

MEMORANDUM

TO: Mayor and Council

FROM: Jayne Miller, Community Services Administrator

DATE: April 3, 2009

SUBJECT: Council Proposed Amendments to A2D2 Zoning and Parking Amendments ([Item 09-0227](#))

Attached is a compilation of amendment requests submitted to staff by City Council members in advance of First Reading for the A2D2 Zoning and Parking amendments, which is scheduled for April 6, 2009. For each amendment proposal, staff has identified the map or narrative changes that would be necessary, in addition to considerations about the impact of the amendment.

Staff has noted where proposed amendments may be unsupported and or inconsistent with the Downtown Plan, which was amended by Planning Commission on February 19, 2009. City Council is scheduled to adopt the Downtown Plan at its April 20, 2009 meeting. Under city code and state statute, Council may only approve or reject the master plan that the Planning Commission has forwarded, so any changes to the Downtown Plan require that the plan be sent back to Planning Commission for further consideration. Please note that the Downtown Plan should be approved by Council prior to the zoning changes.

Attachment: A2D2 Zoning and Parking Amendments – Proposed Council Amendments

A2D2 Zoning and Parking Amendments Proposed Council Amendments

Amendment 1: Eliminate Character Overlay Zoning Districts.

Sponsor: Higgins

Considerations:

- Reduces complexity in administration of zoning ordinance.
- Removes massing requirements (i.e., upper story offset, diagonal, setbacks from residential) from downtown zoning districts.
- Inconsistent with Vision and Policy Framework and Design Guidelines Advisory Committee recommendations for identifying overlay districts for areas of differing character.
- Would require amendment of the Downtown Plan (Future Land Use map and Zoning Plan), which was adopted by Planning Commission on February 19, 2009.

Proposed Text Amendments: (Key: ~~Deleted text~~, Added text)

- Delete in its entirety Section 5:10.19 (3) (b) Relationship to downtown character overlay zoning districts.
- Delete in their entirety proposed Section 5:10.20, Paragraphs (1) Intent; (2) Relationship to D1 and D2 downtown districts; and (3) Building massing standards.
- Delete in their entirety Tables 5:10.20A, 5:10.20B and 5:10.20C – Downtown Character Overlay Zoning Districts Building Massing Standards.
- Rename Section 5:10.20 to “Building frontage standards” and renumber text and chart accordingly.
- Revise proposed Section 5:44 to eliminate reference to Downtown Character Overlay Zoning Districts

A2D2 Zoning and Parking Amendments Proposed Council Amendments

Amendment 2: Rezone properties in the South University commercial district that are outside of the DDA boundary to D2, rather than D1.

Sponsors: Greden, Taylor, Teall

Considerations:

- Reflects “interface” area between South University retail core and adjacent residential.
- Inconsistent with Vision and Policy Framework and Downtown Zoning Advisory Committee recommendations.
- Represents a “downzoning” from the current C2A floor area ratio (by-right from 400% to 200% and premiums from 660% to 400%)
- Would require amendment of the Downtown Plan (Future Land Use map and Zoning Plan), which was adopted by Planning Commission on February 19, 2009.
- Forest Street parking structure would not conform with D2 height, coverage and open space requirements
- For consistency, should be linked with separate character area district (see Amendment 4)

Proposed Map Amendment: See Attachment A

Amendment 3: Revise building frontage designations on Washtenaw Avenue and Forest Street.

