



MEMORANDUM

To: City of Ann Arbor Energy Commission
From: Megan A. Masson-Minock, AICP, Principal
Subject: Downtown Premium Zoning Ordinance Amendments
Date: October 6, 2015

As you may recall from when we attended your meeting on April 14, 2015, we been contracted by the Planning and Development Department, per advice of the Planning Commission to lead a process to consult with the public about what zoning text amendments should be made to align the downtown premiums with community goals. The process is a continuation of City Council request to the Planning Commission in resolution R-13-078 to address “whether the D1 residential FAR premiums effectively encourage a diverse downtown population.”

Based on input from the process, research and guidance from the Planning Commission, we have developed draft ordinance amendment language (see attached). The Planning Commission has decided to limit premiums to buildings providing residential floor area as long 15% of the total residential floor area is designated as workforce housing and/or for buildings approaching or achieving carbon neutrality. These two policy areas were selected to be incentivized because both implement goals of Ann Arbor, the market is not providing these types of housing or buildings, and affordable housing or stricter energy efficiency cannot be required by the city due to Michigan law. In the current draft, premium floor area is also available for carbon neutrality improvements to other buildings in the downtown or on adjacent properties.

We will give a short presentation at your meeting on October 13 and then would like your input on the following:

- The Ordinance Revisions Committee of the Planning Commission has recommended using the AIA 2030 Challenges (see information at http://architecture2030.org/2030_challenges), instead of LEED as a measurement system. We would appreciate your input on this proposed switch.
- The Planning Commission wants to change the condition for premiums dealing with energy efficiency from a minimum of two points under LEED Energy and Atmosphere Credit number 1 to a condition of either 50% or 70% reduction of fossil fuel, greenhouse gas-emitting, energy consumption for a building type, per the AIA 2030 Challenge. Our questions are:
 - Keeping in mind the premiums are optional and will not be used if the minimum conditions are too prohibitive, is a 70% reduction reasonable? Would 50% carbon neutrality be a better option but still demand a higher level than industry

standard? The draft attached has 50% as the minimum.

- No matter the level decided, what is the best way to measure carbon neutrality, considering the skill set and budget of staff? The EPA offers an on-line tool that differentiates based on the climate and type of building. A general ASHRAE equivalent or a LEED standard are available.
 - What tool should be used to gauge compliance? Target Finder? EQUEST? Another tool?
- Table 5.65B Green Building Features incentivizes features on the project site and off-site within the downtown, as well as shared features between the project site and adjacent properties. We would like your input as to whether the amount of FAR proposed as an incentive is appropriately scaled for each feature.

ORDINANCE NO. ORD-12-xx

First Reading : Approved:
Public Hearing : Published:
Effective:

AN ORDINANCE TO AMEND SECTIONS

The City of Ann Arbor ordains:

Section 1. That Section 5:1 of Chapter 55 of Title V of the Code of the City of Ann Arbor is amended as follows:

5:1 Definitions.

(58) *Usable Floor Area, Nonresidential:* Usable floor area for nonresidential uses shall be measured to the exterior face of the exterior walls for all floor areas that are accessible by a fixed stairway, ramp, escalator or elevator, which may be made fit for occupancy. The measurement shall include the floor area of any accessory buildings and above-grade parking structures, except those portions of a parking structure used for required ~~premium or~~ PUD parking. Below-grade parking cellar areas shall not be counted as usable floor area. For the purpose of this subsection, the definitions of cellar and grade contained in Chapter 98 of this Code shall apply.

Section 2. That Section 5:64 of Chapter 55 of Title V of the Code of the City of Ann Arbor is amended as follows:

5:64. Premiums; Intent.

A premium is an increase in allowable floor area to exceed the normal maximum usable floor area in percentage of lot area established by this chapter for structures in the C1A, C1A/R, D1 and D2 Zoning Districts.

