

# City of Detroit

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**TO:** City Planning Commission

**FROM:** Kimani Jeffrey, Staff

**DATE:** **June 15, 2019**

**RE:** Request to consider the request of the City Planning Commission staff and the Planning and Development Department, to amend Chapter 50 of the 2019 Detroit City Code, *Zoning*, by amending Article XVII, *Zoning District Maps*, Section 50-17-5, *District Map No. 4*, to provide for the following:

(1) To show a PD (Planned Development District) zoning classification where an SD2 (Special Development District, Mixed-Use) zoning classification is currently shown on land bounded by Wilkins Street on the north, the Chrysler Freeway Service Drive on the east, the Fisher Freeway Service Drive and Winder Street on the south, and Beaubien Street on the west; and

(2) To show a PD (Planned Development District) zoning classification where a B4 (General Business District) zoning classification is currently shown on land commonly known as 114 Winder Street; and

(3) To modify the existing PD (Planned Development District) zoning classification, established by Ordinance 01-96, currently shown on land generally bounded by Mack Avenue on the north, Beaubien Street on the east, Erskine Street on the south, and Brush Street on the west in order to repeal the regulations for development for such classification; and

(4) To modify the existing PD (Planned Development District) zoning classification, established by Ordinance 39-07, currently shown on land generally bounded by John R Street, the alley south of Erskine Street, Brush Street, Mack Avenue, Woodward Avenue, and Alfred Street in order to revise the boundaries for such classification; and

(5) To modify the existing PD (Planned Development District) zoning classification, established by Ordinance Nos. 01-96, 25-96, and 39-07, as amended by Ordinance Nos. 07-16, 24-17, 27-17, 26-18, 14-19, and 35-19, currently shown on land generally bounded by Mack Avenue, Beaubien Street, Wilkins Street, the Chrysler

Freeway Service Drive, the Fisher Freeway Service Drive, Woodward Avenue, Erskine Street, and John R Street, but excluding certain properties abutting Woodward Avenue.

The proposed map amendment is being requested in order to adopt the Brush Park Form-Based Code as the regulations for development for the subject area described and found in the map below (**RECOMMEND APPROVAL/SAME DAY ACTION**).

## **BACKGROUND**

In the spring of 2016, The City Planning Commission staff completed a series of online courses and subsequent classroom trainings in Lansing, Michigan on form-based code (FBC).

As staff contemplated possible application of the FBC concepts in the City of Detroit, it became evident that the Brush Park neighborhood would be a good candidate for a first application of the zoning tool for the following reasons:

- the development activity currently underway;
- the need for a community plan post Emergency Manager Order No. 36 which eliminated both the Urban Renewal areas and the Fourth Modified Development Plan;
- the need for more cohesive development;
- the City Modern Bedrock development, located nearby, that incorporated the form based development concept, and;
- the desire to take an opportunity to apply the concept to one of the most rapidly changing neighborhoods in the city.

CPC staff began to search for funding in order to further the zoning initiative. Initially staff was in discussions with the Michigan Association of Planning (MAP) to identify sources of funding to support the effort. PDD had also been searching for an approach to resolve the zoning dilemma in Brush Park, in which their original thought was to rezone large portions of the area to SD1 (Special Development District, Small-Scale, Mixed-Use) or SD2 (Special Development District, Mixed-Use).

CPC staff met with the Planning and Development Department (PDD) on July 15, 2016 to discuss CPC staff's proposal for a Form-Based Code. PDD was receptive of the concept and also knew of funding sources to help advance the effort. From that point, CPC and PDD partnered to advance the effort. The consultant, Utile, from Boston, Massachusetts, was brought on board (using PDD's funding) to be the lead consultant, since they had expertise in the practice. More than two years have spanned, involving many stakeholders, to produce what is before the Commission for consideration.

## **PROPOSAL**

The City Planning Commission staff and the Planning and Development Department are co-petitioners for the proposed Brush Park Form-Based Code ordinance.

On December 6, 2018, the CPC held a public hearing to consider the proposed FBC. The Commission subsequently voted to approve the proposal in May 2019. Since that time, staff has worked further with the community and Law Department (Law) to accommodate additional changes.