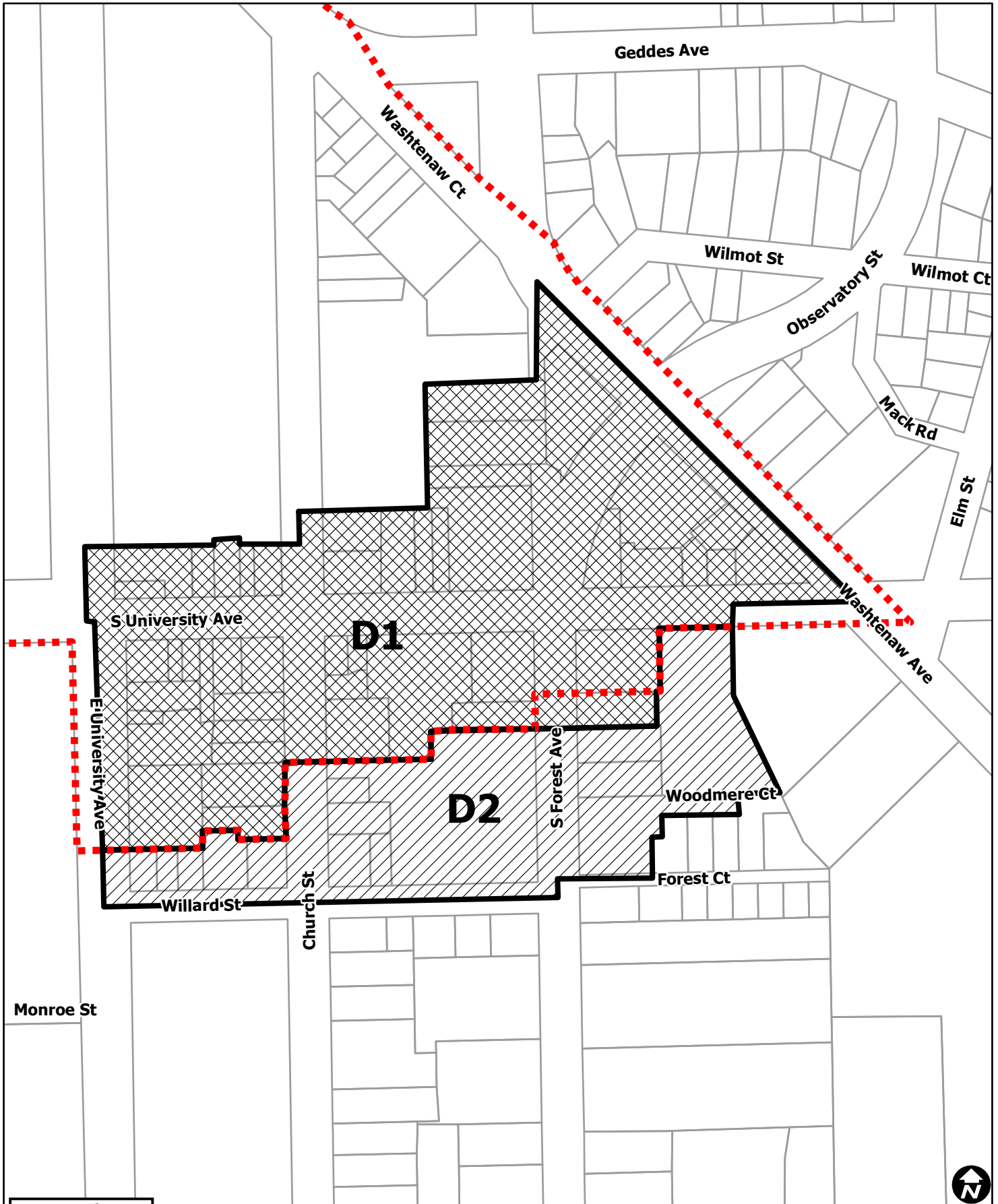
Sponsors: Greden, Taylor

Considerations:

- Reflects existing character along the street frontage segments.
- Will make buildings at 1338 Washtenaw and 1335 South University non-conforming due to insufficient building frontage (i.e., buildings have less than 15 foot front setback).

Proposed Map Amendment: See Attachment B

Proposed South University Area Rezoning Changes



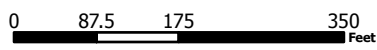
Map Legend

■ DDA Boundary

Proposed Rezoning

▨ D1

▧ D2



Maps available online:
<http://gisweb.ewashtenaw.org/website/mapwashtenaw/>

April 1st, 2009

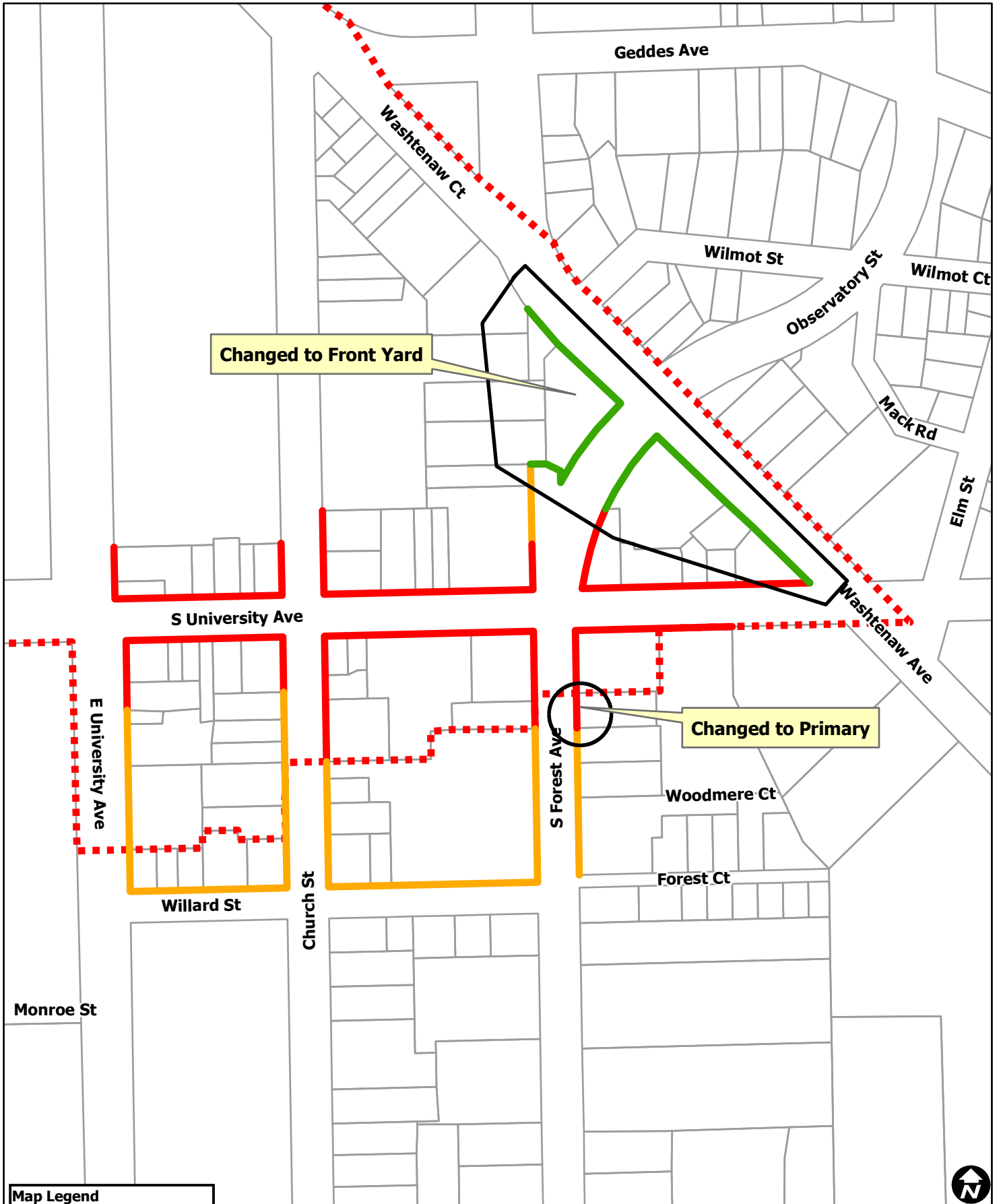
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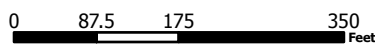
Proposed Building Frontage Changes for South University Area



Map Legend

Proposed Building Frontage

- █ Primary
- █ Secondary
- █ Front Yard
- - - DDA Boundary



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April 1st, 2009

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A2D2 Zoning and Parking Amendments Proposed Council Amendments

Amendment 4: Subdivide the South University Character Overlay Zoning District into two separate districts with different massing standards, including a revised height limit and tower diagonal requirement in the proposed South University 1 character district.

Sponsors: Briere

Considerations:

- For consistency, should be linked with D2 rezoning (see Amendment 2).
- South University 2 side setbacks from residential may be insufficient, given potential 60 foot height in the D2 district.