- (1) Intent. The intent of incorporating premiums into the Zoning Ordinance is:
 - (a) To provide an incentive for residential development in and in close proximity to the City's central business core and to encourage affordable housing opportunities in situations where such opportunities might not otherwise be provided.
 - (b) To encourage development which reinforces pedestrian activity along streets within the central business core and to achieve a greater mixture of land uses and intensities than might occur in the absence of such premiums in order to

strengthen the economic vitality and diversity which is essential to a healthy and vibrant street life.

- (c) To provide an incentive for the development of public spaces and pedestrian amenities and to encourage excellence in urban design through the provision of open space and landscaped approaches to buildings at appropriate corners.
 - (d) To provide incentives for the development of energy-efficient and environmentally sustainable buildings **to bolster efforts to reach the 2030 Challenge by the American Institute of Architects for all new buildings, developments and major renovations be carbon-neutral by 2030.**
 - ~~(e) To encourage the inclusion of public parking in the development of new private parking structures.~~
 - ~~(f) To encourage the preservation of historic buildings not currently located in an historic district.~~
- (2) Premiums are not intended to be used as a basis for the demolition of existing historic buildings in order to increase density.
 - (3) Application. A premium is not available unless a building and its surrounding site incorporates and maintains certain architectural features or land uses, or both, as designated by this Chapter.

Section 14. That Section 5:65 of Chapter 55 of Title V of the Code of the City of Ann Arbor is amended as follows

5:65. Floor Area Premium Options.

In the C1A, C1A/R, D1 and D2 zoning districts, the normal maximum floor area in percentage of lot area set forth in Sections 5:43 and 5:10.19 may be exceeded on lots located entirely outside of an historic district and/or floodplain when amenities as described in this section are provided, subject to the premium limits designated in Sections 5:43 and 5:10.19B.

- (1) General regulations.
 - (a) Premium options may be applied only to lots that are located entirely outside of an historic district, as designated by Chapter 103, and/or properties that contain no part of an 100-year floodplain, as designated by the city's adopted floodplain map.

- (b) Premium options apply only to any structure located on the same lot as the amenities or land uses, or both, which give rise to the premium; except for off-site and shared green building amenities allowed in Green Building Premiums.
- (c) The use of multiple options to acquire premiums is permitted.
- (d) All amenities or land uses used to acquire a floor area premium shall remain for the life of the structure(s). The feature(s) shall only be diminished or discontinued if the additional gross floor area is permanently removed or if another premium option(s) of at least equivalent floor area value, as described in this section, is approved as part of a site plan.
- (e) Any property that received additional floor area through a premium option(s) which was lawfully established prior to, and lawfully continuing in existence on the effective date of this section (**ADOPTION DATE TO BE INSERTED**), shall be deemed a conforming use and/or structure. When modifications to any such property are requested, compliance with the current premium options is required.
- (f) As a condition of receiving the additional floor area through a premium option, the building must comply with the following energy efficiency standards for the construction of all new floor area:
 - 1. **The building must meet the performance standard of 50% less fossil fuel, greenhouse gas-emitting, energy consumption performance than regional average/median for that building type per the baseline set by the Environmental Protection Agency's on-line tool, Target Finder. If the project's building type is not in Target Finder, a 25% improvement in building performance over ASHRAE 90.1-2007 may be substituted.**
 - 2. **Compliance with this requirement shall be verified and documented by the property owner using an industry standard software carbon calculator (Target Finder or equivalent). Documentation must be submitted with building permit application and verified by the City of Ann Arbor prior to the issuance of building permits.**
 - ~~1. A minimum of two points must be achieved under the U.S. Green Building Council Leadership in Energy and Environmental Design (LEED) Energy & Atmosphere Credit No. 1. The most recent version in effect at the time of site plan approval shall be applied.~~

~~2. Compliance with this requirement shall be verified and documented by the property owner using an industry standard software energy modeling tool (EQUEST or equivalent) prior to the issuance of building permits.~~

- (g) Provisions implementing the premium options, and ensuring future compliance with the premium options, where applicable, shall be included as a condition to the approval of a site plan, and in a development agreement, or both, as determined by the City Attorney.