As a result of further consideration, it was decided that the best way to effectuate the FBC would be to apply a zoning map amendment, as opposed to the text amendment for which was the original petition. A new public hearing is required due to that change, in addition to other modifications made within the ordinance. The spirit and intent of this ordinance is largely the same as what was approved by CPC in 2019. The most significant changes are that the Public Realm Standards were removed after consultation with Law. These provisions were intended to make the standards for public sidewalks, curb cuts and other elements of the public right-of-mesh with privately owned land. At this time, there is not an expedient way to accomplish this goal and so staff may pursue this as a secondary effort to avoid further delay of the FBC implementation.

There are two areas with the subject Brush Park communities that do not bear a PD (Planned Development District) zoning classification. One is currently zoned B4 (General Business) and the other SD2 (Special Development District, Mixed Use). Both are to be **rezoned to PD** (Planned Development) zoning classification so that the FBC will be applicable to the entire area described in the attached map.

The ordinance also modifies the boundaries of ordinances 01-96 and 39-07, as these ordinances' boundaries are being altered in the area where the FBC is being applied. However, their existing regulations will continue to apply to parcels abutting Woodward, which are outside of the FBC boundary (See FBC Regulating Map).

Lastly, the FBC will repeal the terms, conditions and regulations that currently govern development in Brush Park that were implemented through the Brush Park Third Modified Development Urban Renewal Plan and were effectuated by Ordinances 01-96, 25-96, and 39-07. The FBC will replace these provisions. Other individual PDs that have been approved by the legislative bodies, such as the City Modern development, are able to continue in perpetuity as they exist, or, are consistent with approved plans. Developments in this category are subject to the provisions of *Sec. 6 Nonconformities and Savings Provision* of the FBC.

In general, the above actions are proposed in order to adopt the Brush Park Form-Based Code as the regulations for development within the subject area described and found in the attached map.

## **FORM-BASED CODES**

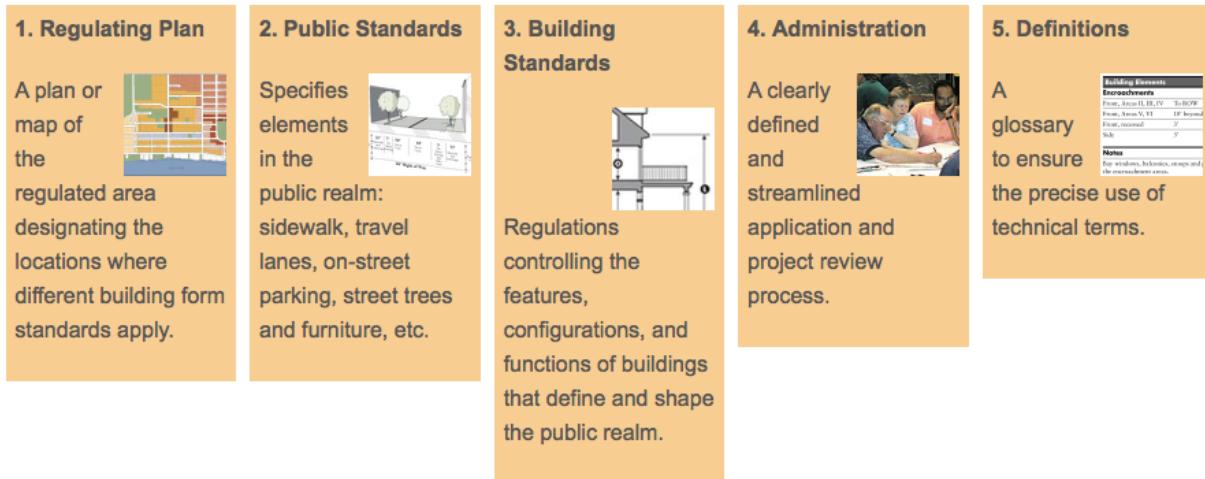
According to the Form-Based Codes Institute:

“a form-based code is a land development regulation that fosters predictable built results and a high-quality public realm by using physical form (rather than separation of uses) as the organizing principle for the code. A form-based code is a regulation, not a mere guideline, adopted into city, town, or county law. A form-based code offers a powerful alternative to conventional zoning regulation.

