



## Legislation Text

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**File #:** 17-0716, **Version:** 2

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An Ordinance to Amend Sections 5.10.19, 5.10.20, 5:64, 5:65, 5:68 and 5:70 of Chapter 55 (Zoning) and Sections 5:169 of Chapter 59 (Off-Street Parking) of Title V of the Code of the City of Ann Arbor (Zoning Premiums/Design Requirements) (Ordinance No. ORD-17-14) (CPC Recommendation: Approval - 8 Yeas and 0 Nays)

Update - When presented with a set of amendments to the Zoning Ordinance and Off-Street Parking Ordinance to revise the premium floor area options in downtown zoning districts and supporting regulations to the planned project modifications and off-street parking requirements at first reading on July 17, 2017, City Council passed only the language regarding building design requirements (see attached ordinance as amended). Staff have further revised the amended ordinance to address a request to clarifying the expectations of transparency and exempting buildings in the D2 (Downtown Interface) district from some requirements.

Transparency shall mean that area within four feet of the window glass (from the bottom of the window to 8 feet above the floor) is at least 75% open to view.

Minimum street-level height and transparency will only be required in the D1 district, corresponding to the zones where the most intense uses and most active streetscapes are desired. However, the requirements for building materials apply to buildings and additions in both the D1 and D2 districts.

Council will need to replace the previous ordinance with the attached ordinance, dated August 17<sup>th</sup>, in order to incorporate these revisions. Adoption of these revisions shall move this ordinance to a first reading, and an additional second reading and public hearing will be necessary.

Previous Description - Amendments to the Zoning Ordinance and Off-Street Parking Ordinance were proposed to revise the premium floor area options in downtown zoning districts along with supporting regulations to the planned project modifications and off-street parking requirements. The proposed amendments would have changed the required conditions to acquire premium floor area; created a two-tiered program to acquire bonus floor area in the D1 and D2 districts; offered incentives for residential uses, workforce housing, energy efficiency and certifications; introduced building design requirements; allowed design requirement modifications with planned projects; and, eliminated the option to provide off-street parking through contracts for permits in the public parking system.

The amendments were the result of an evaluation requested by resolution of the Planning Commission and City Council to reduce the residential premium with the goal of encouraging the use of other existing and proposed premiums to compensate for the reduction, such as increased energy efficiency and workforce housing, and eliminating the affordable housing super premium. The proposed amendments were based on input from all stakeholders - City Council's directive, Planning Commission's policy choices, other Boards and Commissions, staff and citizens - to balance the stated city goals of a sustainable downtown and increased density in areas with existing utilities and transportation networks with the community desire to strengthen the premium requirements and to incentivize unmet needs of environmental sustainability, energy efficiency and workforce housing.

The process of evaluating the current premium program and crafting the proposed options included working session with eight boards and commissions, focus groups, community coffee hours and drop-in sessions, a survey through Ann Arbor Open City Hall, a community meeting, individual phone conferences and meetings upon request, eight formal discussions with the Planning Commission, one joint session of the Planning Commission and City Council, five sessions with the Planning Commission's Ordinance Revisions Committee and two public hearings held by the Planning Commission.

The draft ordinance presented for first reading included minor revisions and corrections requested by the Planning Commission following its public hearing on October 5, 2016.

The City Planning Commission recommended approval of the full set of amendments on October 5, 2016. The City Planning Commission also recommended City Council determine the payment in lieu for workforce housing annual as part of its budget approval process.

Following the Planning Commission's action, proposed legislation was introduced at the State level that could impact proposed affordable housing options. City Council also asked staff and the Planning Commission, by Resolution-17-020 on January 17, 2017, to consider active use regulations. In response, the Ordinance Revisions Committee of the Planning Commission met on January 24, 2017 and Planning Commission held a working session on February 14, 2017. After review of proposed active use regulation, the Planning Commission suggested the design standards incorporated into the proposed premium amendments as an alternative approach to enhancing the pedestrian experience and active use support.

