

PLANNING AND DEVELOPMENT SERVICES STAFF REPORT

For Planning Commission Meeting of April 5, 2011

SUBJECT: Amendments to Chapter 8 (Organizations of Boards and Commissions) and Chapter 57 (Subdivision and Land Use Control) to establish a Design Review Board and Design Review Procedures for Certain Downtown Properties

PROPOSED CITY PLANNING COMMISSION MOTION

The Ann Arbor City Planning Commission hereby recommends that the Mayor and City Council approve amendments to Chapter 8 (Organizations of Boards and Commissions) to add a new Section 1:239 Design Review Board; and Chapter 57 (Subdivision and Land Use Control), amendments to Sections 5:136, 5:137, 5:138, and 5:139, to establish applicability and procedures for the Design Review Board.

STAFF RECOMMENDATION

Staff recommends that the proposed amendments to City Code be approved to implement the downtown design review process outlined by City Council Resolution R-11-025.

PROJECT BACKGROUND

From March 2007 through January 2010, the three-member Ann Arbor Discovering Downtown (A2D2) Steering Committee provided oversight for all five work plans of the A2D2 project: downtown zoning changes, design guidelines creation, historic preservation updates, development process improvements, and parking and transportation strategies.

By the end of 2009, the majority of the A2D2 recommendations had been implemented, with the exception of the downtown design guidelines. Because broad oversight of the A2D2 initiatives was no longer needed, City Council dissolved the Steering Committee on January 19, 2010. On February 1, 2010, City Council named the following members to the Design Guidelines Task Force to lead an intensive review of the draft guidelines and develop a downtown design review process:

- Marcia Higgins, City Council
- Kirk Westphal, City Planning Commission
- Tamara Burns
- William Kinley
- Richard Mitchell
- Peter Pollack
- Norm Tyler

To complete the A2D2 downtown design guidelines initiative, the Design Guidelines Task Force was charged with the following tasks:

- Evaluate the draft Downtown Design Guidelines document prepared by Winter and Company (dated September 30, 2009) in light of citizen comments received to date and identify revisions to clarify or supplement the draft guidelines.
- Examine existing and proposed design guideline review processes in other Michigan cities.
- Identify a preferred design review process for downtown Ann Arbor, and outline recommended review procedures.
- Make a final recommendation to the City Council no later than February 22, 2011, to include suggested revisions to the Downtown Design Guidelines document and an outline of the proposed downtown design review process.

The Task Force met 34 times between March 2010 and January 2011 to finalize the design guidelines and outline a process. On February 7, 2011 City Council adopted a resolution (attached) that approved the Task Force's recommendations, including the revised Downtown Design Guidelines (attached as a separate document). City Council also directed the Planning & Development Services Unit and the Planning Commission to draft ordinance amendments to incorporate the Design Review Program Outline (included in the resolution) into city code. The resolution named seven people to the new Design Review Board, which is tasked with carrying out the Design Review Program.

STAFF COMMENTS

The Design Review Board (DRB) ordinance amendments would formalize a process for providing feedback on the design elements of certain types of projects in the downtown. Projects that meet all of the following criteria would fall within the purview of the DRB.

- Zoned D1 or D2, or rezoned to PUD within the DDA; and
- Not in a historic district (since these properties are already covered by the Historic District Commission design review process); and
- Results in an increase in usable floor area; and
- Is a
 - Site Plan for City Council;
 - PUD Site Plan;
 - Site Plan for Planning Commission;
 - Planned Project; or
 - An Administrative Amendment that significantly alters the appearance of the building from the public right of way.

Preliminary project design plans must be submitted to the DRB, along with an application and fee. The DRB process is structured to occur prior to the Citizen Participation Meeting. No public commentary will be taken at the DRB meeting, so design comments from interested parties can

be shared with the project developers at the Citizen Participation Meeting. By holding the DRB meeting first, that board's comments can be incorporated into the project so that a more complete picture can be presented at the Citizen Participation Meeting.

Notice of the meeting will be mailed by the city to property owners, addresses, and neighborhood groups within the same radius required for the project in the Citizen Participation Ordinance (either 500 or 1000 feet).