(2) Premium Options.

- (a) Residential Use Premium. In D1 and D2 districts, 0.75 square foot of floor area in excess of the normal maximum usable floor area in percentage of lot area shall be allowed for each square foot of floor area, regardless of location within the building, that is used for multiple-family dwellings of three dwelling units or more, when 15% of the total residential floor is designated as affordable units for workforce households making between 20 to 80 percent of the area median income of the City of Ann Arbor. Designated units shall remain affordable for the life of the building.

Up to one-third of the designated units may be replaced with payment of an affordable housing contribution in lieu of units consistent with the formula adopted by annual resolution of City Council. To determine the amount of square footage replaced, the average size of the units in the building shall be used. Any fractional units shall be rounded down.

Provisions to implement the residential use premium option shall meet requirements for affordable units, as determined by the Washtenaw County Office of Community Development.

All units shall have a minimum square footage of 300 square feet of floor area. Every sleeping room in the building shall have at least 1 window, sliding glass door, skylight, or other acceptable light transmitting media facing directly to the outdoors. The minimum total glazed area for every sleeping room shall be not less than 8% of the habitable floor area of such room. Designated units must use the same common facilities in the building (entrances, gathering and recreation areas, stairways, elevators, storage, laundry, trash and recycling) as all other units.

If dwelling units constitute a portion of a mixed use building, dwelling units must be completed and receive a certificate of

occupancy in advance or at the same time as the certificate of occupancy for nonresidential use, or the property owner shall provide a performance bond for the residential use at the time the certificate of occupancy is requested, subject to the requirements of Chapter 57.

~~(b) Affordable Housing Premium. In D1 and D2 districts, 3,000 square feet of floor area in excess of the normal maximum usable floor area in percentage of lot area shall be allowed for each on-site dwelling unit designated as affordable to lower income households. In the D1 district, the normal maximum usable floor area in percentage of lot area with premiums (700%) may be exceeded, up to a maximum of 900%, to provide dwelling units designated as affordable to lower income households. Designated units shall have a minimum of 600 square feet of floor area and shall remain affordable for the life of the building. Provisions to implement the affordable housing premium option shall meet requirements for affordable units, as determined by the Office of Community Development.~~

(c) Green Building Premium. In D1 and D2 districts, floor area in excess of the normal maximum usable floor area in percentage of lot area shall be allowed in the increments in table 5.65A, Point Requirements

Table 5.65A – Point Requirements:

<u>Points from Table 5.65B</u>	<u>Additional Floor Area</u>	<u>Total FAR with Base FAR</u>	
		<u>D1 Downtown Core</u>	<u>D2 Downtown Interface</u>
5	50%	450%	250%
10	100%	500%	300%
20	200%	600%	400%
30	300%	700%	

Green building amenities must be located in the D1 and D2 zoning districts and may be located in the following locations when specified: on the same lot as the amenities, off-site or shared with adjacent lots. Off-site is when a project is funded on another site, such as solar panels on a different building. A shared location when a green building amenity is shared between the lot in question and adjacent properties, such as geothermal field for a whole city block.

Points shall be awarded per Table 5.65B. When an amenity is provided that meets the standards required in Table 5.65B, Green Building Features, the full point value assigned to that amenity shall be obtained. Where the amenity does not meet all of the standards

required in Table 5.65B, Green Building Features, no points shall be awarded. Partial points for alternatives shall not be awarded.

