are proposed.

Prepared by Alexis DiLeo

Reviewed by Brett Lenart

10-2-20

Attachment: Ordinance to Amend Chapter 55 Unified Development Code (Planned Project Modifications) – September 28, 2020

c: City Attorney's Office

**UNIFIED DEVELOPMENT CODE
(PLANNED PROJECT SITE PLAN MODIFICATIONS)**

AN ORDINANCE TO AMEND SECTION 5.18 AND 5.19 OF CHAPTER 55 (UNIFIED DEVELOPMENT CODE) OF TITLE V OF THE CODE OF THE CITY OF ANN ARBOR

Section 1. To amend Section 5.18 Special Dimensional and Site Layout Standards of Chapter 55 Unified Development Code as follows:

5.18.3 Additional Area, Height, and Placement Standards

- A. No portion of a Lot used in connection with a Building, Structure or use and necessary for compliance with the area, height, and placement regulations of this chapter, shall, through sale or otherwise, be used again as a part of the Lot required for any other Building, Structure or use, except as provided in Subsections B or C below.
- B. After an official site plan approval of attached Single-Family Dwellings, Two-Family Dwellings, or Townhouse Dwellings, or condominium Buildings in conformity with all area, height, and placement regulations, applicable to the primary Building(s) the platting and/or conveyance of individual Dwelling Units within the primary Structure shall not be deemed to render either the primary Building(s) or any individual Dwelling Unit a Nonconforming Structure. Platting and/or conveyance of individual Dwelling Units shall be subject to the provisions of Section 2:33, Chapter 27, Title II of this Code relating to multiple services.
- C. **Setback Line and Yard Alternatives**

1. Multiple-Family Residential Zoning Districts

As an alternative to uniformly increasing the Required Side Setback dimension required in Table 5.17-3, Footnote A, along the length of a Side Lot Line, a variegated dimension may be provided as long as minimum Required Side Setback and total increased Side Setback Area are maintained. Examples of developments with variegated setback dimensions include T, L and C-shaped buildings.

2. Mixed Use, Nonresidential and Special Purpose Zoning Districts

The Required Setbacks, including Front, Side and Rear, may be increased or decreased by up to 50% of the distance required in Tables 5.17-4 and 5.17-5 provided that the cumulative Required Setback Area for the Lot is provided as part of an approved site plan.

- D. Nothing in this section is intended to allow a greater density of population, greater intensity of land use, or less required Open Space than that provided in the approved site plan or plat.

5.18.4 Exceptions to Height Limits

A. Certain Architectural and Mechanical Features

The height limits of this chapter shall apply to spires, belfries, cupolas, penthouses, domes, water Towers, observation Towers, power transmission lines and Towers, Roof-mounted Dish Antennas, masts and aerials, flagpoles, chimneys, smokestacks, ventilators, skylights, derricks, conveyors, cooling Towers, and other similar mechanical appurtenances. However, if such facilities are proposed specifically to house and disguise Wireless Communications Facilities, their height limits shall be those in Section 5.16.5D. The applicable height limit of the zoning district in which such a facility is proposed may be modified by the Zoning Board of Appeals.

B. Wireless Communications Antennas

Wireless Communications Antennas are not subject to the height limits of this chapter, except when attached to Wireless Communications Towers. Wireless Communications Towers and their associated facilities are subject to the height limits found in Section 5.16.5D.

C. Sustainable and Affordable Housing Developments

The height limits of this chapter provided in the dimensional tables of Section 5.17 may be increased up to 30% for sustainable or affordable housing developments as part of an approved site plan as follows:

1. A sustainable development is an approved site plan where a) photovoltaic solar panels cover an area at least 60% of the building(s) footprint(s) are provided, operated and maintained for the life of the development, and b) electrical panels have capacity to solely power the development with electricity, and if all buildings are not fully electrified at the time of development, conduit and other necessary infrastructure is provided for future conversion.
2. An affordable housing development is an approved site plan where at least 15% of all Dwelling Units are, or at least 15% of all Floor Area is devoted to, Affordable Housing Dwelling Units.
3. For any portion of the site that is within 300 feet of any residential zoning district, the Side and Rear Setback within that buffer area shall be increased by the amount of the increased height limitation for the portion of the building(s) above the unmodified height limit. This requirement is intended to result in building(s) that have a step back above the unmodified height limit or building(s) that entirely comply with the increased Side or Rear Setback, at the designer's discretion.
4. The photovoltaic solar panels and electrification features of sustainable developments, or the Affordable Housing Dwelling Units of affordable housing developments, are not required by Section 5.18.6 Premiums.

However, the height exception in this paragraph may be used in addition to the premiums offered in Section 5.18.6 as long as the requirements of each are met individually.

Section 2. To amend Section 5.19 Parking Standards of Chapter 55 Unified Development Code by adding a new section and renumbering subsequent sections accordingly, as follows:

5.19.6 Sustainable and Affordable Housing Development Waiver

The parking requirements provided in Table 5.19-1 of this Section may be waived for sustainable or affordable housing developments as part of an approved site plan as follows: