

## MEMORANDUM

TO: Mayor and City Council  
A2D2 Steering Committee  
FROM: City Planning Commission  
SUBJECT: A2D2 Zoning and Parking Amendments -- Revisited  
DATE: **March 3, 2009**

Planning Commission (CPC) recommended approval of the A2D2 Zoning and Parking Amendments on September 16, 2008. At the request of the A2D2 Steering Committee and City Council, the public was given an additional opportunity to comment on the version that was recommended for approval by CPC. CPC was then asked to respond to those comments as outlined in the Memorandum regarding “A2D2 Zoning and Parking Amendments - Briefing Comments” from Wendy Rampson, Systems Planner, dated December 3, 2008 (revised December 17, 2008).

The A2D2 Zoning and Parking Amendments, along with the Design Guidelines, is a complete rewrite of our downtown zoning and a significant improvement over our current zoning – with its arbitrary district boundaries, suburban yard requirements, no defined interface area and lack of massing standards. As suggested in the “Recommended Vision & Policy Framework for Downtown Ann Arbor” (Calthorpe Report — dated February 17, 2006), it is a hybrid ordinance that is uniquely fashioned to respond in a more sophisticated way to our goals and vision, and not based on any standard model ordinance. It primarily focuses on the most important physical characteristics of a vibrant urban environment while allowing flexibility for developers to respond to market forces and at the same time incorporating development criteria crafted to accomplish the community’s goals and vision for the downtown area.

While CPC has remained true to the broad principles outlined in the Calthorpe Report and the recommendations of the Implementation Advisory Committees, a lot of interested individuals with differing views on how to achieve those goals have participated in drafting the ordinance language. CPC believes that the proposed ordinance, with some modifications from the version recommended in September 2008, is the best possible effort given what we know with some reasonable speculation about longer-term impacts. We have sincerely considered all of the issues brought forward by the public, some several times. This draft is far better and goes much further than our current ordinance towards aiding the City in accomplishing one of our most important and agreed upon goals – to create and maintain a vibrant downtown. For all these reasons, and because of the tremendous amount of public input throughout this process, the proposed new ordinance should be enacted. Our understanding and experience is that every community needs to periodically evaluate unintended issues that result from zoning ordinances and related documents. We recommend a full review of implementation issues within 12-18 months of adoption by City Council, to ensure that issues are quickly addressed.

To assist Council with approval of the proposed amendments, CPC herein is responding to some of the major issues that continue to raise concern. Throughout this entire process there have been extensive comments made that are thoughtful and have been helpful. While it is not possible to publicly respond to all the concerns and questions, we would like to assure Council that as individual Commissioners we have taken all of them to heart – they have heightened our understanding of our collective goals and given us creative ideas toward achieving those goals. (Changes to the version that CPC previously recommended for approval are noted in ***bold italics***.)

CPC explanation, but without further change:

- 1) height limits & diagonals
- 2) design guidelines
- 3) floodplain
- 4) density
- 5) green space
- 6) active use
- 7) north side of East Huron (Division to State)
- 8) Downtown Plan
- 9) massing standards, character districts
- 10) simplify the code

CPC explanation, with change:

- 11) premiums
- 12) buffers and setbacks adjacent to residential districts
- 13) South University character area
- 14) downtown district boundaries
- 15) parking
- 16) non-conformities

**... without further change**

1) Height Limits & Diagonals: The intent behind the proposed Diagonal requirements in most of the downtown core is to balance building “bulk.” Since the Floor Area Ratio (FAR) is fixed once applicable premiums are identified, new projects can either 1) cover most of the site with a lower height or 2) cover less of the site with a higher height. The Calthorpe Report recommends that buildings be allowed to exceed a height limit if certain community goals are provided. Diagonal limits were a recommendation of the Design Guidelines Advisory Committee as the most effective means of allowing a variety of building shapes without resulting in massing that is viewed negatively. Diagonal limits are most effective when there is no height limit, encouraging towers to be more slender with more light and air between buildings. A height limit without any Diagonal requirement will encourage the assembly of parcels and will result in a less desirable continuous building mass covering several sites or entire blocks. Any height limit coupled with Diagonal requirements needs to be considered very carefully because they work counter to each other could result in requirements that are too restrictive.