Proposed Map Amendment: See Attachment C

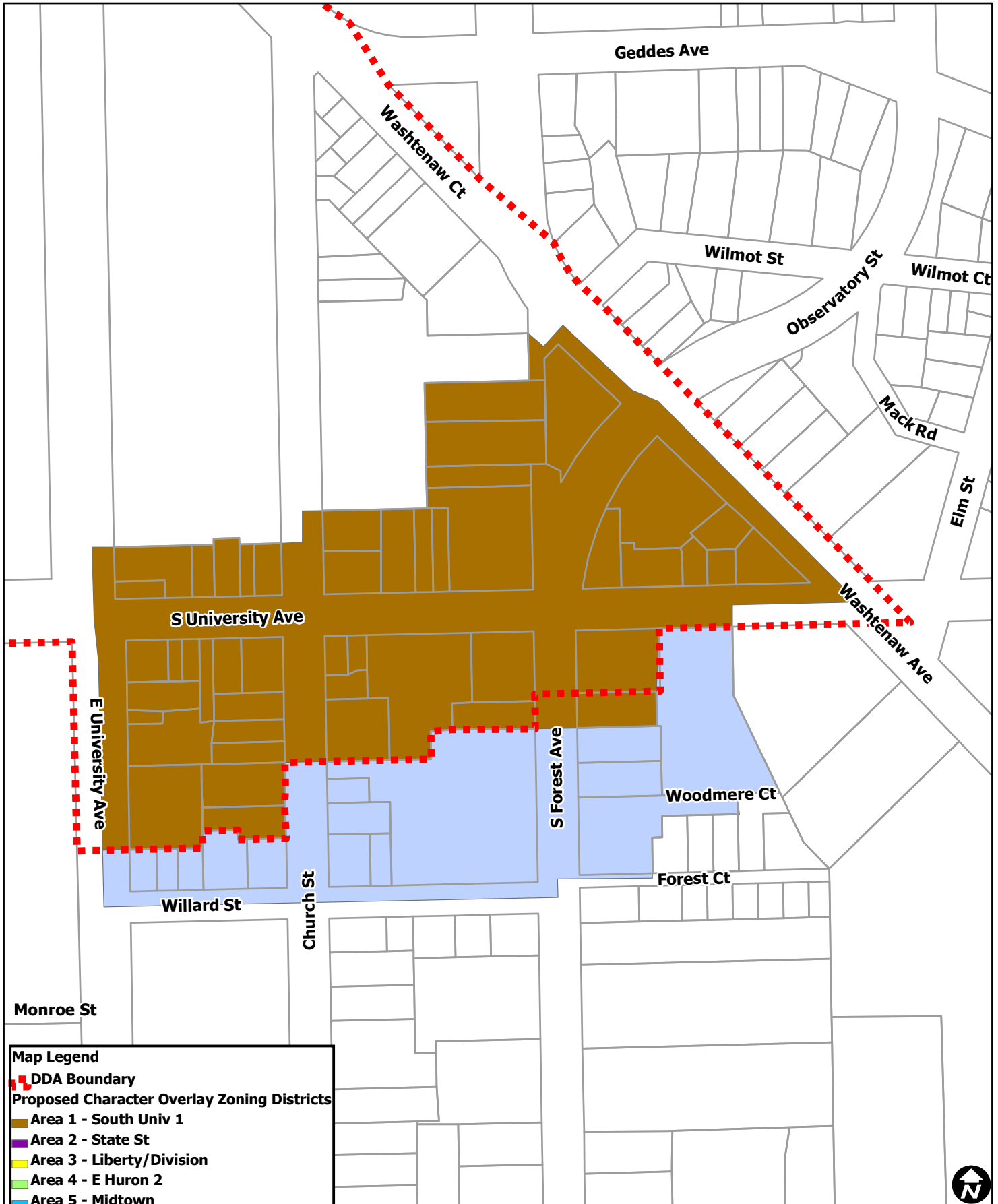
Proposed Text Amendments (Key: ~~Deleted text~~, Added text)

- Revise Section 5:10.20(1). Downtown Character Overlay Zoning Districts as follows:

- (a) South University. The South University 1 Character District lies along the southeastern edge of the University of Michigan Central Campus, which separates it from the other mixed use districts of downtown. This is an area characterized by a mix of building types and sizes, with retail uses at the street level and relatively narrow lot widths. The intent for this district is to maintain a variety in scale, with design that reflects the small-scale widths and heights of buildings in the area at the streetwall and locates taller portions toward the interior of the lot. Retail usage is encouraged within the DDA boundaries, but not on lots fronting on Washtenaw.

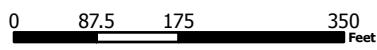
The South University 2 Character District lies just outside the DDA boundaries, adjacent to nearby residential neighborhoods. The intent for this district is to maintain a variety of small-scale commercial and retail enterprises mixed with some residential uses, minimizing the impact on nearby residential streets.

Proposed South University Character Area Changes



Map Legend

- DDA Boundary
- Proposed Character Overlay Zoning Districts**
- Area 1 - South Univ 1
- Area 2 - State St
- Area 3 - Liberty/Division
- Area 4 - E Huron 2
- Area 5 - Midtown
- Area 6 - Main St
- Area 7 - Kerrytown
- Area 8 - First St
- Area 9 - South Univ 2
- Area 10 - E Huron 1



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A2D2 Zoning and Parking Amendments Proposed Council Amendments

Amendment 4 – Continued

- Revise Table 5:10.20B – Downtown Character Overlay Zoning Districts Building Massing Standards as follows:

Table 5:10.20B – Downtown Character Overlay Zoning Districts Building Massing Standards (Additional Regulations for the D1 and D2 Districts)					
Overlay Zoning District	Streetwall Height		Offset at Top of Streetwall	Massing Articulation	Side and Rear Setbacks and Offsets
	Max. Height	Min. Height			
Liberty/Division	3 stories	2 stories	5 feet min.	40 feet	5 foot setback– side and rear
First Street	3 stories	2 stories	5 feet average	66 feet	15 foot setback – side 30 foot setback – rear 10 foot offset - side
Kerrytown	3 stories	2 stories	5 foot min.	40 feet	10 foot setback – side 20 foot setback – rear
<u>South University 2</u>	<u>3 stories</u>	<u>2 stories</u>	<u>5 foot min.</u>	<u>40 feet</u>	<u>10 foot setback – side</u> <u>20 foot setback – rear</u>