TABLE 5.65B - Green Building Features

Feature	Standards	Points
On-site carbon neutrality, using the definition of 2030 AIA Challenge fossil fuel, greenhouse gas-emitting, energy consumption performance standard of percentage below the regional (or country) average/median for that building type. ¹ Up to 20% of reduction may be accounted for by purchase of renewable energy and/or certified renewable energy credits, if energy-efficient design strategies and technologies have been used for at least 70% of the reduction.	80% reduction	5
	90% reduction	15
	100% reduction	30
Energy efficiency improvements, excluding renewable energy and renewable energy credits, for a single off-site building ² Qualifying amenities include but are not limited to: insulation replacement, lighting, upgrades, HVAC system improvements.	Provides equivalent of 10% of project building's energy use	5
	Provides equivalent of 25% of project building's energy use	10
	Provides equivalent of 50% of project building's energy use	15
Renewable energy and/or purchasing renewable energy and/or renewable energy credits for a single off-site building. ² Qualifying amenities include but are not limited to: a photovoltaic or wind electrical system, solar thermal system and/or a geothermal heating and cooling system. Vapor compression systems do not qualify.	Provides equivalent of 25% of project building's energy use	10
	Provides equivalent of 50% of project building's energy use	20
	Provides equivalent of 75% of project building's energy use	30
Renewable energy system shared with lot receiving premiums and adjacent properties. Purchase of renewable energy or certified renewable energy credits are not eligible. ^{2, 3} Qualifying amenities include but are not limited to: a photovoltaic or wind electrical system,	Provides 10% -20% of energy for all buildings sharing the energy system	5
	Provides 20% -30% of energy for all buildings sharing the energy	20

Feature	Standards	Points
solar thermal system and/or a geothermal heating and cooling system. Vapor compression systems do not qualify.	system	
	Provides 30% or more of energy for all buildings sharing the energy system	30
Rain garden on-site. Only lots 5,000 square feet or less eligible. ⁴	Control of first flush storm volume	2
Green roof or rain harvesting roof for single building, either on-site or off-site. If off-site, the roof must be the same square footage or greater than the project roof. ⁵	Minimum of fifty (50) percent of the total roof area covered	5
Reflective Roof having a Solar Reflectance Index (SRI) equal to or greater than the values as required by the US Green Building Council (USGBC) for low-sloped and steep-sloped roofs, for a single building either on-site or off-site. If off-site, the roof must be the same square footage or greater than the project roof. ⁶	Up to twenty-five (25) percent of the total roof surface may be used non-reflective for mechanical or other features	2
Facilities for non-motorized and public transportation on-site, off-site, or shared.	Public access to ArborBike station ⁶	2
	Covered Public Bike Parking ⁷	3
	Installation and access to a Ann Arbor Area Transportation Authority (AAATA) bus stop ⁸	2
	Installation and access to a Ann Arbor Area Transportation Authority (AAATA) bus shelter ⁹	5

¹ Compliance must be verified and documented by the property owner using an industry standard software carbon calculator (Target Finder or equivalent). Documentation must be submitted with building permit application and verified by the City of Ann Arbor prior to the issuance of building permits.

² Compliance with this requirement shall be verified and documented by the property owner using an industry standard software energy modeling tool (EQUEST or equivalent). Documentation must be submitted with building permit application and verified by the City of Ann Arbor prior to the issuance of building permits. Work on off-site and shared amenities must be completed and verified

by City of Ann Arbor, prior to issuance of a certificate of occupancy for the project.

³ Energy provided by the renewable energy system must provide additional energy savings beyond the qualifying condition required in Section 5:65(1)(f)2.

⁴ Rain garden designs shall conform to requirements of the storm water management plan approved by the City of Ann Arbor.

⁵ Rain harvesting roof must use all water harvested for building purposes and cannot discharge water to sewer/storm water system. These points are not eligible if the green roof or rain harvesting system is a factor in the carbon neutrality or energy efficiency models to qualify for other points in Table 5.65B or the qualifying condition required in Section 5:65(1)(f)2.

⁶ These points are not eligible if the reflective roof is a factor in the carbon neutrality or energy efficiency models to qualify for other points in Table 5.65B or the qualifying condition required in Section 5:65(1)(f)2.

⁷ ArborBike station must be approved by the system's operator and located in an area that is convenient and visible from the principal entrance of the building.