The attached amended ordinance reflects the alternative approach suggested by the Planning Commission and the amended ordinance passed at first reading by City Council on July 17, 2017.

Attachments:      October 5, 2016 Staff Report  
                         October 5, 2016 Planning Commission Minutes  
                         October 6, 2016 Draft Ordinance Amendments  
                         March 15, 2017 Planning Commission Communication  
                         May 4, 2017 Draft Ordinance Amendments  
                         August 16, 2017 Draft Ordinance Amendments  
Prepared by:      Alexis DiLeo, City Planner  
Reviewed by:      Brett Lenart, Planning Manager  
                         Derek Delacourt, Community Services Area Administrator  
Approved by:      Howard S. Lazarus, City Administrator

ORDINANCE NO. ORD-17-14

First Reading :	July 17, 2017 August 21, 2017	Approved: September 18, 2017
Public Hearing :	September 18, 2017	Published: September 25, 2017 Effective: October 25, 2017

AN ORDINANCE TO AMEND SECTIONS 5.10.20, 5:68 AND 5:70 OF CHAPTER 55 (ZONING) OF

## TITLE V OF THE CODE OF THE CITY OF ANN ARBOR

The City of Ann Arbor ordains:

**Section 1.** That Section 5:10.20 of Chapter 55 of Title V of the Code of the City of Ann Arbor be amended to read as follows:

### 5:10.20. - Downtown character overlay zoning districts.

- (1) *Intent.* The purpose of these overlay zoning districts is to supplement the regulations for zoning districts in the downtown to reflect the diversity of historical and built environments within the downtown. These character overlay zoning districts account for differences in the existing street pattern, density, massing and design features that exist throughout the downtown, in addition to the intent of the city for the future development of each area.
  - (a) *South University.* The South University 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. The south university D2 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.
  - (b) *State Street.* The State Street character district frames the northwest corner of the University of Michigan central campus and defines the edge of the commercial core. This area is characterized by a mixture of entertainment and retail uses with strong connections to the campus. The intent for this district is preservation of the integrity of the historic district properties and the overall historic character of the area, with design that includes features of the traditional commercial storefronts at the sidewalk's edge.
  - (c) *Liberty/Division.* The Liberty/Division character district is located in the core of downtown, yet retains a small-scale residential character. A significant portion of this district coincides with the East William Historic District, and for this reason, preservation of the integrity of these resources is a high priority, as is the retention of the overall sense of scale. While increased building mass can be accommodated in this district, it is the intent to maintain the traditional scale and rhythm of residential buildings.
  - (d) *East Huron 1.* The East Huron 1 character district is located on the north side of East Huron Street including North Fifth Avenue and South State Street, on a major transportation corridor through downtown and the address of many civic buildings, institutions and well-known landmarks of the downtown skyline. Most of its properties have free-standing buildings surrounded by open space, or have front courtyards or plazas, several of which are open to the public. There is a significant contrast between the massing and scale of the structures within this character district and the residential scale of the structures within this character district and the residential scale of the adjacent historic neighborhoods which surround the district on the north, east and west sides. East Huron 1 lies between the Old Fourth Ward, Division Street and Ann Street historic districts and a business loop. This context is its

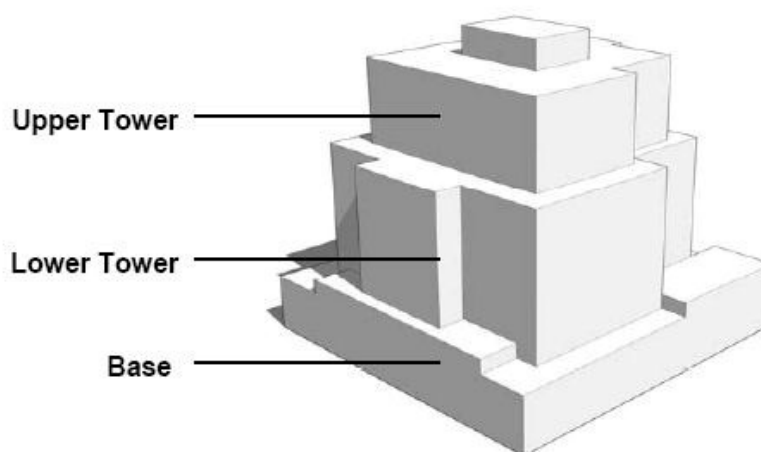
defining feature and, therefore, calls for a higher degree of sensitivity in design and massing to strike a balance between the downtown core and adjacent historic residential neighborhoods.

