



PLANNING, BUILDING AND DEVELOPMENT

Quality Services for a Quality Community

MEMORANDUM

TO: Planning Commission

FROM: Darcy C. Schmitt, Senior Planner

DATE: September 9, 2021

SUBJECT: The Avenue Form-Based Code-Action Items

City of East Lansing
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The following action items are a culmination of concerns brought to the City's attention by Planning Commissioners, stakeholders, community members and staff.

Those items that were discussed by the Planning Commission provide a general conclusion of their discussion in red below the item. Comments or input from staff is written in blue below the item.

Topics that may require less discussion prior to a vote of the Planning Commission to add to or modify the code.

1. Clarify the Planning Commission's preference to minimize the boundaries of The Avenue to generally follow the DDA boundaries.
The Planning Commission determined that the boundary as shown should remain so the City Council can determine whether it should be scaled back.
2. Evaluate the definitions that were taken out of the code to see if any should be added back into the code. Correct the lettering style where needed for words that are defined.
See the attached list of definitions that the Planning Commission reviewed.
3. "Page 45 C – Need to add EPDM and other flat roofing materials."
Clarify that flat roofs are acceptable. Materials should be updated to include modern flat roofing materials, such as single ply, built-up, elastomeric, PVC etc.
Shaping the Avenue states that flat roofs are acceptable on pages 19 and 29. The allowed roof materials on page 45 are required where roofs are visible from the street-space as stated on page 44. Flat roofs are not visible from the street-space. The Planning Commission felt that this language is sufficient to clarify flat roofs are allowed.

4. Consider adding aluminum doors to section 606.
The Planning Commission determined that the list of materials allowed for doors should be amended to allow metal. They felt this will allow mor materials including aluminum doors.
5. Change section 606, C1, page 49, from light transmission to transparent.
The Planning Commission added the following language to provide for approval flexibility that may be needed to accommodate building code and energy code requirements:
“(modification as necessary to meet any applicable building and energy code requirements)”
6. Clarify that air supply, exhaust, dryer vents etc are not prohibited from the street façade. Staff to propose language that clarify that the above mentioned are allowed on the street façade. However, make it clear that protrusions beyond a certain size are not allowed. Review both allowed rooftop and façade materials.
Staff added the following language to the code under new 603F.:

F. Façade Elements

- a. Air supply, exhausts and dryer vents protruding less than 6” are allowed on the facade if there are no alternative locations available.
- b. Other elements not listed above or not meeting the maximum protrusion allowed may be approved by the Planning Director if it is found that there are no alternative solutions.
7. Clarify whether an existing house will be able to renovate or add an addition to the now nonconforming property.
Shaping the Avenue refers to the Zoning Ordinance where a regulation is not addressed in the STA section. The Planning Commission requested that staff confirm that all renovations are addressed in the STA or Zoning Code.
201A. states “Within the Avenue Form District, all requirements of the East Lansing Zoning Ordinance shall apply, except as modified by this Section”. The phrase “this Section” refers to the STA code. Part 2.,201A. and B. provides specific requirements that need to be met when proposing renovations to a nonconforming structure. Those things that are not addressed in this section will be referred to Article X of the Zoning Code such as Sec. 50-855, Restoration of damaged structures.
8. Page 22 discusses how windows cannot be block by shelves or opaque material, this should be reconsidered, since it is difficult for a business to do in the current economy. No changes are recommended to this requirement. The Planning Commission’s discussion of this topic can be reviewed on the January 27, 2021 meeting video.
9. Clarify whether the architectural standards require overhangs or eaves. “Page 45 D 1 – While I do like to have large eaves on buildings to protect them, I disagree with putting in a requirement for them. We did a building between two existing buildings and for fire

code reasons couldn't have an overhang on the rake. There needs to be clarification where eaves are required if it's going to stay. Are they required on the rake and why would it need to be 6" if so?"

The Planning Commission determined the requirement for overhangs should be removed.

10. Clarify whether the height overlay should continue to apply. It is not currently reflected in the code. Add a footnote on page 19 clarifying the height overlay applies to the Avenue Form-Based Code.

A footnote was added to page 19 stating the following: "Additional height may be granted in locations identified under Section 50-805."

11. Why require a roof over a front porch? Should this requirement be eliminated?
The Planning Commission determined to keep this requirement in the code for further input by City Council and the community.