Form-based codes address the relationship between building facades and the public realm, the form and mass of buildings in relation to one another, and the scale and types of streets and city blocks. The regulations and standards in form-based codes are presented in both words and clearly drawn diagrams and other visuals. They are keyed to a regulating plan that designates the appropriate form and scale (and therefore, character) of development, rather than only distinctions in land-use types.

This approach contrasts with conventional zoning’s focus on the detailed management and segregation of land uses, and the control of development intensity through abstract and uncoordinated parameters (e.g., FAR, dwellings per acre, setbacks, parking ratios, etc.), to the neglect of an integrated built form. Not to be confused with design guidelines or general statements of policy, form-based codes are regulatory, not advisory. They are drafted to implement a community plan. They try to achieve a community vision based on time-tested forms of urbanism. Ultimately, a form-based code is a tool; the quality of development outcomes depends on the quality and objectives of the community plan that a code implements.”

## Five Main Elements of Form-Based Codes



Above you will find the five main elements that Form Based Codes typically address that are considered the pillars to make a successful ordinance that can accomplish the objectives of a form based regulation. The proposed ordinance that is being considered for Brush Park contains all of these elements except the Public Realm Standards as mentioned previously in this report. The following is included in the subject ordinance:

- Regulating Plan**
- Building Standards**
- Administration**
- Definitions**

There are however, other elements that are considered optional by form-based code experts. The Brush Park FBC ordinance utilizes the Landscaping and Signage standards of the current Zoning Ordinance. The elements that FBC experts describe as optional include:

- Architectural Standards**
- Landscaping Standards**
- Signage Standards**
- Environment Resource Standards (Stormwater standards)**
- Annotation**

## Additional Optional Elements



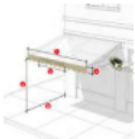
### Architectural Standards

Regulations controlling external architectural materials and quality.



### Landscaping Standards

Regulations controlling landscape design and plant materials on private property as they impact public spaces.



### Signage Standards

Regulations controlling allowable signage sizes, materials, illumination, and placement.



### Environment Resource Standards

Regulations controlling issues such as storm water drainage and infiltration, development on slopes, tree protection, solar access, etc.



### Annotation

Text illustrations explaining the intentions of specific code provisions.

