

**City of Austin Downtown Commission**  
**Resolution on Downtown Waivers of Floor-to-Area Ratio Caps**

**DRAFT**  
**June 18, 2014**

WHEREAS, the Austin City Council adopted the Downtown Austin Plan in December 2011, which called for a Downtown Density Bonus Program allowing developers to increase the density of a proposed development in exchange for community benefits, as long as the increase in density did not exceed the maximum floor-to-area ratios (FARs) and height limits designated for different parts of downtown, via “FAR zones” ranging from 3:1 FAR to 25:1 FAR; and

WHEREAS, the Austin City Council codified the remaining portion of the Downtown Density Program on February 27, 2014, via Ordinance No. 20140227-054. The Ordinance codified the FAR geographic zones set forth in the Downtown Austin Plan, as set forth in Figure 2 of the ordinance. When the ordinance was approved on second and third reading, an amendment was added without public input allowing for an applicant to exceed the maximum FARs in Figure 2 when the award “substantially furthers the goals and objectives of the Downtown Austin Plan and the Imagine Austin Comprehensive Plan.” The amendment did not set forth any objective criteria for when the excess FAR ratio should be granted; and

WHEREAS, on May 22nd, 2014, the Austin City Council directed staff to work with the Downtown Commission to develop recommendations for criteria to govern when it is appropriate to grant an applicant an FAR exceeding the maximum floor-to-area ratio applicable to the site; and

WHEREAS, without the application of codified, objective criteria, the issuance of an increase in FAR to a developer could run afoul of state law bars on spot zoning,  
NOW THEREFORE,

BE IT RESOLVED that the Downtown Commission recommends that the Austin City Council initiate a code amendment process to amend Section 25-2-586 (B)(6) of the Code to provide the following additional requirements and criteria for determining when an applicant’s request for an increase in FAR should be granted:

1. As part of the Planning and Development Review Department’s review of a request for an increase in FAR, the Director should evaluate and make a recommendation to Council based on a scoring matrix that includes consideration of the following criteria.
  - a. The extent to which the size and dimensions of the lot are restricted.

- b. Whether there are any special site restrictions, such as flood plain limits or capital view corridor constraints that necessitate an increase in the FAR to make the development economically viable.
- c. The extent to which the applicant agrees to comply with the building design standards in Appendix I of the Downtown Austin Plan.
- d. The extent to which the neighborhood associations and homeowners associations in the vicinity of the development have issued letters to the City supporting or opposing the increase in FAR.

**Comment [HW1]:** Put geographic boundary on letters?

Applications following below a certain scoring threshold should be ineligible for an FAR increase.

- 2. An applicant should be ineligible for an increase in FAR to the extent that the amount of the increase above the FAR cap in Figure 2 exceeds 50% of the difference between: (1) the largest FAR cap in a zone directly abutting the development's FAR zone; and (2) the development's existing FAR cap listed in Figure 2. For example, if the development is located in an FAR zone of 5:1 and is abutted by FAR zones of 15:1, 3:1 and 8:1, the maximum FAR increase that could be awarded is 50% of the difference between 15:1 and 3:1 FAR, which is 50% of 12:1, or 6:1 FAR.
- 3. An applicant requesting an increase in FAR exceeding the maximum FARs in Figure 2 should be required to send out a notice of the request to surrounding neighbors in accordance with statutory zoning notice requirements.