- Revise Table 5:10.20C – Downtown Character Overlay Zoning Districts Building Massing Standards as follows:

Table 5:10.20C – Downtown Character Overlay Zoning Districts Building Massing Standards (Additional Regulations for the D1 and D2 Districts)							
Overlay Zoning District	Streetwall Height		Offset at Top of Streetwall	Building Height	Tower Massing	Massing Articulation	Side and Rear Setbacks
	Max. Height	Min. Height					
	Max. Height	Min. Height	Required Average	Max. Building Height	Maximum Diagonal	Maximum building module length (horizontal dimension)	Minimum Distance from abutting R Zoning District
<u>South University 1</u>	3 stories	2 stories	5 feet	170 <u>150</u> feet	450 <u>120</u> feet	45 feet	Minimum 30 foot setback. This setback shall be measured from the rear and side exterior walls of the building to any R zoning district boundary on the same block as the building.

A2D2 Zoning and Parking Amendments Proposed Council Amendments

Amendment 5: Subdivide the East Huron Character Overlay Zoning District into two separate districts with different massing standards, including a height limit in the proposed East Huron 1 character district.

Sponsors: Briere

Considerations:

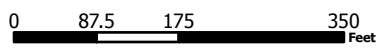
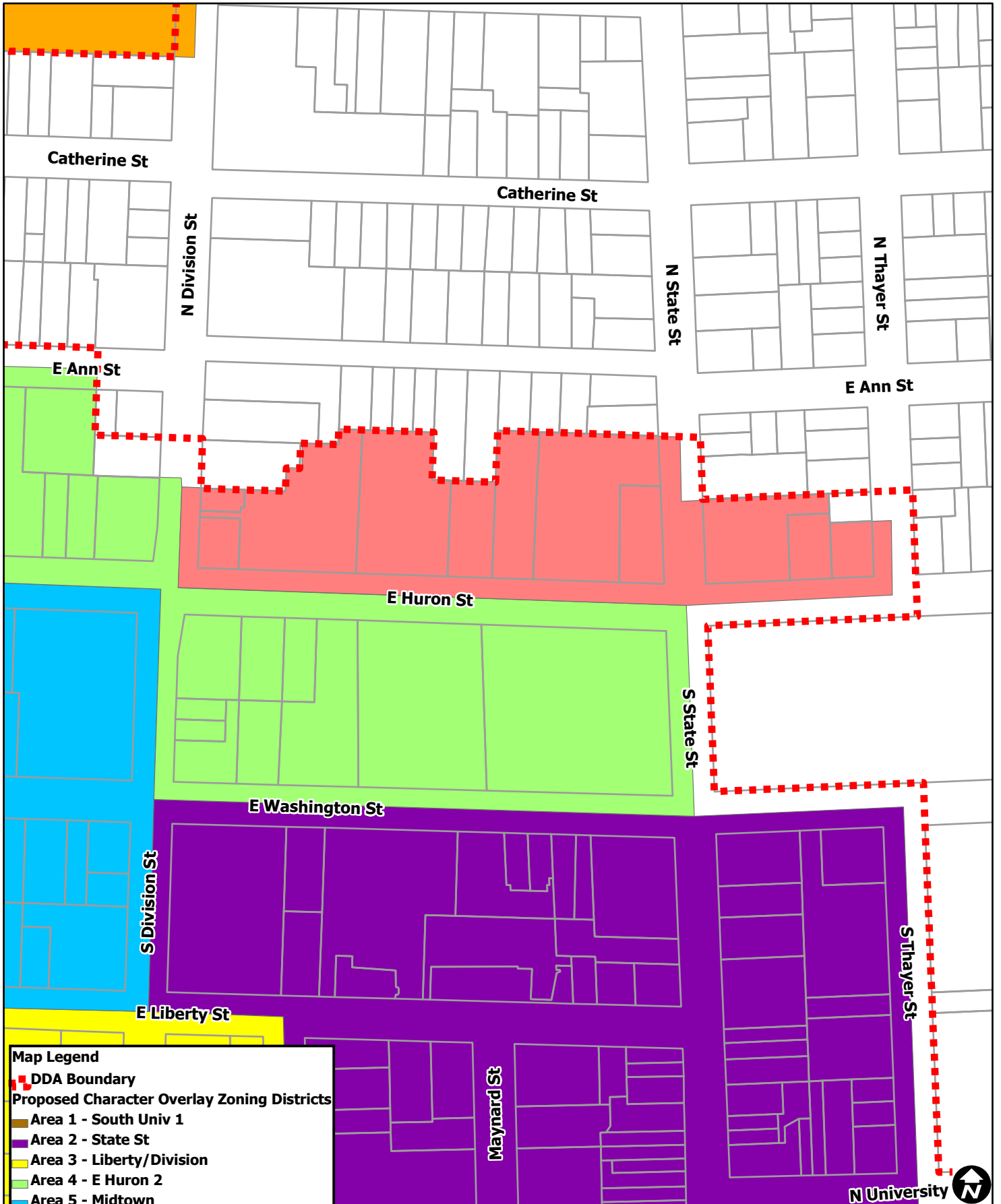
- Reflects unique massing requirements of D1 zoning adjacent to residential
- May prevent parcels from fully using premium floor area bonuses if diagonal requirements in Character Overlay Districts are retained.