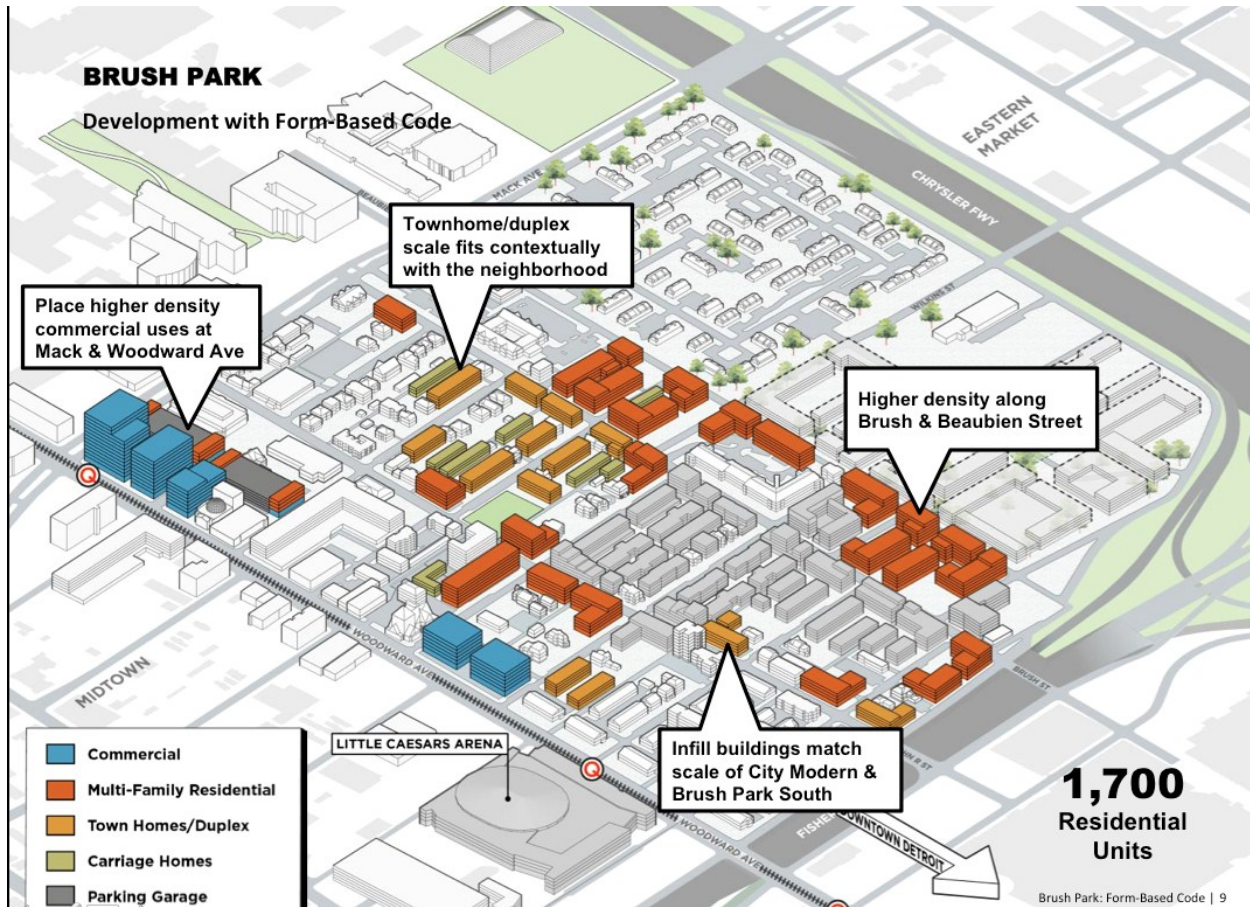
## COMMUNITY ENGAGEMENT

To-date, CPC staff and PDD have held over 20 meetings and conversations with the community over a 2 year period regarding the Form-Based Code. These meetings and conversations include a week of kick off meetings with our steering committee, at-large community meetings, and one-on-one calls with stakeholders, sit-down meetings at individual's homes and businesses, conference calls, face-to-face discussions, focus group meetings, and a charrette. The overall sentiment has been that many residents are anxious for this ordinance to be implemented.

CPC staff and PDD have additionally presented worked with other city agencies to inform and receive feedback regarding the project. Those entities include the City Planning Commission, The Historic District Commission (HDC), The Historic Designation Advisory Board (HDAB), and the Board of Zoning Appeals (BZA). Other parties that have conducted analysis of the code or had input include the Office of the Chief Financial Officer, University of Michigan, Code Studio (CPC's zoning consultant) as well as several other national consultants who provided input and analysis for staff.

## ANALYSIS

During the course of this process, much thought and study have gone into this effort. Much was learned from the studies that have been done in other places where FBC has been applied or fully instituted and, they provided valuable guidance on how the concepts included in this draft ordinance might be applied on an even larger scale to improve redevelopment as it continues in the city.



An image depicting a study that was done by Utile, Boston that shows the opportunity for new development and associated density.

Some of the primary outcomes of this proposed ordinance are that it:

- Implements the longstanding vision of the community
- Creates a more predictable outcome of what the neighborhood will look like once built out
- Reduces costs for developers, small and large
- Sets expectations for developers and allows the neighborhood to set the vision in advance
- Provides projections for the amount of greenspace, parking, and other needs in the area
- Promotes walkability
- Allows for varying housing options
- Makes zoning more user-friendly and easier to comprehend

## MAJOR ASPECTS OF THE FORM-BASED CODE ORDINANCE

### Review and Process

This ordinance proposes to allow the land within the proposed boundaries to be governed similarly to standard zoning districts that makeup the majority of zoning districts in the zoning ordinance, in that the district as a whole and the parameters that are set forth, are established by the City Planning Commission and City Council and are implemented by staff administratively.

The new development path of the FBC should alleviate the sometimes contentious, negotiated development process that currently exists for each project within a PD district. The current

process can lead to a less cohesive neighborhood and also weighs on the community because they don't know what is allowed for each development. The prospect of new projects can become antagonistic leading to development fatigue. With the adoption of the FBC, the rules will be set in place, so that the community and developers know what is permitted.