⁸ Public access to bicycle racks shall be located in an area that is convenient and visible from the principal entrance of the building

⁹ Location and design of bus stops and shelter must be approved by the AAATA

~~Green Building Premium. In D1 and D2 districts, floor area in excess of the normal maximum usable floor area in percentage of lot area shall be allowed in the following increments for site and/or buildings achieving the following levels of the U.S. Green Building Council Leadership in Energy and Environmental Development (LEED) certification for new construction (NC) or existing buildings (EB). The most recent version in effect at the time of site plan approval shall be applied.~~

~~LEED Silver certification, with a minimum of 4 points in Energy & Atmosphere Credits No. 1 and 2: 50% of lot area~~

~~LEED Gold certification, with a minimum of 6 points in Energy & Atmosphere Credits No. 1 and 2: 150% of lot area~~

~~LEED Platinum certification, with a minimum of 8 points in Energy & Atmosphere Credits No. 1 and 2: 250% of lot area.~~

~~1. Prior to issuance of any building permits, the applicant shall submit proof of LEED registration and a letter in a form~~

~~satisfactory to the City Attorney stating his/her commitment to achieving the requested LEED certification and to demonstrating compliance with that commitment.~~

- ~~2. Within 6 months of receiving the final Certificate of Occupancy, the applicant shall submit to the planning and development services manager documentation of the credits earned from the U.S. Green Building Council and achievement of the requested certification. This time period may be extended by the planning and development services manager at his or her discretion for a period not to exceed 3 months if additional time is needed to complete the LEED certification process.~~
- ~~3. Failure to submit documentation from the U.S. Green Building Council within the required time period demonstrating the applicant's achievement of the requested LEED certification premium shall be a violation of this ordinance. The penalty for such violation shall be \$500 per day from the date when the report was due to the date it is submitted.~~
- ~~4. Failure to demonstrate full compliance with the applicant's commitment to achieve the requested LEED certification premium shall be a violation of this ordinance. The penalty for each violation is an amount determined by the following formula:~~

$$P = [(LC - CE) / LC] \times CV \times GPUP$$

~~Where:~~

~~P is the penalty;~~

~~LC is the minimum number of credits to earn the requested LEED certification;~~

~~CE is the number of credits earned as documented by the U.S. Green Building Council report;~~

~~CV is the construction value, as set forth on the building permit for the new structure;~~

~~GPUP, the Green Premium Utilization Percentage, is the greater of (i) 0.075; or (ii) a fraction, the numerator of which is LEED FAR, the denominator of which is TFAR.~~

~~LEED FAR is the minimum amount of floor area proposed that is attributable to the Green Building Premium;~~

~~TFAR is the total floor area proposed.~~

- ~~5. Failure of the applicant to comply with the applicant's commitment to achieve the requested LEED certification premium shall not affect the right to occupy any of the premium floor area if a penalty is paid to the City in the amount determined in this section. No additional penalty shall be imposed for failure to comply with the commitment.~~
 - ~~6. If, within 90 days, or such longer period as the planning and development services manager may allow for good cause, the application shall demonstrate, through a supplemental report from the U.S. Green Building Council that it has made sufficient alternations to improvements to earn the requested LEED certification, or to earn more credits toward such a certification, then the penalty owing shall be eliminated or recalculated accordingly. The amount of the penalty as so re-determined shall be final.~~
- ~~(d) Historic Preservation Premium. In D1 and D2 districts, additional floor area of up to 50% of the lot area shall be allowed in excess of the normal maximum usable floor area in percentage of lot area for a development that preserves a historic resource, as defined in Chapter 103, that is currently listed on or eligible for the National Register of Historic Places and/or the State Register of Historic Sites. For purposes of calculating the maximum floor area in percentage of lot area for the lot, the floor area of the historic resource shall not be counted in the total.~~
- ~~(e) Pedestrian Amenity Premium. In C1A, C1A/R and D1 districts, 10 square feet of floor area in excess of the normal maximum usable floor area in percentage of lot area shall be allowed for each square foot of pedestrian amenity improvements, up to a maximum of 8,000 square feet of additional floor area. Any space in which a pedestrian amenity is used to acquire a premium shall not be used for the off-street parking of any vehicle, including, but not limited to, automobiles, bicycles, motor bikes, and scooters; nor shall such area be used for access drives, loading, or trash collection stations, except as noted in paragraph 3d. Interconnections of pedestrian amenities between two or more lots are required to the extent feasible. A public open space used to acquire a premium shall be designed to avoid creation of isolated areas, to maintain lines of sight into the space from streets and major pedestrian walkways, and to provide a secure environment. Lighting shall be provided for public open space premiums which are open at night.~~