12. Clarify whether the requirement for street walls should remain as it is in the code or should it be amended for their use with surface parking lots. "Street wall and privacy fence requirements. I've seen this in neighborhoods in Texas and think it's absolutely terrible." Should street walls be required at all?

The Planning Commission directed staff to prepare language that provides more flexibility for materials used in street walls.

Staff reviewed part 6 and suggest that this flexibility is in place through 602.D. which allows the Director of Planning to approve alternative materials and methods if they maintain the intent of the standards.

13. Add language to part six that makes it clear that the parapet is not included in the building height.

The Planning Commission directed staff to prepare language to further clarify parapets are not included in the building height.

The following sentence was added to the end of 604.D.2.c.:

The maximum height requirement does not include the height of a parapet wall.

14. Limiting the bedroom counts to three bedrooms limits redevelopment in some areas of the City such as the current East Village Area. Consider removing some areas of East Village from this requirement. "The cost involved with kitchens and bathrooms for 3 bedrooms is mitigated greatly with more bedrooms. Why not four?"

The Planning Commission felt this should be left in for more consideration from City Council and the community.

15. The statement on page 7, F.1., it explains how to get an exception from the architectural standards of Part 6. How is this evaluated?

The Planning Commission felt this should be left in for more consideration from City Council and the community.

16. There should not be a limit on the depth of an awning as stated on pg.16, 2.A.

The Planning Commission felt this should be left in for more consideration from City Council and the community.

17. “Page 28 – The paragraph, as I read it, indicates you could have doors every 18’ if you were doing row townhomes for example. Why 18’? Our Albert and Durand townhome buildings are only 17’ wide and they work.”
The Planning Commission directed staff to take out the descriptive text on page 28. Planning Commission felt the !8’ requirement should be left in for more consideration from City Council and the community.
18. “Page 43 C – There is a PVC siding product called Celect that should be added to this list. Also, we’ve used Superior Walls, which is a pre-formed concrete studded wall.” Unless there are objections, stall plans to add these products to the list.
The Planning Commission discussed and feel that this type of product can me covered under 801.B.1. of the Avenue Code.
19. “Page 45 D 2 – What about satellite dishes? Sometimes they would need to be on the front of a building to get a signal.”
Currently Chapter 50 does not regulate satellite dishes. However, they are regulated in the Historic Districts. Zoning is preempted from regulating satellite dishes of certain sizes by the FCC, except HDC districts which we can regulate to a limited extent.
The Planning Commission did not have additional comment.
20. “Page 52 702 – If there is no minimum parking required, why is there a parking analysis required? Is this just to identify if in compliance with the Disabilities Act?” “Page 52 702/703 – I’m confused about the parking requirements. If there is no parking minimum, why does the location of where available parking is located matter? – other than spots need to meet the Disabilities Act...” Yes, determining the appropriate number of ADA spaces is one reason. The requirement to provide a parking plan serves to make sure that the proposed parking does not have the potential to impact other properties and to provide for locations and required number of accessible parking.
The Planning Commission did not have additional comment.
21. “Page 57 803 B – Seems like there should be some language about existing licensed rentals. Also, what happens if one burns down in this new area? Owner should be able to put back what was there.” Since this is not addressed in the Avenue Form-Based Code, it is addressed in the same way as the nonconforming regulation in Article X of Chapter 50.

“(1)Where such a structure is damaged to an extent less than its assessed value, it may be rebuilt and the use continued, but not to any greater extent than in the previously existing structure; but where such rebuilding can feasibly be done in greater conformity with this chapter in the opinion of the East Lansing Building Official, he/she shall so require in any building permit, provided, that any such structure licensed as a rental on November 8, 1995, may be rebuilt to the extent necessary to retain the occupancy permitted by license on November 8, 1995.

(2) Whenever a legally nonconforming structure which was licensed as a rental on November 8, 1995, is damaged to an extent greater than its state equalized value, such structure may be rebuilt and the use continued to the extent necessary to retain the maximum occupancy permitted by license on November 8, 1995; but the East Lansing Building Official shall require in any building permit that such rebuilding shall otherwise be done so as to obtain the maximum conformity with this chapter which may be feasible for the permitted occupancy.”

The Planning Commission did not have additional comments.