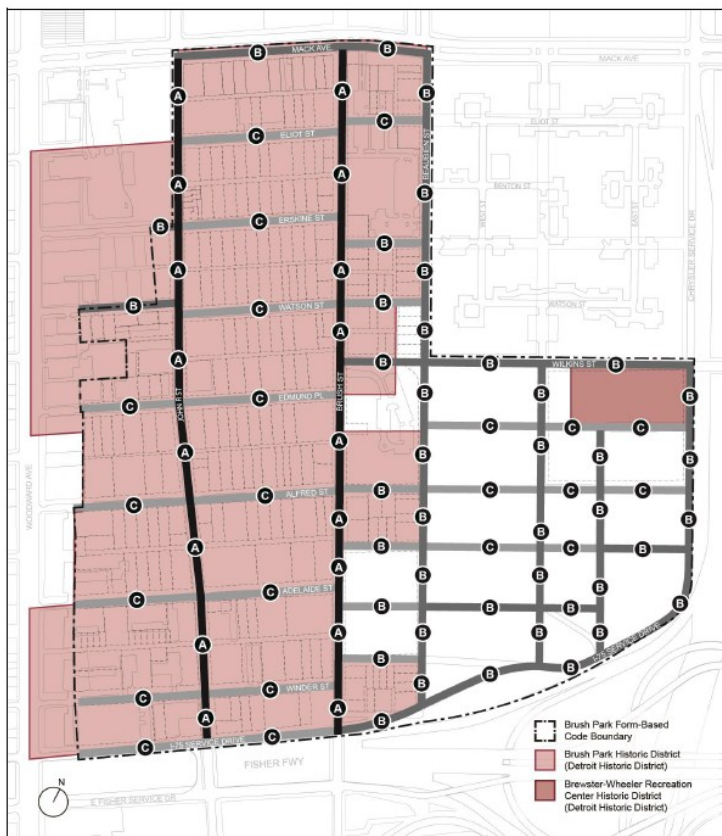
This will result in a more predictable final built environment for the community and give assurance to residents that there are concrete standards that they have helped to craft according to their own vision. Having set regulations and process for development also gives developers more confidence to invest because they more easily understand the expectations of the community, the financial risks involved and have a clear-cut path to reach the finish-line, by conforming to the adopted parameters.

Once a developer applies and meets the provisions of this ordinance, they could then receive administrative approval to pull permits after first engaging the community regarding their project. The developer would have to also seek approval concerning aesthetics from the HDC. Zoning would regulate dimensional and form aspects of the project.

### Regulating Plan Map

The regulating plan map will act, in essence, as the new zoning map. Development would be based on the street on which the parcel fronts. "A" streets would allow the most intensive uses and highest densities while "C" streets would be tailored to maintain more residentially scaled development and uses would be less obtrusive. Lastly, "B" streets would fall between the former, with regard to intensity.

**MAP 7(a): Street Type Map.**



## The Civic Space Map

The civic space map essentially zones park/open space so that development pressures do not supersede the intent for parks to be expanded or new parks to be installed. In this map, the civic spaces could not be used for any other purpose. These spaces were based on the projected densities and recommended open space acreage per capita.

In consultation with the Law Department, CPC staff added a short list of uses that are compatible with, and can be operated in conjunction with the civic space as not to impose a ‘takings’ on the property owner. The allowable uses civic spaces will include are:

- Outdoor recreation facility
- Outdoor art exhibition grounds; sculpture gardens
- Urban garden
- Retail sales incidental and accessory to permissible uses in the civic spaces, such as food service, concession stands and other activities deemed appropriate by the City Planning Commission staff.