- (e) *East Huron 2*. The East Huron 2 character district is located on the south side of East Huron Street between South Division and North State streets, on a major transportation corridor through downtown. From east to west, this block's character moves from campus-like settings with iconic, free-standing buildings surrounded by lawns seen "in the round" to historic, utilitarian commercial buildings at the sidewalk edge, matching the character district's placement between the University of Michigan Central Campus and downtown's civic core. North of this character district lies its sister character area, East Huron 1. To the south, East Huron 2 parallels an area of downtown's core that retains a small-scale residential character.
  - (f) *Main Street*. The Main Street character district is the traditional heart of downtown, with a regional entertainment and business focus. The center of the district contains the Main Street historic district, and preservation of these resources is a high priority. The intent for this district is design that maintains the traditional rhythm of existing storefronts along the street edge and varying parapet lines.
  - (g) *Midtown*. The Midtown character district is framed on all sides by other downtown character districts and contains the Fifth Avenue civic corridor. At present, this district lacks a strong sense of identity and is a place where creation of a new context should occur. The intent for this district is higher density development with a strongly defined street edge and active open spaces.
  - (h) *Kerrytown*. The Kerrytown character district frames the north end of downtown and is characterized by a mix of small-scale commercial buildings and houses that have been adapted to different uses. The eastern part of the district is part of the Old Fourth Ward historic district, while the southeast corner of the district is located in the Fourth/Ann historic district. The intent for this district is retaining traditional existing building patterns, with lower-scale building modules and residential shapes.
  - (i) *First Street*. The First Street character district runs north-south along the Ann Arbor Railroad and Allen Creek floodplain. This area is characterized by oddly-shaped blocks and a mixture of commercial storefronts, industrial buildings and single-family homes. Many of these buildings are located in the Old West Side historic district, which makes up much of the character area. The intent for this district is for infill development that preserves historic buildings' assets, supports downtown activities, and provides nonmotorized connections through preservation of a system of public and common open spaces. New development along the Allen Creek floodplain should be sited to provide greenspace on site and be located in such a way that it will connect with greenspace of abutting properties.
- (2) *Relationship to D1 and D2 downtown districts*. The downtown character overlay zoning districts shall provide additional regulations to the D1 and D2 districts. Unless otherwise specified in this chapter, regulations identified for both the downtown district and the applicable downtown character overlay zoning district shall apply.
  - (3) *Building massing standards*.
    - (a) Buildings and additions constructed after the effective date of this section (December 26, 2009) on lots zoned D1 or D2 in the downtown character overlay zoning districts shall comply

with the building massing standards in Table 5:10.20A, as applicable.

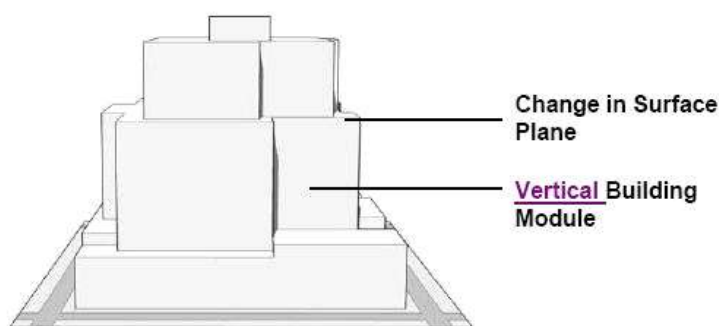
(b) The following definitions shall apply in the application of building massing standards:

1. **Base:** The portion of a building located between the street grade and the streetwall height (see Figure 1).