22. Consider changing the color on the Historic District overlay map so that they are not confused with the colors of the streetfronts. Staff will change the color on the Historic District Overlay map.

The Planning Commission did not have additional comments.

23. It may not be clear to most persons reading the plan, how to address houses in the historic district. Houses would be addressed no differently than they currently are addressed.

The Planning Commission did not have additional comments.

24. “Page 57 803 A(3) – Seems like a drive thru on a corner lot where the drive thru window faces the side street as opposed to the main street would be fine, but not allowed with this language.”

The Planning Commission felt that the current language was intentional to meet the intent of the Code and it should not be changed to allow for a drive thru window on a corner.

Topics that may require more discussion and likely additional information prior to a vote of the Planning Commission.

1. Bonus Discussion. The pay-in-lieu options will require an approved plan be drafted to allocate the fees. Such as an amendment to the parks plan or a separate downtown enhancement plan to determine where the funds are prioritized. The parking option would be very difficult to implement so we should consider removing it. See attached legal opinion from the City Attorney.

The Planning Commission directed staff to remove the language for fee in lieu from the document.

2. Draft an opinion about how Ordinance 900 will impact the form-based code? Staff recommends the following changes to address ordinance 900:
Remove the current language in 803.B.3. & 803.B.4. and replace it with the language below.

All residential uses in the Avenue Form District shall comply with the occupancy/roomer restrictions set forth in Ordinance 900 and 900A (sections 50-222, 50-242, 50-262, and 50-282 of the City’s Zoning Ordinance) for single-family and two-family dwellings.

All single- and two-family residential dwellings in the Avenue Form District shall comply with the occupancy/roomer restrictions set forth in Ordinance 900 and 900A (sections 50-222, 50-242, 50-262, and 50-282 of the City’s Zoning Ordinance).

- The Planning Commission made changes above to the staff recommendation.**
3. Is the Historic District language in the code clearly addressing the intent to no change how they will be handled in the Avenue Form-Based Code? Staff has the following recommendation to address the Historic District in the STA:
Change the language for Historic Districts on page 14 and 41 to read as shown below. For properties listed in a Historic District, in addition to the requirements of this Part, the Secretary of Interior Standards for Rehabilitation and the requirements of Chapter 20 of the City Code shall also apply ~~supersede this section~~. Where the requirements of this Code conflict with the requirements of the Secretary of Interior Standards for Rehabilitation and/or the requirements of Chapter 20 of the City Code, the Secretary of Interior Standards for Rehabilitation shall govern.
The Planning Commission agrees with staff's recommendations.
 4. Can the City require public alleys as a requirement in the Avenue Form-Based Code? Staff recommends removing the language requiring alleys.
The Planning Commission wants to encourage alleys but understands the difficulty of requiring them through STA so have agreed to remove the requirement.
 5. We are not sure how to address the Marijuana Provisioning Center as they relate to the allowed overlay in section 50-802. On page 55 of the STA we provided the section of the Code (50-802) under additional regulations to direct the reader to the overlay map. Is this sufficient to show where these uses are allowed? Staff recommends removing this language from the code since it is not an allowed use in the STA.
The Planning Commission agrees with staff's recommendation.
 6. On page 26 of STA, there is a requirement to construct a new public plaza or civic green to receive additional height. Staff recommends removing this language from the STA.
The Planning Commission wants it left in the document except for the payment in lieu requirement.
They also want the language in E.1.a. on page 26 changed as follows:
 - a. through its proposed use and/or design, contribute substantially to the mix of desirable commercial, residential, social, cultural or employment opportunities, public amenities, or open space in the Avenue Form District or adjacent residential and public areas, or
 7. Get an opinion from City Attorney on how overlays will be impacted by the Code if the changes overlap an existing Overlay. Staff recommends amending Section 803.B.5 to state:
A rental license is required through the City of East Lansing Housing Division and rentals within a Residential Rental Overlay District are subject to any applicable restrictions set forth in Chapter 50, Article VII, Division 5 of the City's Zoning Ordinance.
The Planning Commission agrees with staff's recommendations.
 8. Discuss removing the housing bonus option and changing the multiple-family housing in the M3 and M4 to require a special use permit to the requirement to all multiple family housing developments in those districts. Compare the housing bonus language with the current B3 diversified housing requirement for all multiple-family housing. Staff recommends the following changes to address the diversified housing requirement:
Add the following language to Section 50-94.