**MAP 7(b): Civic Spaces Map.**




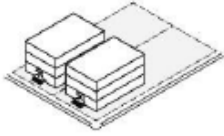
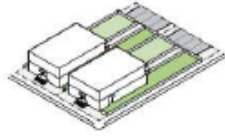
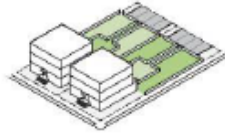



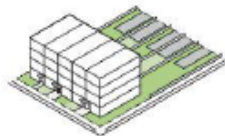

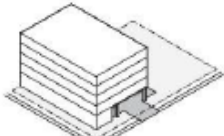

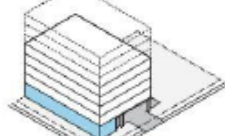


## Typologies

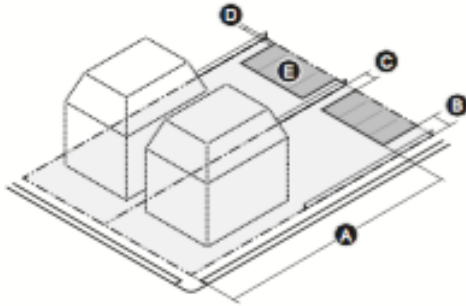
The typologies included in the Form-Based Code set dimensional standards for new development or redevelopment in Brush Park. New construction would have to meet the form of these typologies as outlined in Sec. 12 of the ordinance. Standards do not dictate the skin or design of those buildings. The freedom of architectural expression would be left to the architect. However, the design would still have to be approved by the HDC. These typologies have dimensional standards that apply to them as well.

The way in which these standards are laid out helps developers and community members to understand what is permitted to be built in the neighborhood. As opposed to typical zoning ordinance textual description, the FBC visually demonstrates what a structure might look like in form and massing. It also succinctly lists standards in an easy-to-read format.

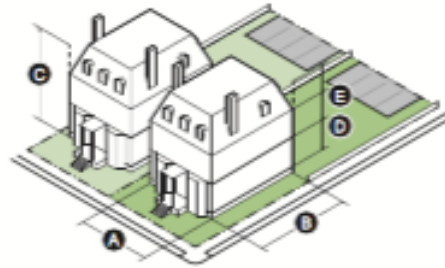
**TABLE 12(a): Principal Building Types and Example Variations.**

Principal Building Types	Example Variations		
Single-Family House			
			
Multiplex	Duplex	Triplex	Sixplex
			
Townhouses	Side by Side Townhouses	Attached Townhouses	Stacked Townhouses
			
Mid-Rise Building	Apartment Building	Mixed-use Building	
			

**3. Access/Parking**  
(In accordance with Sec. 61-11-410)



**4. Building Standards**  
(In accordance with Sec. 61-11-409 (d))



Parking Setbacks	
<b>A</b> Primary Front Setback	60' min
<b>B</b> Secondary Front Setback	10' min
<b>C</b> Side Setback	5' min
<b>D</b> Rear Setback	0' min

Parking Ratio	
<b>E</b> Parking Spaces	0.5/DU min

Parking Access	
Abutting an Alley	Preferred
Primary Frontage	Not Permitted
Driveway Width	12' max

Lot Perimeter Definition (In accordance with Sec. 61-11-411)	
Side & Rear Fencing or Hedge Row	Required where screening parking
Fence or Hedge Height	3' min 6' max

Massing	
Facade Build Out	70% min
<b>A</b> Width	35' min 40' max
<b>B</b> Depth	40' min 55' max
<b>C</b> Number of Stories	2.5 max
Story Height	10' min
Ground Floor Elevation	2' min
Building Height, Feet	30' max

Fenestration	
<b>D</b> Ground Story Fenestration	20% min 50% max
<b>E</b> Upper Story Fenestration	20% min 50% max

Use & Occupancy	
Outdoor Amenity Space	1/DU min

Lastly, while the form of buildings is the foundational principle in form-based zoning (by emphasizing the massing and look of buildings over the activities taking place within) it should be noted that the uses within the building are still taken into account, but as a secondary guiding principle. The Brush Park Form-Based Code ordinance incorporates a use table that assigns uses to street types based on the intensity of the use. Since form is now regulated, it is possible to be more liberal in the activities that take place in a building. The thought is that if a building only has a set dimensional capacity, then the permitted uses can be more flexible, because of the capacity limits.