Proposed Map Amendment: See Attachment D

Proposed Text Amendment: (Key: ~~Deleted text~~, Added text)

- Revise Table 5:10.20A – Downtown Character Overlay Zoning Districts Building Massing Standards as follows:

Proposed East Huron Character Area Changes



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April 1st, 2009

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A2D2 Zoning and Parking Amendments Proposed Council Amendments

Amendment 5 - Continued

Table 5:10.20A – Downtown Character Overlay Zoning Districts Building Massing Standards (Additional Regulations for the D1 and D2-Districts)								
Overlay Zoning District	Streetwall Height		Offset at Top of Streetwall Required Average	Lower Tower Massing		Upper Tower Massing Max. Diagonal	Max. Building Height	Side and Rear Setbacks Minimum Distance from Lot Line Abutting R Zoning District
	Max. Height	Min. Height		Max. Diagonal	Max. Building Height above Base			
State Street	3 stories	2 stories	5 feet	200 feet	130 feet	120 feet	<u>None</u>	Not applicable
Midtown	4 stories	2 stories	5 feet	250 feet	150 feet	150 feet	<u>None</u>	Not applicable
Main Street	4 stories	2 stories	5 feet	220 feet	130 feet	120 feet	<u>None</u>	Not applicable
<u>East Huron 1</u>	<u>3 stories</u>	<u>2 stories</u>	<u>5 feet</u>	<u>200 feet</u>	<u>90 feet</u>	<u>None</u>	<u>120 feet</u>	(1) Base: Minimum 15 foot setback for base of up to 30 feet in height or minimum 30 foot setback for base greater than 30 feet in height. (2) Tower: Rear or side exterior wall of the tower shall be located no further than 150 feet from the East Huron property line and no closer than 30 feet to a lot line abutting a residential zoning district. (3) In no case shall the required setback reduce the width or depth of a lot suitable for building to less than 25 feet.
East Huron <u>2</u>	4 stories	2 stories	None	200 feet	100 feet	120 feet	<u>None</u>	<u>Not applicable</u>

A2D2 Zoning and Parking Amendments Proposed Council Amendments

Amendment 6: Eliminate “active use” requirements for retail streets in D1.

Sponsors: Higgins, Hohnke

Considerations:

- Addresses concern about creating non-conforming uses for existing businesses.
- Removes tool for retaining pedestrian-attracting uses on retail streets.

Proposed Text Amendments: (Key: ~~Deleted text~~, Added text)

- Delete in its entirety Section 5:10.19 (2) (b).
- Delete “A” use designation from Table 5:10.19A – Schedule of Uses: D1 and D2 Downtown Districts as follows:

Use	D1 Downtown Core	D2 Downtown Interface	Related Zoning Regulations
COMMERCIAL			
Retail Sales	P , A	P	
Restaurant or Bar	P , A	P	
Personal or Business Services	P , A	P	
Theater	P , A	P	
Entertainment - General	P , A	S	Section 5:104

A2D2 Zoning and Parking Amendments Proposed Council Amendments

Amendment 7: Add and revise height limits in D1 districts.

Sponsors: Greden, Higgins, Taylor, and Teall

Considerations:

- Provides clear direction for building design.
- May prevent larger parcels from fully using premium floor area bonuses if diagonal requirements in Character Overlay Districts are retained.
- Inconsistent with Downtown Zoning Advisory Committee recommendation.