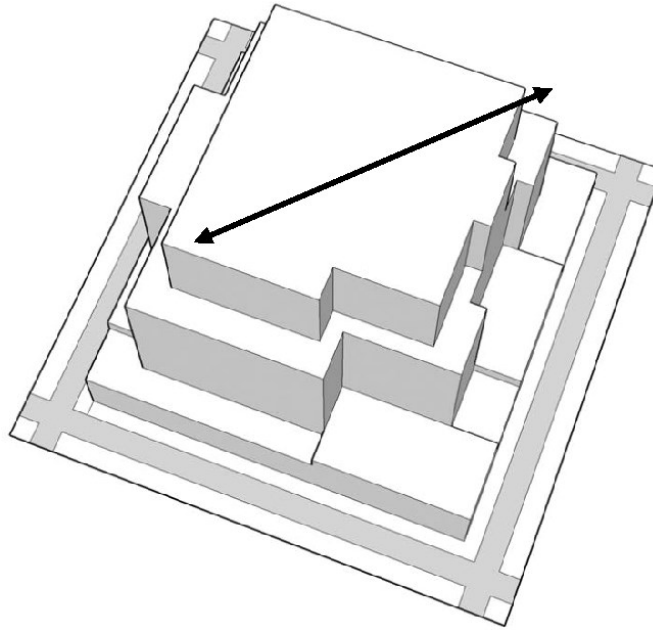
**Figure 1 - Base, Lower Tower and Upper Tower**

2. **Massing articulation:** The way in which a building wall surface is broken down into vertical modules, sub-parts or major elements, which are distinguished by changes in materials, texture or surface plane (see Figure 2).



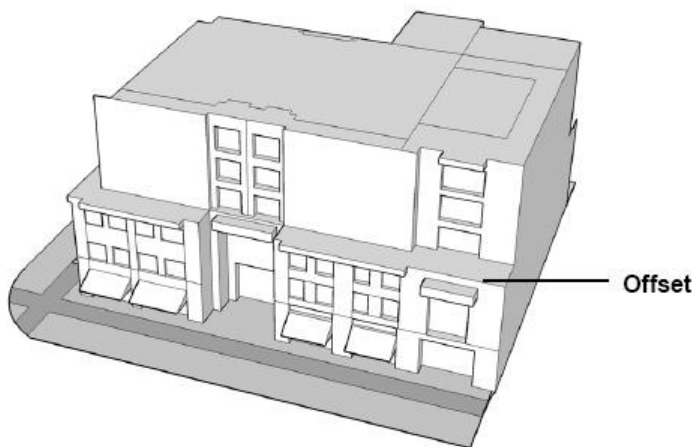
**Figure 2 - Massing Articulation**

3. **Maximum Diagonal:** The longest horizontal dimension of a building or tower, as measured from corner to corner of a story (see Figure 3).



**Figure 3 - Maximum Diagonal**

4. *Offset*: The distance that the exterior wall of a tower or upper stories of a building is set back from the streetwall or the exterior wall of the base (see Figure 4). For purposes of this definition, unenclosed balconies are not considered to be part of the exterior wall of a tower.



**Figure 4 - Offset**

5. *Streetwall*: The exterior face of a building that fronts a public street between the street grade and the streetwall height (see Figure 5).



Figure 5 - Streetwall and Streetwall Height

6. *Streetwall height*: The height of the streetwall portion of the building, as measured in stories above the street grade (see Figure 5).

7. *Tower*: Any portion of the building that rises above the base. Towers often include a lower tower section and an upper tower section (see Figure 1).

(c) The minimum required offset at the top of the streetwall shall be measured from exterior face of the building at the top of the streetwall to the closest point of the exterior face of the tower. For corner parcels with a lot size of less than 5,000 square feet, no offset is required.

(d) For purposes of applying the required average offset at the top of the streetwall, a total surface area greater than or equal to the product of the width of the building base multiplied by the required offset shall be provided between the exterior face of the building at the top of the street wall and the exterior face of the tower.