Multiple-family dwellings in business district and mixed-use frontages. Where multiple-family dwelling units are provided in conjunction with business use on a property in a business district or a mixed-use district within the Avenue Form District, the following additional standards shall apply.

The Planning Commission agrees with the recommendation with the modification shown in red.

In addition, staff recommends changing the language of section 803(B)(5) of the STA be changed as follows:

Multiple-family dwelling units in conjunction with business uses in the same building in a mixed-use frontage shall require a special land use permit and shall comply with the standards set forth in section 50-94 of the City’s Zoning Ordinance. ~~with three or fewer bedrooms per dwelling unit provided within a building which contains one or more of the allowed commeree uses.~~

The Planning Commission agrees with staff’s recommendation.

9. Uses within the districts.
Staff recommends eliminating uses from the use chart that are not allowed in the STA boundaries.

The Planning Commission agrees with staff’s recommendation.

Topics that need City Council direction.

1. “Page 58 803 B(6) – Limiting developments to 3 or fewer bedrooms while in a lot of cases requiring building heights that will have to have elevators and sprinkler systems is going to make redevelopment economically challenging – to say the least.”
2. “I realize this code is very different from the East Village code, but what do we know about how this code might help (boost) or hurt (prevent increases in) revenues to the taxing jurisdictions, including East Lansing, ELPS, Ingham County, etc.?”
3. “If we don’t know anything yet, **what economic analysis is going to be done** before Council is asked to consider adopting this?”
4. “In what ways **is the current draft use-agnostic compared to our existing code**? If it is not, would it make more sense to call this not a form-based code but a zoning code that prescribes (and proscribes) uses as well as design?”
5. “That worries me. Innovation this big in this important an area, economically, is a big risk if we’re the first people really trying this, right?”
6. Should the requirement for alleys be changed? Is it more realistic to limit the alley requirement to where an alley already exists? Who will own and maintain the alleys? (Tim M. recommends eliminating the requirements for alleys north of Linden.) The alley requirement should be eliminated since it will be difficult to implement.
7. “Can you point us to **examples of cities** like East Lansing where there is a densely-constructed, highly-occupied (low vacancy) downtown where a form-based code like this resulted in redevelopment that made a real difference in terms of lived experience and economic lift?”
8. “I have concerns with the impact the Evergreen utility project is going to have on my property, but I wanted to bring to your attention one aspect that is important to the current

Form Based code discussion as well. As proposed, the project would remove the only legal street frontage I have. According to the language in the proposed code, on page 33 (D), I would then not be allowed to redevelop my site...”

[This has been addressed and they will still have frontage.](#)

9. “Page 52 703 D – Even though on street parking isn’t allowed over-night, spots are able to be counted? Counted toward what if no minimum?” See attached Attorney opinion.
10. “Page 49 C 3 – PVC or comparable material should be allowed.”
11. “Page 49 D 1(a) – Why have such a restriction about the number of windows? Why require 7” separation in those windows? Too restrictive”
12. “Page 49 D 1(b) – Why need these requirements? There isn’t always room to have a shutter that is half the width of the window, but adding some sized shutter next to a window can be more aesthetically pleasing than nothing.”
13. “Page 49 D 1(c) – Sliders aren’t allowed? Are cottage and reverse cottage considered double hung?”
14. Mechanical Equipment: “Page 51 D – These restrictions are nice on paper, but not always possible to accomplish. Need to have some flexibility.”
15. “Page 52 701 B – Would stacked parking spots be considered efficient or inefficient parking?” [The code as it is currently written does not prevent stacked parking.](#)
16. **“Is what’s being produced what MEDC wants to see?** In other words, has MEDC weighed in to say this is going in the direction they want or don’t want — so that we can make sure we’re on track for the added state resources? (Perhaps the answer is we no longer care about what MEDC wants — but I’m assuming one goal is to still get the benefits of satisfying the MEDC’s interests?)”
[This will be addressed by the City Council prior to going out to the community in the form of an ordinance for final input.](#)

Topic that must be added to the requirements of The Avenue Form District through changes to the current code.

[Add the universal design requirements to the Avenue document. Staff will ensure that this provision is included in the ordinance, likely in the purpose and scope section at the beginning of the ordinance, similar to Division I of Article V.](#)