TABLE 413 Permitted Uses

Use Category Specific Use Type	Street Designation			Standards General (Art. XII, Div. 2) Standards Specific (Art. XII, Div. 3)
	A-Street	B-Street	C-Street	
<b>Residential Uses</b>				
Household Living				
Loft	R	R	R	Sec. 61-12-117; Sec. 61-12-118
Multiple-family dwelling	R	R	R	Sec. 61-12-117; Sec. 61-12-120; Sec. 61-12-121
Single family detached	N	Historic House Only	R	Sec. 61-12-117; Sec. 61-12-118
Town house	R	R	R	Sec. 61-12-117; Sec. 61-12-126
Two-family dwelling	N	R	R	Sec. 61-12-117; Sec. 61-12-118
<b>Public, Civic, and Institutional Uses</b>				
Community Service				
Fire or police station, post office, courthouse, and similar public building	R	N	N	Sec. 61-12-136
Neighborhood center, nonprofit	R	R	R	Sec. 61-12-138
Day Care				
Adult day care center	R	R	R	Sec. 61-12-131
Child care center	R	R	R	Sec. 61-12-133; Sec. 61-12-402
Family day care home	R	R	R	Sec. 61-12-135
Library	R	R	N	
Museum	R	R	N	
Outdoor art exhibition grounds; sculpture gardens	R	R	R	
<b>Park &amp; Open Space</b>				
Outdoor recreation facility	R	R	R	Sec. 61-12-139; Sec. 61-13-131(4)
<b>Religious Institution</b>				
All	R	R	R	
<b>Schools</b>				
Educational institution	R	R	R	Sec. 61-12-134
School, elem, middle/junior high, or high	R	R	N	Sec. 61-12-139.5
<b>Retail, Service and Commercial Uses</b>				
Assembly				

R - By-Right N - Not Permitted

## CONCLUSION

The proposed FBC ordinance serves to pilot such regulations which have never been done in the City of Detroit. Form-based codes have been instituted in many Michigan cities including: Birmingham, East Lansing, Grandville, Wyoming, Muskegon, Farmington, Jonesville, Marquette, Grand Rapids, and others. Nationally, cities such as Los Angeles, CA and Miami, FL have implemented form-based zoning codes.

The Brush Park form-based PD ordinance is the result of a community effort from the beginning, enhancing and implementing the 4<sup>th</sup> Modified Development Plan. Over the years, the Brush Park

community has expressed sentiments of disenfranchisement, because their community, despite their efforts was left without updated regulations to govern development. This ordinance will serve to create more cohesive development, and to alleviate the tensions that can arise when new development comes into the neighborhood due to the lack of regulation that addresses current development trends. It will also serve to spur more development, as the studies and work that have gone into this ordinance, have provided the legwork that developers would incur at their own expense, providing the rules for what the community has put forth as their desire. Lastly, the FBC creates a more equitable development process via the parameters that community have desired through the establishment on the front end, developers now incur less cost to do projects. Many times an extenuated process hurts small developers through additional costs, while giving the edge to the larger developers.

Staff realizes that the Commission will want to keep apprised of what is happening in the Brush Park neighborhood as this is a dynamic area. Since this is a pilot, CPC staff will keep the Commission updated as to how the ordinance is working and on the developments as projects come through the pipeline. It is also reasonable to assume that there may be modification to the PD ordinance that staff may bring back to the Commission, as we see the form-based code in operation and attempt to work out the flaws.

As staff weighed the pros and cons of keeping the district as PD, we recognize the desire for the legislative bodies to remain engaged in this community and its redevelopment. Therefore, we decided to propose the continuance of the PD district so that the CPC and City Council would retain statutory authority.