Table 5:10.20A - Downtown Character Overlay Zoning Districts Building Massing Regulations for the D1 and D2 Districts)

Overlay Zoning District	Streetwall Height		Offset at Top of Street wall	Max. Building Height	Max. Building Height	Massing Articulation	Maximum Tower Diagonals	Side and Rear Setbacks
	Max. Height	Min. Height	Required Average	D1 District	D2 District	Maximum Building Module Length (Horizontal Dimension)		Minimum Distance

South University	3 stories	2 stories	5 feet	150 feet	60 feet	45 feet		For D1, a minimum 30 foot setback from a lot line abutting any R zoning district. For D2, a minimum 40 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.
State Street	3 stories	2 stories	5 feet	180 feet	Not applicable	None		Not applicable



Liberty/Division	3 stories	2 stories	5 feet	180 feet	60 feet	40 feet (in D2 only)		5 foot setback from a side or rear lot line abutting any R zoning district
East Huron 1	3 stories	2 stories	None	3 stories, except 120 feet in any area extending 150 feet from the East Huron Street property line	Not applicable	None	130 feet	For D1 and D2, the following setbacks shall be measured from any exterior walls of the building: A minimum of 30 feet to any R zoning district boundary A minimum of 10 feet to any O zoning district boundary 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 2	4 stories	2 stories	5 feet	180 feet	Not applicable	None		Not applicable
Midtown	4 stories	2 stories	5 feet	180 feet	Not applicable	None		Not applicable
Main Street	4 stories	2 stories	5 feet	180 feet	60 feet, except 120 feet in any area extending 150 feet from the East William Street property line	None		For D1, none For D2, a minimum 30 foot setback shall be measured from the exterior walls of the building to any R zoning district boundary

								y on the same block as the building
Kerrytown	3 stories	2 stories	5 feet	Not applicable	60 feet	40 feet		10 foot setback from a side lot line abutting any R zoning district 20 foot setback from a rear lot line abutting any R zoning district
First Street	3 stories	2 stories	5 feet	Not applicable	60 feet	66 feet		15 foot setback from a side lot line abutting any R zoning district 20 foot setback from a rear lot line abutting any R

								zoning district 10 foot offset from a side lot line abutting any R zoning district
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(4) *Building frontage standards.*

(a) *Intent.* These building frontage designations, in coordination with the downtown character overlay zoning districts, are designed to support the pedestrian-scale character of downtown streets.

1. *Primary Street:* Lot frontage where placement of buildings at the front property line is desired.
2. *Secondary Street:* Lot frontage where a range of building setbacks from the front property line is acceptable.
3. *Front Yard Street:* Lot frontage where a setback from the front property line is desired.

(b) Buildings and additions constructed after the effective date of this section (December 26, 2009) on lots zoned D1 or D2 in the downtown character overlay zoning districts shall comply with the building frontage standards in Table 5:10.20B, as applicable.

Table 5:10.20B - Downtown Character Overlay Zoning Districts Building Frontage Standards (Additional Regulations for the D1 and D2 Districts)			
Designation at Right-of-Way Line	Required Front Setback		Additional Requirements and Exceptions
	Minimum	Maximum	

Primary street	0 feet	1 foot at the streetwall	(1) Up to 20% of the lot area may be used for the maximum front setback for an entry court or plaza area, except in the Overlay Zoning District. (2) The setback may be exceeded for a maximum of 10 feet from the back of the lot for circulation. (3) Vehicle storage, including from a public alley, if permitted, and alcoves on the lot may be used to accommodate entry vehicles, planters, or similar features, but shall not be considered as setback. (4) Upper stories comply with the required front setback.
Secondary street	0 feet	10 feet at the streetwall	(5) Up to 20% of the lot area may be used to exceed the maximum setback for entry court or plaza area.
Front yard street	15 feet	None	(6) The average of the setbacks of buildings within 100 feet shall be no less than 15 feet. (7) No building shall encroach 8 feet into the front yard space.