At the meeting, the petitioner will present the project to the Board members and discuss with them whether the project meets the intent of the *Downtown Design Guidelines*. The DRB will make a report of the findings and the report will be forwarded to Planning Commission and City Council in the appropriate packet during the site plan review process.

The review process is mandatory, but adherence to the board's recommendations is voluntary. If a project goes through the DRB process but changes significantly as a result of the Citizen Participation Meeting or program revisions by the development team, the project is allowed, but not required, to re-apply to the DRB for re-review.

After City Code is amended to create the Design Review Board, Planning staff will develop supporting materials, such as an application form and instructions, and by-laws for adoption by the DRB.

PROPOSED AMENDMENTS

The proposed Design Review Board amendments (attached) are incorporated into two chapters of City Code. Chapter 8 amendments describe the board, its membership, and powers and duties. Chapter 57 amendments describe what projects the ordinance applies to, submittal requirements, notice, and the meeting report. Changes to sections 5:136 – 139 are only renumbering.

New language is underlined, removed language is in ~~strikethrough~~.

Prepared by Jill Thacher
Reviewed by Wendy Rampson

Attachments: Council Resolution R-11-025
April 1, 2011 Draft Amendments
Downtown Design Guidelines (separate attachment)

c: City Attorney



City of Ann Arbor

100 N. Fifth Avenue
Ann Arbor, MI 48104
[http://a2gov.legistar.com/
Calendar.aspx](http://a2gov.legistar.com/Calendar.aspx)

Council Action

Resolution: R-11-025

File Number: 11-0230

Enactment Number: R-11-025

Resolution Approving the Downtown Ann Arbor Design Guidelines and Design Review Program

Whereas, Resolution R-10-012 requested the creation of the Design Guidelines Task Force to develop Design Guidelines for downtown Ann Arbor, as well as a plan for integration of the Guidelines into the City's planning and development process;

Whereas, Resolution R-10-405 extended the timeline for the Task Force to provide a recommendation to City Council until February 22, 2011; and

Whereas, The Design Guidelines Task Force has recommended approval of the Downtown Ann Arbor Design Guidelines, and has recommended that the Design Review Program Outline be incorporated into City Ordinance and that participation in the review process be mandatory, with compliance with the Guidelines being voluntary;

RESOLVED, That City Council approve the Downtown Ann Arbor Design Guidelines, dated January 12, 2011;

RESOLVED, That City Council endorse the attached Design Review Board Program Outline as recommended by the Design Guidelines Task Force, and direct the Planning and Development Services Unit and the Planning Commission to draft ordinances incorporating the Design Review Program Outline into Ann Arbor City Code;

RESOLVED, That City Council direct that the Design Review Board Program Outline be immediately implemented as a voluntary process, until such time that the ordinance requirements can be put into place, and that those submitting site plan petitions for projects in the D1 and D2 zoning districts be asked to participate in the process;

RESOLVED, That the Mayor, with the approval of the City Council, appoint the following individuals to serve on the Design Review Committee, which shall perform the duties of the Design Review Board as stated in the Design Guidelines and in the Design Review Board Program Outline until such time that the Design Review Board is created by ordinance:

Chet Hill (Landscape Architect)
Mary Jukari (Landscape Architect)
Richard Mitchell (Architect)
Tamara Burns (Architect)
Paul Fontaine (Planner)
William Kinley (Developer)
Geoff Perkins (Contractor)

RESOLVED, That it is the intent of City Council that the members of the Design Review Committee will be named as the members of the Design Review Board once the Design Review Program is incorporated into City Ordinance;

RESOLVED, That the Committee or Board provide a report to Council within one year regarding the effectiveness of the Design Review Program and any changes to the Guidelines; and

RESOLVED, That the Design Guidelines Task Force has completed its charge and is dissolved effective upon approval of the Design Guidelines.

At a meeting of the City Council on 2/7/2011, a motion was made by Marcia Higgins, seconded by Margie Teall, that this Resolution R-11-025 be Approved. The motion passed.

