



**PROSPER
PORTLAND**
Building an Equitable Economy

DATE: June 13, 2018
TO: Board of Commissioners
FROM: Kimberly Branam, Executive Director
SUBJECT: Report Number 18-24
Adopting Administrative Rules for the Affordable Commercial Space Program

BOARD ACTION REQUESTED AND BRIEF DESCRIPTION

Adopt Resolution No. 7277

This action by the Prosper Portland Board of Commissioners (Board) would adopt administrative rules for the Affordable Commercial Space Program. If approved, this action will provide Prosper Portland with program oversight and administration of a brand new City of Portland (City) initiative aimed at incentivizing the provision of affordable commercial space in development projects in Commercial Mixed-Use zones.

Pursuant to revisions to Portland City Code Section 33.130.212.D, which were approved by City Council on June 6, 2018, applicants for building permits in certain commercial zones may be eligible for a floor area ratio (FAR) and height bonus if they meet certain affordable commercial space/tenanting guidelines. The code revisions task Prosper Portland with the development of these guidelines and the determination of whether applicants meet them.

STRATEGIC PLAN ALIGNMENT AND OUTCOMES

This action aligns with the following Prosper Portland 2015-2020 Strategic Plan goals:

- **Outcome 1.1: VIBRANT COMMUNITIES & CORRIDORS:** Neighborhoods throughout Portland are anchored by vibrant commercial and mixed-use areas that support local demand for goods and services and result in improved business and resident satisfaction with their communities.
- **Outcome 3.2: BUSINESS GROWTH:** Thriving businesses provide wealth creation opportunities for Portlanders of color and within or adjacent to low-income neighborhoods.
- **Outcome 4.2: AFFORDABILITY & NEIGHBORHOOD SOLUTIONS:** Pursue opportunities created by private sector development activity to increase the supply of below-market rate housing and long-term affordable commercial space throughout the city.

BACKGROUND AND CONTEXT

Since recovering from the Great Recession, the city of Portland has seen a dramatic increase in retail rents and a decrease in both vacancy rates and available small-scale retail locations, which has especially impacted Portland's neighborhood business districts. In response to these commercial affordability and displacement pressures, staff created the Affordable Commercial Tenanting (ACT) Program to create and maintain affordable space for small businesses, in particular businesses owned by women and/or people of color. On September 13, 2017 staff briefed the Prosper Portland Board on a proposed framework for

the ACT Program and provided an update on the status of four Prosper Portland owned- and sponsored-development projects that are providing long-term affordable commercial space.

As part of the ACT Program, Prosper Portland staff has been working with the City of Portland (City) Bureau of Planning and Sustainability (BPS), the Planning and Sustainability Commission (PSC), and a Stakeholder Advisory Committee (SAC) to explore the feasibility of and to define administrative rules for an affordable commercial space floor area ratio (FAR) and height bonus as a part of the City of Portland's Title 33 Zoning Code. The affordable commercial space bonus (ACS Bonus) will allow development projects proposing 20 or fewer new residential units within Commercial/Mixed-Use zones to access the bonus either by providing affordable commercial space on-site or paying into an affordable commercial fund. The ACS FAR and height bonus will allow developers to build additional floor area in development projects. The additional floor area adds square footage and height to buildings, allowing developers to add additional space for residential units or commercial office space.

The ACS Bonus concept was presented to the PSC in February 2018 as part of its consideration of the Code Reconciliation Project, which was then forwarded to City Council for consideration and approval. The PSC was supportive of the ACS Bonus as an innovative concept that could help provide or preserve much needed affordable commercial space in areas experiencing significant development and change. However, the PSC cautioned that it is a model that does not have precedent in other cities and may be challenging to implement.

The Title 33 Zoning Code language provides significant discretion to Prosper Portland for administration of the program. As part of its recommendation to City Council, PSC requested that Prosper Portland staff work with BPS and the SAC to more fully develop the ACS Bonus administrative rules and return to PSC with an update. On March 27, 2018, staff presented the proposed rule-making progress. PSC indicated support for an administrative framework that focuses on a high level of tenant improvements; local tenants; leasing parameters; and, a payment option. On April 11, 2018, City Council reviewed and discussed the Code Reconciliation Project, including amendments to City Code Section 33.130.212.D that codified the ACS, Bonus and delegated the role of creating administrative rules for qualifying affordable commercial space to Prosper Portland.

To implement the ACS Bonus program following City Council's passage of the Code Reconciliation Project, staff is recommending the Prosper Portland Board adopt administrative rules to implement and manage the program. The administrative rules stipulate that Prosper Portland will work with developers applying for the ACS Bonus to either enter into a regulatory agreement to provide a high level of tenant improvements, to use a form lease, and to lease the spaces to qualified businesses for a period of ten years. The spaces will be leased in a manner that provides a community benefit to businesses that are:

- Local businesses or non-profit organizations.
- Women-owned businesses, and/or businesses owned by people of color, or other businesses primarily owned by individuals who are members of historically underserved populations; or non-profit organizations which serve historically underserved communities, including communities of color.
- Participating entities must pass a Prosper Portland financial evaluation.

EQUITY IMPACT

This action will allow Prosper Portland to stabilize new and existing retail businesses within Commercial Mixed-Use Zones and to assist priority businesses access affordable space in developments within these zones. Additionally, revenue from the ACS program will be used to support the development and preservation of affordable commercial spaces city-wide.

COMMUNITY PARTICIPATION AND FEEDBACK

In 2017, Prosper Portland and BPS convened a 14-member SAC, which included representatives from the PSC, Venture Portland, Neighborhood Prosperity Initiative districts, real estate developers, and brokers. The SAC met four times and provided a sounding board to staff in the development of the ACS Bonus code language, administrative rules, and made recommendations regarding the program's viability.

The SAC discussions were also informed by a market analysis completed by Johnson Economics which identified the need for a program that looked beyond lease rates and rate discounts when establishing ACS Bonus administrative rules. Prosper Portland and BPS incorporated the analysis and SAC feedback in the program's refined administrative rules.

BUDGET AND FINANCIAL INFORMATION

This action does not have immediate impact on Prosper Portland's budget. However, depending on the development community's uptake of the ACS Bonus, significant staff time could be required both in terms of initial review; certification of qualified applicants in coordination with the City's permitting process, including any potential dispute from applicants regarding Prosper Portland's eligibility determination; and, ongoing monitoring throughout the life of the ten-year requirements outlined in the administrative rules for on-site affordable space. Some of these costs could be defrayed by resources received by Prosper Portland through received payment revenues. Staff has also discussed the potential of directing revenues received through other development-based investments to address the costs involved with administering the ACT Program, including the ACS Bonus component.

RISK ASSESSMENT

Market and Uptake Risk. The economic analysis completed as part of the feasibility assessment establishes that the ACS Bonus has a limited geographic area for eligibility and will be impacted by real estate market dynamics within each Commercial Mixed-Use zone.

Administration Cost Risk. Prosper Portland will incur costs through the administration of ACT Program. This risk is mitigated by the anticipation that the immediate market and uptake may not be large and can be accommodated within current staffing levels and the costs associated with administering the program are covered by existing revenue streams.

ATTACHMENTS

None.