~~Pedestrian amenities may include:~~

~~1. Inner Arcade. A non-publicly owned, continuous, covered space which runs through or along a non-street side of a building and connects public streets, arcades, open space, or sidewalks and is readily accessible and identifiable from the public street, arcade, or sidewalk. An arcade shall meet the following requirements:~~

- ~~a. — Connect and be accessible from at least two public streets, or a public street and a public or non-public arcade fronting on another public street, or a public street and a public or non-public plaza fronting on another public street, or a public or non-public arcade and another public or non-public arcade fronting on another public street; or a public parking garage and a public street; and~~
- ~~b. — Measure not less than 12 feet wide; and~~
- ~~c. — Have an open and unobstructed headroom of at least 12 feet in height; and~~
- ~~d. — Remain open for use by the general public during all business hours common in the area.~~

~~Art works may occupy up to 5 percent of the total arcade area if a minimum clearance of 6 feet for circulation is provided.~~

~~2. Plaza. A non-publicly owned continuous space, open to the sky for its entire width and length which fronts on a public street or public sidewalk, which is directly and conveniently accessible to the public at all times for passive recreational activities. Up to two-thirds of the surface area of the plaza may be occupied by features such as seating, permanent planting areas, water features or works of art. When landscaping is provided for a plaza amenity premium, a variety of living trees, shrubs, ground covers, and seasonal plantings shall be used and shall be located in permanently installed beds or planters serviced by automatic irrigation systems or in large containers, provided they cannot be readily removed. A plaza shall meet the following requirements:~~

- ~~a. Have a minimum dimension of 10 feet; and occupy not less than 500 square feet; and~~
 - ~~b. Be at the same grade as the adjacent public sidewalk or not more than 24 inches above or below the grade of adjoining public sidewalk for no more than 50 percent of either length of the sides adjoining and measured at the property line; and~~
 - ~~c. Be readily identifiable from the public sidewalk; and~~
 - ~~d. A portion of a plaza may be used for the parking of bicycles, provided the square footage of the plaza is increased beyond the minimum requirement at the rate of 96 square feet for each 2 bicycles parked, and permanently-installed bicycle facilities are provided.~~
 - ~~e. When seating and/or tables are provided, they shall be available for use by the general public at all times the space is open.~~
- ~~(f) Public Parking. In D1 districts, the usable floor area of above-grade parking structures reserved for vehicular parking spaces in excess of the minimum requirement shall not be counted toward the maximum usable floor area in percentage of lot area, up to a maximum of 200% of the lot area, if the following conditions are met:~~
- ~~1. The parking spaces are made available to the general public.~~
 - ~~1. The number, location, size, access, layout and design of the parking spaces meet standards for public parking, as determined by the the Downtown Development Authority.~~
 - ~~3. The property owner signs and records a development agreement or other document approved by the city attorney outlining the operating conditions for this parking.~~

Section 3: That Section 5:167 of Chapter 59 of Title V of the Code of the City of Ann Arbor is amended as follows:

5:167. Required Parking.

<Language to be included in a later draft>

Section 4. That this ordinance shall take effect on the 30th day following legal publication.