Proposed Text Amendments: (Key: ~~Deleted text~~, Added text)

- Delete proposed text from Section 5:10.19 (2) :

Table 5:10.19B. Schedule of Area, Height, Open Space and Coverage Requirements: D1 and D2 Downtown Districts

Zoning District	Maximum Usable Floor Area in Percentage of Lot Area (FAR)		Minimum Height		Max. Building Height	Max. Building Coverage	Min. Open Space	Min. Gross Lot Size
	Normal (without premiums)	With Premiums (Sections 5:64-5:65)	In Feet	In Stories				
D1	400% of lot area	700% of lot area 900% of lot area with affordable housing premiums	24 (1) The minimum height requirement shall apply only to new principal use buildings constructed after the effective date of this ordinance (___, 2009); otherwise none. (2) The usable floor area of the second story must be a minimum of 75 percent of the first story usable floor area.	2	None <u>180 feet, except for the South University Character Overlay District, which shall be 120 feet.</u>	None	None	None
D2	200% of lot area	400% of lot area	24 (1) The minimum height requirement shall apply only to new principal use buildings constructed after the effective date of this ordinance (___, 2009); otherwise none. (2) The usable floor area of the second story must be a minimum of 75 percent of the first story usable floor area.	2	60 feet	80% of lot area	10% of lot area	None

A2D2 Zoning and Parking Amendments Proposed Council Amendments

Amendment 8: Add and revise height limits in Character Overlay Zoning Districts

Sponsors: Greden, Taylor, Teall

Considerations:

- Provides clear direction for building design.
- May prevent larger parcels from fully using premium floor area bonuses if diagonal requirements in Character Overlay Districts are retained.
- Inconsistent with Downtown Zoning Advisory Committee recommendation.

Proposed Text Amendments: (Key: ~~Deleted text~~, Added text)

- Revise Table 5:10.19B. Schedule of Area, Height, Open Space and Coverage Requirements: D1 and D2 Downtown Districts as follows:

Table 5:10.19B. Schedule of Area, Height, Open Space and Coverage Requirements: D1 and D2 Downtown Districts								
Zoning District	Maximum Usable Floor Area in Percentage of Lot Area (FAR)		Minimum Height		Max. Building Height	Max. Building Coverage	Min. Open Space	Min. Gross Lot Size
	Normal (without premiums)	With Premiums (Sections 5:64-5:65)	In Feet	In Stories				
D1	400% of lot area	700% of lot area 900% of lot area with affordable housing premiums	24	2	None	None	None	None
			(1) The minimum height requirement shall apply only to new principal use buildings constructed after the effective date of this ordinance (____, 2009); otherwise none.		See Character Overlay Zoning District Massing Standards (Table 5:10.20A)			
			(2) The usable floor area of the second story must be a minimum of 75 percent of the first story usable floor area.					

A2D2 Zoning and Parking Amendments Proposed Council Amendments

Amendment 8 – Continued

- Revise Table 5:10.20A – Downtown Character Overlay Zoning Districts Building Massing Standards as follows

Table 5:10.20A – Downtown Character Overlay Zoning Districts Building Massing Standards (Additional Regulations for the D1 Districts)								
Overlay Zoning District	Streetwall Height		Offset at Top of Streetwall	Lower Tower Massing		Upper Tower Massing	Max. Building Height	Side and Rear Setbacks
	Max. Height	Min. Height		Required Average	Max. Diagonal			
State Street	3 stories	2 stories	5 feet	200 feet	130 feet	120 feet	<u>180 feet</u>	Not applicable
Midtown	4 stories	2 stories	5 feet	250 feet	150 feet	150 feet	<u>180 feet</u>	Not applicable
Main Street	4 stories	2 stories	5 feet	220 feet	130 feet	120 feet	<u>180 feet</u>	Not applicable
East Huron	4 stories	2 stories	None	200 feet	100 feet	120 feet	<u>180 feet</u>	(1) Base: Minimum 15 foot setback for base of up to 30 feet in height or minimum 30 foot setback for base greater than 30 feet in height. (2) Tower: Rear or side exterior wall of the tower shall be located no further than 150 feet from the East Huron property line and no closer than 30 feet to a lot line abutting a residential zoning district. (3) In no case shall the required setback reduce the width or depth of a lot suitable for building to less than 25 feet.

**A2D2 Zoning and Parking Amendments
Proposed Council Amendments**

Amendment 8 – Continued

- Revise Table 5:10.20C – Downtown Character Overlay Zoning Districts Building Massing Standards as follows:

Table 5:10.20C – Downtown Character Overlay Zoning Districts Building Massing Standards (Additional Regulations for the D1 and D2 Districts)							
Overlay Zoning District	Streetwall Height		Offset at Top of Streetwall	Building Height	Tower Massing	Massing Articulation	Side and Rear Setbacks
	Max. Height	Min. Height					
South University	3 stories	2 stories	5 feet	470 70 ¹²⁰ feet	150 feet	45 feet	Minimum 30 foot setback. This setback shall be measured from the rear and side exterior walls of the building to any R zoning district boundary on the same block as the building.