(5) Building Design Requirements on Primary and Secondary Streets.

(a) Buildings and additions constructed after the effective date of this section ([adoption date]) on lots zoned D1 or D2 that have primary or secondary street frontages shall comply with the following building design requirements:

- The following materials are permitted on facades visible from primary or secondary streets: glass, brick, cut stone, cast stone or high quality, finished metal, such as architectural grade cast or machined steel.
- The following materials are prohibited on facades visible from primary and secondary streets: aluminum or vinyl siding, or an exterior insulation finishing system, except for minor design accents eight feet above the level of the adjacent sidewalk.
- Other materials may be permitted if recommended by the Design Review Board and approved by the Planning Commission for inclusion in a site plan

(b) Buildings and additions constructed after the effective date of this section ([adoption date]) on lots zoned D1 that have primary or secondary street frontages shall comply with the following additional building design requirements:

- The height of the street-level story, from its floor to the next floor above, shall be a

minimum of 15 feet.

2. A minimum of 60% of the street-level facade shall be transparent windows or glazing. Glass shall not be mirrored, reflective or darkened and shall be considered transparent if it has a transparency higher than 80% and external reflectance of less than 15%. The transparent windows or glazing shall offer visibility into the inside of the building, meaning that the area inside the building within 4 feet from the surface of the window glass (from the bottom of the window to 8 feet above the floor) is at least 75% open to perpendicular view.
3. The bottom of all windows on the street-level story shall not be more than 2.5 feet above the level of the sidewalk adjacent to a primary or secondary street.

(c) Buildings and additions in historic districts are exempt from the requirements of this section, to the extent that the Historic District Commission has granted a Certificate of Appropriateness or Notice to Proceed for the work.

**Section 2.** That Section 5:68 of Chapter 55 of Title V of the Code of the City of Ann Arbor be amended to read as follows: **Article V. PLANNED PROJECTS**

5:68. - Statement of intent.

The intent of this section is to provide an added degree of flexibility in the placement, design and interrelationship of the buildings within the planned project and to provide for permanent open space preservation within planned projects. Modifications of the area, height, placement and design requirements, and lot sizes, where used for permanent open space preservation, of this chapter may be permitted if the planned project would result in the preservation of natural features, additional open space, greater building or parking setback, energy conserving design, preservation of historic or architectural features, higher quality design, expansion of the supply of affordable housing for lower income households or a beneficial arrangement of buildings. A planned project shall maintain the permitted uses and requirements for maximum density, maximum floor area and minimum usable open space specified in this chapter for the zoning district(s) in which the proposed planned project is located.

**Section 3.** That Section 5:70 of Chapter 55 of Title V of the Code of the City of Ann Arbor be amended to read as follows: 5:70. - Standards for approval.

(1) Based upon compliance with the following standards, the Planning Commission may recommend approval, and City Council may approve modifications of the area, height and placement and design regulations of the zoning chapter in the form of a planned project site plan:

- (a) The lot or lots included in the planned project must meet the minimum gross lot size

requirement of the zoning district in which they are located. In residential zoning districts, the minimum **gross** lot size shall be the combined total of the minimum **gross** lot sizes for each dwelling on a parcel. However, the following exceptions may apply.

1. For purposes of this section, zero lot line duplex or townhouse development shall mean a development containing attached single-family units on individual lots. If a planned project for a zero lot line duplex or townhouse development provides affordable housing for lower income households, the minimum **gross** lot size and width requirements may be reduced. The number of dwelling units permitted shall not exceed the maximum permitted density in the zoning district in which the proposed development is located.
2. In any residential zoning district allowing 3 or fewer dwelling units per acre, when 20% or more of the total area of a development is set aside for permanent open space preservation, the gross lot size may be reduced below the minimum lot area per dwelling unit and width requirements for the zoning district in which it is located, as provided in this section.