Many sites in the proposed interface area (D2) currently have no height limit but would now be limited to a maximum of 60 feet in height.

CPC continues to support “no height limit” in most of the D1 district coupled with Diagonal requirements, except for the South University Character Area. (Height in the South University Character Area is addressed further below.) CPC continues to support a 60 foot height limit in the D2 district.

2) Design Guidelines: Any of the recommendations of the Design Advisory Committee that could be stated in ordinance language (numerically quantifiable) are included in the proposed Massing Standards. The remaining recommendations are in the proposed Design Guidelines and will not be referenced in the new ordinance until Council approves them. At the request of the Steering Committee, the approval of the Design Guidelines was set aside to allow the new Zoning Ordinance and Downtown Plan to move toward enactment more quickly. The Design Guidelines were the product of a collaborative and far-reaching effort among the public, staff, and design professionals in response to repeated feedback to promote higher design quality in our built environment. These are recommended in the Calthorpe Report and Council has passed two (2) resolutions supporting the design review process for downtown projects – one asking the Design Advisory Committee to develop Design Guidelines and the other to move them forward with the drafting of ordinance language.

CPC believes the Design Guidelines give more definition to the community’s vision for downtown than is possible in our Zoning Ordinance or our Downtown Plan while allowing design flexibility and creativity. The Design Guidelines are on the CPC Work Plan for recommended approval in June 2009, followed by Council approval. This schedule was preliminary and may need to be adjusted to allow adequate time for its review.

*CPC requests direction and a desired schedule to assist in meeting Council’s expectations.*

3) Flood plain: Construction on many properties within our flood plains throughout the City is currently regulated by the State. The City is in the process of drafting a local Flood Plain Ordinance as an overlay district for all flood plains (not just the Allen Creek) within the city, to be approved along with the new FEMA flood maps. Only a small percentage of our floodplains are within the downtown zoning districts. The concerns raised in this process regarding the Allen Creek flood plain are important but should be addressed in the new Flood Plain Ordinance. However, the Premiums (increased floor area percentage) in the new downtown zoning are not applicable to properties in flood plains.

CPC recommends that all flood plain regulations be incorporated in the new Flood Plain Ordinance and not in the downtown zoning. CPC will be seeking Council input on the

proposed flood plain policies before the ordinance is finalized. This is on the CPC's Work Plan for recommended approval in July 2009, followed by Council approval.

4) Density: The FAR in the downtown core area (D1) as proposed will be increased from 660% to 700% if premium amenities are provided – an increase of about 6%. An additional 200% super-premium is proposed to encourage on-site affordable housing – a community goal that has been difficult to achieve. In the downtown interface area (D2), the FAR as proposed will be 400% maximum if premium amenities are provided – a reduction for many properties. Premium floor area is not applicable to properties within historic districts or flood plains.

CPC continues to support the FAR recommendations. These levels meet the broad goals identified in the Calthorpe Report and the recommendations of the Zoning Advisory Committee.

5) Green space/open space: The Parks, Recreation & Open Space (PROS) Plan recommends that a method be identified to quantify urban open space, green or hard-scaped, to assist the City in evaluating the real need within downtown. The Calthorpe Report addresses Public Space and recommends the careful consideration of edge uses for vitality and safety. The Zoning Advisory Committee was not comfortable encouraging arbitrary locations for open space through the use of a Premium. The proposed ordinance does provide a Premium for Inner Arcades (connecting streets and adjacent sites) and Plazas (open to the sky) on private property, both of which are in our current ordinance. Currently, the new Police/Courts project, the Library Lane underground parking project and the requirement for the 415 W. Washington proposals all include public open space. In concept, CPC believes that large green spaces in the downtown core are counter to numerous goals and that pocket parks are more effective.