A2D2 Zoning and Parking Amendments Proposed Council Amendments

Amendment 9: Remove diagonal requirements from Character Overlay Zoning District massing standards

Sponsors: Higgins, Hohnke

Considerations:

- Provides maximum flexibility for building design.
- Inconsistent with Design Guidelines Advisory Committee recommendations.

Proposed Text Amendments: (Key: ~~Deleted text~~, Added text)

- Revise Table 5:10.20A – Downtown Character Overlay Zoning Districts Building Massing Standards as follows:

Overlay Zoning District	Streetwall Height		Offset at Top of Streetwall	Lower Tower Massing		Upper Tower Massing	Side and Rear Setbacks
	Max. Height	Min. Height		Required Average	Max. Diagonal		
State Street	3 stories	2 stories	5 feet	200 feet	130 feet	120 feet	Not applicable
Midtown	4 stories	2 stories	5 feet	250 feet	150 feet	150 feet	Not applicable
Main Street	4 stories	2 stories	5 feet	220 feet	130 feet	120 feet	Not applicable
East Huron	4 stories	2 stories	None	200 feet	100 feet	120 feet	(1) Base: Minimum 15 foot setback for base of up to 30 feet in height or minimum 30 foot setback for base greater than 30 feet in height. (2) Tower: Rear or side exterior wall of the tower shall be located no further than 150 feet from the East Huron property line and no closer than 30 feet to a lot line abutting a residential zoning district. (3) In no case shall the required setback reduce the width or depth of a lot suitable for building to less than 25 feet.

A2D2 Zoning and Parking Amendments Proposed Council Amendments

Amendment 9 – Continued

- Revise Table 5:10.20C – Downtown Character Overlay Zoning Districts Building Massing Standards as follows:

Table 5:10.20C – Downtown Character Overlay Zoning Districts Building Massing Standards (Additional Regulations for the D1 and D2 Districts)							
Overlay Zoning District	Streetwall Height		Offset at Top of Streetwall	Building Height	Lower Massing	Massing Articulation	Side and Rear Setbacks
	Max. Height	Min. Height			Required Average		
South University	3 stories	2 stories	5 feet	170 feet	150 feet	45 feet	Minimum 30 foot setback. This setback shall be measured from the rear and side exterior walls of the building to any R zoning district boundary on the same block as the building.

A2D2 Zoning and Parking Amendments Proposed Council Amendments

Amendment 10: Revise Affordable Housing Premium to state that cash-in-lieu of units is not permitted.

Sponsors: Briere

Considerations:

- Reinforces that the purpose of the premium is to provide on-site affordable units.
- May not be necessary, since section refers specifically to providing on-site units.

Proposed Text Amendments: (Key: ~~Deleted text~~, Added text)

- Revise Section 5:65(2)(b) Affordable Housing Premium as follows:
 - (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 may be exceeded, up to a maximum of 900%, solely to provide additional dwelling units designated as affordable to lower income households. The requirement for affordable housing units cannot be met by payment of cash-in-lieu, but only by actual construction and sale or rental of the unit(s). 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.

A2D2 Zoning and Parking Amendments Proposed Council Amendments

Amendment 11: Increase penalty for failure to meet premium LEED commitment proportional to the benefit gained by the premium

Sponsors: Taylor

Considerations:

- Formula reflects increased penalty with increasing scale of premium.
- Formula is complex and may be difficult to explain.

Proposed Text Amendments: (Key: ~~Deleted text~~, Added text)

- Revise Section 5:65(2)(c) Green Building Premium as follows:
 1. 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:

$$P = [(LC - CE) / LC] \times CV \times 0.075$$

$$P = [(LC - CE / LC] \times CV \times [(PFAR / TFAR) \times ??].$$

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; and

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

PFAR is the amount of premium floor area proposed; and

TFAR is the total floor area proposed.

A2D2 Zoning and Parking Amendments Proposed Council Amendments

Amendment 12: Add Small Business Premium

Sponsors: Briere

Considerations:

- Currently no definition of “small business” in zoning ordinance.
- Standards for affordability would need to be developed.

Proposed Text Amendments: (Key: ~~Deleted text~~, Added text)

- Add the following paragraph to Section 5:65(2):

(g) Small business 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 retail / commercial space designated as affordable to small businesses. Provisions to implement the small business premium option shall meet requirements for affordable business rents as determined by the Downtown Development Authority, unless otherwise noted. Designated units shall remain affordable for the life of the building.