AN ORDINANCE TO AMEND CHAPTER 8 (ORGANIZATION OF BOARDS AND COMMISSIONS) AND CHAPTER 57 (SUBDIVISION AND LAND USE CONTROL) TO ESTABLISH A DESIGN REVIEW BOARD AND DESIGN REVIEW PROCEDURES FOR CERTAIN DOWNTOWN PROPERTIES

The City of Ann Arbor ordains:

Section 1. That a new Section 1:239 of Chapter 8 of Title I of the Code of the City of Ann Arbor is added as follows:

1:239 Design Review Board

- (1) Intent. The Design Review Board is established to foster excellence in the design of Ann Arbor's built environment. It shall advise petitioners on whether a project meets the spirit and intent of the *Downtown Design Guidelines*, and how the project could be modified if it does not.
- (2) General.
- (a) The Design Review Board shall consist of 7 members nominated by the mayor and approved by the city council. In making appointments of members of the Design Review Board, the City Council shall appoint persons who, insofar as possible, have an interest in the design of the built environment and its relationship to the downtown and the broader community. To support a comprehensive design review, 2 members of the Design Review Board shall be landscape architects, 2 shall be architects, one shall be an urban planner, one shall be a developer, and one shall be a contractor.
- (b) Members of the Design Review Board shall serve for 3-year terms. The terms of office of the first Design Review Board members appointed hereunder shall be fixed by the City Council so that the terms of 3 members will be for 1 year, 2 members will be for 2 years, and 2 will be for 3 years. After the initial board is formed, all members thereafter will be appointed for 3 years.
- (3) Powers and duties. The Design Review Board shall have the following powers and duties:
- (a) To review the design of certain downtown projects, as identified in Chapter 57 (Subdivision and Land Use Control).

- (b) To provide comments to property owners, developers and architects on the proposed project design in relation to the *Downtown Design Guidelines*.
- (c) To report periodically to City Council regarding the effectiveness of the design review process and make recommendations for any changes to the *Downtown Design Guidelines*.
- (d) To have all other powers and duties granted by the City Council by resolution.

Section 2. That a new Section 5:136 of Chapter 57 of Title V of the Code of the City of Ann Arbor is added as follows:

5:136. Design Review Board review for certain downtown properties

- (1) *Intent.* The intent of this section is to foster excellence in the design of Ann Arbor's built environment and apply the *Downtown Design Guidelines*, as approved by City Council, by requiring a mandatory review of certain projects in the downtown area by the Design Review Board. This section provides guidance for petitioners on the Design Review Board's review process and requirements.
- (2) *Applicability.* Projects that meet all of the following criteria shall submit an application to the Design Review Board:
 - (a) The project is on a lot zoned D1 or D2; or is located within the Downtown Development Authority boundary on a lot currently zoned or proposed to be zoned PUD; and
 - (b) The project is on a lot that is not located within a historic district; and
 - (c) The project proposes an increase in usable floor area; and
 - (d) The project is a:
 - i. Site Plan for City Council Approval; or
 - ii. a Planned Unit Development Site Plan; or
 - iii. a Site Plan for Planning Commission Approval; or
 - iv. a Planned Project Site Plan; or
 - v. an Administrative Amendment to an Approved Site Plan that significantly alters the appearance of the building from the public right-of-way, as determined by the Planning Manager.
- (3) *Design Review Board submittal requirements.* The following steps shall be undertaken by the petitioner as part of the design review process.

- (a) Optional pre-application meeting. The petitioner may meet with Planning and Development Services staff prior to an application to the Design Review Board to review the *Downtown Design Guidelines* and design review requirements set forth in this section.
- (b) Application. The petitioner shall submit to Planning and Development Services an application for Design Review Board review and pay the required fee. Preliminary project design plans shall be submitted with the application and shall include the following scaled drawings:
- i. Site plan
 - ii. Floor plan(s)
 - iii. Elevations
 - iv. Sections
- (c) Timing. Submission of the Design Review Board application shall occur prior to the fulfillment of the project's Citizen Participation notice and, if applicable, meeting requirements (per Chapter 55 Section 5:110 Citizen participation for petitions that require public hearing).
- (d) Number of reviews. One review by the Design Review Board is required for each site plan or planned unit development that meets the applicability criteria of 5:136(2) above. Additional reviews for projects with design changes are optional and must follow the requirements of this section.
- (4) Required notice. A Design Review Board meeting notice shall be mailed by the City to all property owners, addresses, and neighborhood groups within the same radius required by Chapter 55, Section 5:110 Citizen participation for petitions that require public hearings at least 10 business days prior to the date of the Design Review Board meeting.
- (5) Design Review Board meeting and report. The petitioner shall present the project to the Design Review Board. The Design Review Board and the petitioner will have an opportunity to discuss the design of the project and its consistency with the *Downtown Design Guidelines*. Following the discussion, the Design Review Board shall make a report of its findings. This report shall be distributed to the Planning Commission and City Council as part of the site plan review and approval process and posted on the City website.