(b) The proposed modifications of zoning requirements must provide 1 or more of the following:

1. **Usable open**~~Open~~ space in excess of the minimum requirement for the zoning district. Where no minimum **usable** open space standard is required by the zoning district, a minimum **usable** open space standard shall be established by the approval of the planned project.
2. Building or parking setback(s) in excess of the minimum requirement for the zoning district. Where no minimum building or parking setback is required by the zoning district, a minimum setback standard shall be established by approval of the planned project.
3. Preservation of natural features that exceeds ordinance requirements, especially for those existing features prioritized in the land development regulations as being of highest and mid-level concern.
4. Preservation of historical or architectural features.
5. Solar orientation or energy conserving design.
6. An arrangement of buildings which provides a public benefit, such as transit access, pedestrian orientation, or a reduced need for infrastructure or impervious surface.
7. Affordable housing for lower income households.
8. A recorded conservation easement or similar binding instrument providing for permanent open space of 20% or more of the planned project, in any residential zoning district allowing 3 or fewer dwelling units per acre.
9. In the D1 and D2 zoning districts, building placement, architectural design or use of building materials that maximizes the extent that a building satisfies the Downtown Design Guidelines that could not be achieved in strict conformity with the design requirements of Section 5:10.20(5).

(c) The planned project shall be designed in such a manner that traffic to and from the site will not be hazardous to adjacent properties.

(d) The proposed modifications shall be consistent with the proper development and use of adjacent land and buildings.

- (e) Required off-street parking and landscaping must be provided in accordance with the provisions of Chapters 59 and 62.
  - (f) The standards of density, allowable floor area and required usable open space for the zoning district(s) in which the project is located must be met.
  - (g) There shall be no uses within the proposed project which are not permitted uses in the zoning district(s) in which the proposed project is to be located.
  - (h) In any residential zoning district allowing 3 or fewer dwelling units per acre and where 20% or more of the total area is proposed for permanent open space, projects shall meet the following standards:
    - 1. The minimum gross lot size of the parcel proposed for the planned project shall be 2 acres. The size and shape of the portions of the planned project designated for open space preservation shall be reviewed and approved in conjunction with a planned project site plan, a planned unit development site plan, or a plat, in relation to natural features or characteristics specific to that site.
    - 2. The area of each residential building lot or limited common area of a condominium development shall be 10,000 square feet or greater, exclusive of the permanent open space. Minimum lot width and setback requirements shall meet or exceed standards of the R1B residential zoning district.
    - 3. Permanent open space area shall be in, and shall continue to be in, an undeveloped, natural state preserving and conserving natural resources, natural features, scenic or wooded condition, or naturally occurring water surfaces. It may also provide an undeveloped greenway of contiguous or linear open space that includes habitats or corridors for wildlife, or links parks, nature reserves, cultural features or historic sites with each other for passive recreation or for conservation purposes.
    - 4. Land in permanent open space may be, but is not required to be, dedicated to the use of the public.
    - 5. Prior to the issuance of any permit, the permanent open space shall be protected by a recorded conservation easement or similar binding instrument containing provisions for ownership and ongoing maintenance of the permanent open space by a responsible party such as, but not limited to, a homeowner's association, an independent agency or trust established for such purposes, or a municipality for open space preservation. Such permanent open space shall constitute 20% or more of the total area of a development.
    - 6. The option of utilizing a conservation easement or plat dedication for open space preservation for not less than 20% of the total area may be exercised only 1 time on a parcel of land.
- (2) The Commission or Council may add conditions to the approval of the planned project to achieve conformity to these standards.

Section 4. That this ordinance shall take effect on the 30th day following legal publication.

### **CERTIFICATION**

I hereby certify that the foregoing ordinance was adopted by the Council of the City of Ann Arbor,



Michigan at its regular session of September 18, 2017.

(Date)

Jacqueline Beaudry, Ann Arbor City Clerk

Christopher Taylor, Mayor

I hereby certify that the foregoing ordinance received legal publication in the Washtenaw Legal News on September 25, 2017.

Jacqueline Beaudry, Ann Arbor City Clerk