*CPC does not recommend green space or open space requirements as a part of private development in the downtown districts beyond the front open space required on Front Yard Streets at this time. This should be re-evaluated once the Park Advisory Commission identifies a method of quantifying urban open space.*

The concept for the Allen Creek Greenway is supported in the current PROS Plan, the current Non-Motorized Transportation Plan and the new Downtown Plan. Because the majority of the Allen Creek flood plain extends beyond the downtown, CPC does not support using the downtown district zoning to direct it's planning.

6) Active Use: The new zoning requirements identify what we would like rather than what exists. Because of this, some non-conforming uses will exist but in time we will make progress toward our goals. The Calthorpe Report recommended that first floor retail not be required everywhere, but maintained in strong areas and encouraged in existing weak retail areas, such as Liberty and Washington between Main and State. The Zoning Advisory Committee recommended requiring first floor retail on certain streets, but did not feel qualified to decide on the streets.

With all this input, the CPC continues to support the 60% minimum frontage of first floor retail on identified “active use” streets to reinforce independent local retailers that depend on pedestrian traffic between adjacent uses for their survival. This includes the main retail sections of Main Street, State Street, Liberty Street, Washington Street and South University. Existing non-conforming uses can continue (see Chapter 55, 5:86).

7) North side of East Huron (Division to State): This block has been a challenge due to the fact that these properties abut residential districts to the north and are in a section of Huron where height was identified in the Calthorpe Report. In an effort to create new zoning that defines our goals, rather than perpetuating what has already been built, the Zoning Advisory Committee struggled, but ultimately recommended that this block be zoned D2 – one major reason was the shading potential of the FAR allowed in the D1 district.

CPC continues to support the compromise of maintaining the D1 district on this block with the additional tower setback from the adjacent residential districts.

8) Downtown Plan: CPC adopted The Downtown Plan on February 19<sup>th</sup> and has recommended Council adoption.

9) Massing Standards, Character Areas: The eight (8) Downtown Character Areas were identified by the Design Guidelines Advisory Committee with substantial public input. They are based on the unique building and site characteristics within each area.

CPC continues to support the eight (8) Character Areas and the inclusion in the zoning ordinance of the design Massing Standards.

10) Simplify the code: Most downtown projects in the last several years have been reviewed as Planned Unit Developments (PUD) or Planned Projects because of the inappropriateness of our current downtown zoning. The City has encouraged this in order to get projects that more closely align with our Downtown Plan. The uncertainty inherent in both PUDs and Planned Projects have added great expense and additional review time beyond that of a project designed to meet it’s underlying zoning district. Our current ordinance is actually too simple because it does not adequately define our goals and vision and the current downtown zoning district boundaries are random and without planning logic. The proposed ordinance also includes a vast majority of the recommendations in the new Downtown Plan.

CPC believes that the proposed zoning district boundaries are far more consistent and logical. CPC also believes the proposed ordinance amendments are clear and the new technology tools will make navigation much easier for developers and citizens.

**... with proposed change**

11) Premiums: The proposed Premiums generally align with the recommendations of the Calthorpe Report and the more detailed conclusions of the Zoning Advisory Committee. The intent with the Premiums is to get identified public benefits in exchange for allowing additional floor area (up to a maximum). The Residential Premium was reduced from the current ordinance based on a desire to balance the use of all the premiums. With the recent popularity of residential projects it is important to make sure the community also gets the benefits of the other premiums. The use of the Premiums will ultimately be decided through a developer's financial analysis considering the economic climate at that time.

*As this is a moving target, the incentives (increase in floor area percentage) will need to be evaluated on a regular basis to assess how they are being used and if the percentages need to be adjusted to encourage benefits that are not otherwise provided.*

*A Premium for transfer-of-development-rights has not been included. CPC recommends that this be reconsidered for inclusion in the future (currently under more detailed review) as a tool that could be used to protect some historic buildings or could encourage dedicated open space, such as in the Allen Creek floodplain.*

***CPC has changed the Plaza premium to no longer require these to be located on a street corner. Successful plazas are difficult to design and CPC hopes the added flexibility will provide opportunities where there are adjacent vibrant uses. This was an allowable premium in our current ordinance that was never used but was retained with minor changes to encourage open space on private property.***

12) Buffers & Setbacks adjacent to residential districts: Throughout the City, all non-residential districts must currently provide an additional building setback along property lines immediately adjacent to residential districts and matching the setbacks required in that residential district. The proposed downtown zoning also includes additional building setbacks along property lines adjacent to residential districts. These setbacks are part of the Massing Standards for each of the eight (8) Character Areas. They respond directly to the nature of that area and its adjacent residential districts. By their very nature, zoning districts are defined by boundaries and there will always be some level of tension at the dividing line. Neighborhoods' use and character are protected when they are appropriately zoned and when their boundaries are respected and predictable.