Section 3. That Sections 5:136, 5:137, 5:138 and 5:139 of Chapter 57 of Title V of the Code of the City of Ann Arbor are amended as follows:

5:~~136~~137 - Public information and hearings.

- (1) Prior to Planning Commission recommendation and City Council final action of any area plan, site plan, PUD site plan, land division, or tentative or final preliminary plat, each body shall hold a public hearing. Prior to its final action on a site plan for Planning

Commission approval, the Planning Commission shall hold a public hearing. Provided, however, whenever a wetland use permit is required by Chapter 60 in addition to the approval required under this Chapter, the public hearing or hearings required in this subsection shall be held concurrently with the public hearing or hearings required by Chapter 60.

- (2) Area plans, site plans, site plans for Planning Commission approval, PUD site plans, and preliminary plats under review shall be displayed in a publicly accessible location in City Hall for at least 1 week prior to the City Council and Planning Commission public hearings. Plans shall be current at the time of placement and subsequent revisions, if any, shall be available in the Planning and Development Services Unit office.
- (3) Notice of all public hearings shall be published in a local daily newspaper of general circulation at least 1 week prior to the public hearing.
- (4) Prior to the Planning Commission's public hearing, the Planning and Development Services Unit shall mail a notice letter to the person being assessed for the property which is subject of any area plan, site plan, land division, or preliminary plat; all persons being assessed for property within 300 feet; neighborhood associations duly registered with the Planning and Development Services Unit which represent owners of property within 300 feet; and insofar as is possible, all occupants within 300 feet. The notice shall describe the requested approval; identify the property; state the date, time, and place of the Planning Commission's public hearing; and be mailed not earlier than 15 days before or less than 1 week before the Planning Commission's public hearing. A second public hearing will be held in the same manner if either:
 - (a) Final action by the Planning Commission is delayed more than six months after the initial public hearing; or
 - (b) In the judgment of Planning and Development Services Unit Staff, the project plan has been substantially revised.
- (5) A notice shall be posted by the Planning and Development Services Unit on the affected property prior to the Planning Commission's public hearing stating that Planning Commission action is scheduled for any area plan, site plan, site plan for Planning Commission approval, PUD site plan, land division, or preliminary plat. This notice shall include information provided in the mailed notice. It shall be placed in a conspicuous location within 10 feet of the front lot line of the affected property at least 1 week prior to the date the request is being acted upon by the Planning Commission.

5:~~437~~138 - Conflict with Code.

No approval of any plan, plat or division pursuant to this chapter shall be construed as authorizing any improvement or action not in compliance with all provisions of this Code. If such a conflict appears, permits may be issued only in accordance with the applicable Code provisions. However, plans may be approved which are subject to approval of variances or other action of appeal boards.

5:~~438~~139 - Regulations.

The Planning Commission shall adopt land development regulations regarding the form, number of plans and information required with plats and plans submitted pursuant to this chapter. The information required shall include that which is necessary to determine whether the plans and plats comply with all applicable laws to permit the Planning Commission to make recommendations for alterations, to make plans and plats compatible with adjacent uses and to permit the commission to determine the effect of proposed improvements on natural land features and historic buildings. Prior to taking effect, such regulations must be approved by the City Council.

5:~~139~~140 - Penalties.

Violation by any person of any provision of this chapter constitutes a civil infraction punishable by a fine of not more than \$500.00 per violation plus all cost incurred by the City in connection with the infraction that are taxable pursuant to state law, and equitable relief necessary to enforce the ordinance as provided by law, including, but not limited to, mitigation. Each day upon which such violation shall occur shall constitute a separate offense. In addition to these penalties, the City Attorney may commence suit in a court of appropriate jurisdiction to abate any nuisance resulting from a violation of the provisions of this chapter.

~~5:139, 5:140. -- Reserved.~~

Section 4. That this ordinance shall take effect on the tenth day following legal publication.