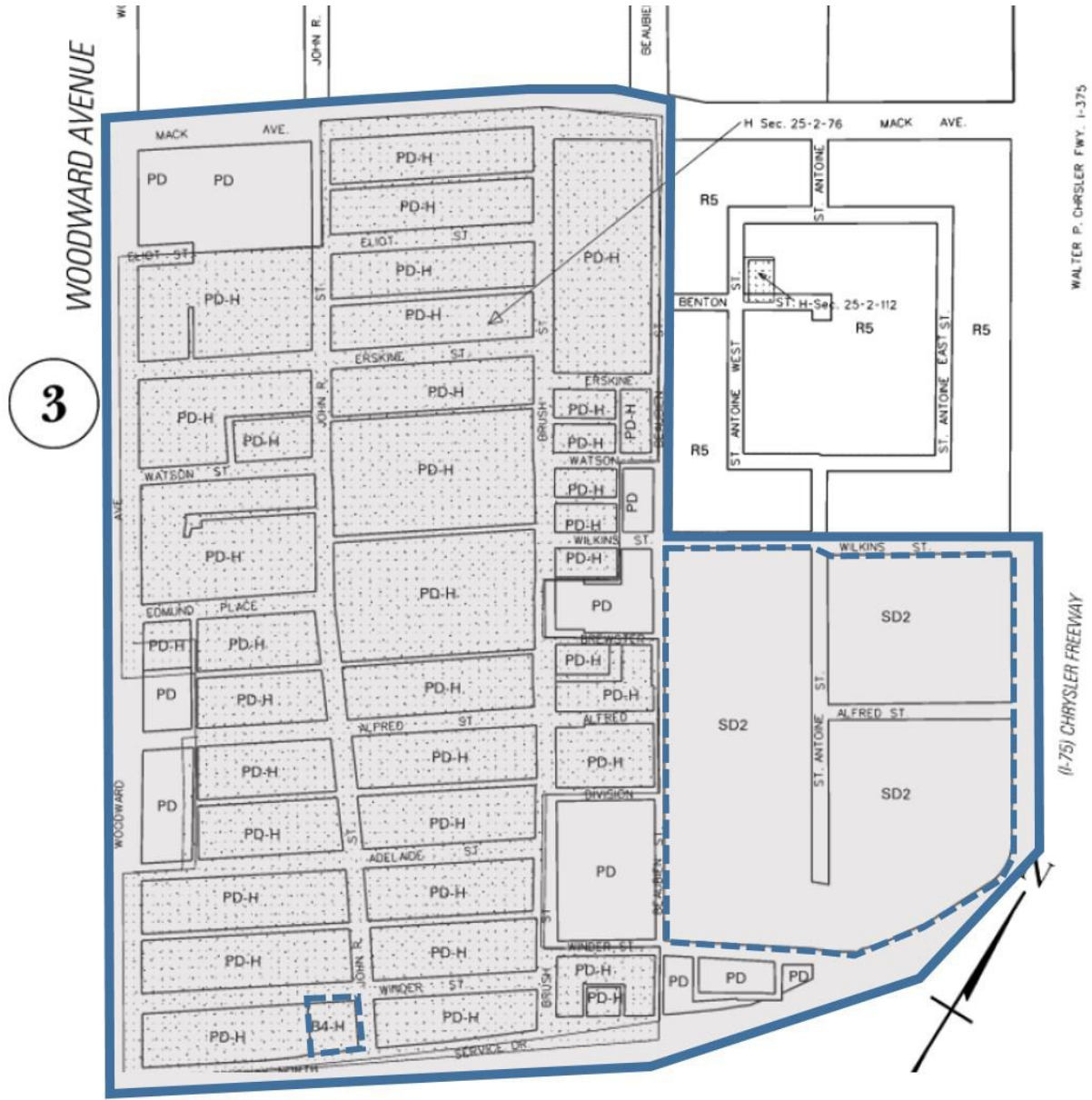
## **RECOMMENDATION**

### **According to Sec 50-3-96 Approval Criteria**

CPC staff believes that the proposed rezoning and adoption of the Brush Park Form-Based Code is consistent with the goals and intent of the Planned Development Approval Criteria, Sec. 50-3-96 and the Master Plan for the reasons identified in this report. It will serve to achieve more cohesive development, better housing options, and provide a transparent plan for the community.

Based on the rationale listed in this report, CPC staff submits this recommendation for approval of the Brush Park Form-Based Code zoning ordinance that includes the following:

1. That staff be allowed to work with the Brush Park community and the Law Department to solidify final provisions of this ordinance and correct any errors that might be found before submitting to City Council for final action.
2. That staff be responsible for providing a periodic update to the Commission on Brush Park activities and the effectiveness of the ordinance after implementation.



- General Form Based Code Map Amendment Boundary
- B4, SD2 to PD Map Amendment Boundary