CPC continues to support the proposed building setbacks along adjacent residential districts in all the Character Areas except for South University. The depth of these setbacks is reasonable for the traditional and typical small size of downtown sites. Larger setbacks would encourage the assembly of lots and could make some sites very difficult to build on.

***After extensive discussion, CPC has changed the building setback requirement in the South University Character Area to a total of 30 feet along property lines***

**adjacent to residential districts regardless of building height, instead of a 15 foot setback for the first 30 feet in building height and a 30 foot setback for the rest of the building above 30 feet in height. In this area, CPC feels the setback of the lower floors has just as much impact on the neighboring residents as the upper floors.**

13) South University character area: CPC support for the 2003 rezoning of this area to C2A was based on its immediate adjacency to the Central Campus. About 50% of the perimeter of this area is bounded by University property, primarily to the north and east, where floor area and height are not regulated by the City. The residents of this zoning district are considered to be primarily students with some University staff – who are the most likely to use walking or biking as their primary transportation thus adding minimally to the motorized traffic and parking in the area. It was also considered a benefit to students and University staff to have the opportunity to live close to their classes or work. The retail in this district, primarily small independent businesses, have been struggling for many years. Some reasons include 1) the distance non-students are willing to walk to shop and dine has diminished as regional opportunities for these have increased, and 2) the student population moving through the district fluctuates dramatically. Finally, the area merchants believe strongly that the captive audience provided by a significant increase in residential density will greatly increase their chances of success. The Calthorpe Report, written just prior to this rezoning, supports this view and states that “local-serving retail districts should first and foremost be located near residential concentrations.”

**After extensive discussion, CPC recommends that the South University character area have a height limit of 170 feet to give added design flexibility and increase the opportunity for more light and air between buildings. The recent compromise on the project proposed at 601 Forest would meet this requirement. At this height, CPC also recommends a maximum diagonal requirement of 150 feet. The height limit would not allow an upper tower, so only one diagonal is needed. (The building setback adjacent to residential districts was also modified as described above.)**

14) Downtown district boundaries: In order to focus this effort on the zoning requirements rather than district boundaries, the Calthorpe Report included only the non-residential districts directly contiguous to the downtown area, excluding any residential districts. The DDA boundaries are similar but somewhat arbitrary due to the complex political process with other public entities required to change them.

**After looking closely at these boundaries, CPC has excluded non-residential properties in the Old Fourth Ward and the Old Westside historic districts from rezoning due to the residential character (and primarily residential use) of these historic districts and the fact that they were created after, and in reaction to, their current zoning designations.**

*After the new zoning requirements and the design guidelines are in place, and in conjunction with a review of the Central Area Plan, would be an optimal time to re-evaluate the outer boundaries (with possible expansion or contraction) of the downtown districts, including the non-residential and R4C districts.*

15) Parking: It is a recommendation of the Nelson/Nygaard downtown parking study that shared public parking be encouraged on appropriate private sites. Any above grade parking that is required parking or public parking on private property up to 200% is not included in a project's FAR.

***CPC has added that any premium for public parking on private property meet DDA standards. Additionally, CPC has clarified that required residential bike parking must be enclosed and lockable.***

16) Non-Conformities: The desire to change our current downtown zoning is a reaction to projects that have already been built and a desire to encourage particular types of development. At the same time, it should not be the intent of this ordinance to put an additional burden on buildings that were built under an earlier code – either to require unreasonable changes to existing buildings or to require variances for existing buildings to remain.

***CPC has changed the new massing standards to only apply to new buildings or additions.***

END OF MEMORANDUM