

Planned Unit Development Density Bonus

Develop Recommendations for the Implementation of the Fee-In-Lieu Request Process

Council Resolution No. 20140925-090 initiated a code amendment to modify the in lieu donation option for affordable housing requirements for Planned Unit Developments.

Three possible amendment scenarios:

- Remove the Fee-In-Lieu option
- A significant portion of the affordability requirement must be met through onsite units and a small portion may be met through a fee-in-lieu
- Allow for exemptions from the onsite affordable unit requirement

Phase I Stakeholder Engagement:

- Conducted online survey with members of the development community that have experience with PUDs and providing on-site affordable units through other Austin density bonus programs
- Facilitated discussion with the Real Estate Council of Austin (RECA) Policy Committee
- Facilitated discussion with HousingWorks Austin

Phase II Stakeholder Engagement:

June 24th stakeholder meeting to discuss draft staff proposed amendments

July 30th stakeholder meeting to develop recommendations for the implementation of the PUD Density Bonus fee-in-lieu request process

^{*}August 12th stakeholder meeting to solicit feedback about the PUD ordinance in general outside of the parameters of the current code amendment.

Community Development Commission Action

The CDC took action on the staff recommended amendments on June 30, 2015.

- Support the staff proposed amendments to the Planned Unit Development Ordinance with the exception of Section 2.5.5 B
 - The CDC recommends deletion of this section which would eliminate the In Lieu Donation option
- Additionally recommendations:
 - that consideration be given to requiring a restrictive covenant through the rule making process
 - That consideration be given to requiring a public hearing on baseline zoning prior to the first presentation to the Austin City Council

Draft Staff Recommended Amendments

- Affordability requirement will apply to all development types that participate in the density bonus
 - Currently only applies to residential uses
- Developments with no residential use are permitted to pay the fee-in-lieu by right
- Remove requirement for "prevailing level of affordability" report
 - This requirement is no longer relevant
- Affordability term for ownership housing will be 99years
 - Currently there is no affordability term tied to ownership units which we feel was an oversight

Draft Staff Recommended Amendments

- Land donation in lieu of on-site affordable units must be approved by the Director of Neighborhood Housing and Community Development.
 - Current practice but not explicitly codified
- Request for approval of a fee-in-lieu of on-site affordable housing must be submitted in writing
 - Currently no guidelines for how an exemption request is submitted
- The written request must demonstrate the infeasibility of complying with the on-site requirement
- Currently no guidelines for how an exemption request is submitted

Current Ordinance Language	Proposed Amendments
2.5.1. Limitation on	2.5.1. Limitation on Development. Except
Development. Except as	as provided in Section 2.5.2 (Requirements
provided in Section 2.5.2	for Exceeding Baseline), site development
(Requirements for Exceeding	regulations for maximum height, maximum
Baseline), site development	floor area ratio, and maximum building
regulations for maximum height,	coverage in a PUD with residential uses may
maximum floor area ratio, and	not exceed the baseline established under
maximum building coverage in a	Section 1.3.3 (Baseline for Determining
PUD with residential uses may	Development Bonuses).
not exceed the baseline	
established under Section 1.3.3	
(Baseline for Determining	
Development Bonuses).	

Current Ordinance Language	Proposed Amendments
2.5.2. Requirements for	2.5.2. Requirements for Exceeding
Exceeding Baseline.	Baseline. Development in a PUD with
Development in a PUD with	residential uses may exceed the baseline
residential uses may exceed the	established under Section 1.3.3 (<i>Baseline</i>
baseline established under	for Determining Development Bonuses) for
Section 1.3.3 (Baseline for	maximum height, maximum floor area ratio,
Determining Development	and maximum building coverage if:
Bonuses) for maximum height,	
maximum floor area ratio, and	
maximum building coverage if:	

Current Ordinance Language

A. the application for PUD zoning includes a report approved by the Director of the Neighborhood Housing and Community **Development Department** establishing the prevailing level of affordability of housing in the vicinity of the PUD, expressed as a percentage of median family income in the Austin metropolitan statistical area; and

Proposed Amendments

A. the application for PUD zoning includes a report approved by the Director of the Neighborhood Housing and Community Development Department establishing the prevailing level of affordability of housing in the vicinity of the PUD, expressed as a percentage of median family income in the Austin metropolitan statistical area; and

Current Ordinance Language	Proposed Amendments
B. the developer either:	B. the developer either:
1. provides contract	1A. Developments with residential
commitments and	units, provide contract commitments
performance guarantees	and performance guarantees that
that provide affordable	provide affordable housing meeting or
housing meeting or	exceeding the requirements of Section
exceeding the requirements	2.5.3 (Requirements for Rental Housing)
of Section 2.5.3	and Section 2.5.4 (Requirements for
(Requirements for Rental	Ownership Housing); or
Housing) and Section 2.5.4	
(Requirements for	
Ownership Housing); or	

Current Ordinance Language	Proposed Amendments
2. makes donations for	2 B. <u>Developments with no residential</u>
affordable housing under	units, donate the amount established
Section 2.5.5 (<i>Alternative</i>	<u>under Section 2.5.6 (<i>In Lieu Donation</i>)</u>
Affordable Housing	for each square foot of bonus square
Options).	footage above baseline to the
	Affordable Housing Trust Fund to be
	used for producing or financing
	affordable housing, as determined by
	the Director of the Neighborhood
	Housing and Community Development
	<u>Department. makes donations for</u>
	affordable housing under Section 2.5.5
	(Alternative Affordable Housing
	Options).

Current Ordinance Language	Proposed Amendments
A. affordable to a household	A. affordable to a household whose
whose income is 80% or	income is 80% or below the median
below the median family	family income in the Austin
income in the Austin	metropolitan statistical area;
metropolitan statistical	
area;	
	B. remain affordable for 99 years from
	the date a certificate of occupancy is
	issued; and

Current Ordinance Language	Proposed Amendments
B. transferred to the owner	<u>C</u> B. transferred to the owner subject to
subject to a shared equity	a shared equity agreement, <u>land trust,</u>
agreement approved by the	or restrictive covenant approved by the
Director of the	Director of the Neighborhood Housing
Neighborhood Housing and	and Community Development
Community Development	Department.
Department.	

Current Ordinance Language	Proposed Amendments
2.5.5 Alternative Affordable	2.5.5 Alternative Affordable Housing Options.
Housing Options. Development	Development within a PUD may exceed baseline
within a PUD may exceed	standards as provided in Section 2.5.2. B.2
baseline standards as provided	(Requirements for Exceeding Baseline) if the
in Section 2.5.2.B.2	developer: Exceptions to contract commitments
(Requirements for Exceeding	and performance guarantees that provide
Baseline) if the developer:	affordable housing meeting or exceeding the
	requirements of Section 2.5.3 (Requirements for
	Rental Housing) and Section 2.5.4
	(Requirements for Ownership Housing) may be
	formally requested as follows:

Current Ordinance Language	Proposed Amendments
A. donates to the Austin	A. Subject to approval by the Director
Housing Finance	of the Neighborhood Housing and
Corporation land within the	Community Development Department,
PUD that is appropriate and	the developer may donates to the
sufficient to develop 20	Austin Housing Finance Corporation
percent of the residential	land within the PUD that is appropriate
habitable square footage	and sufficient to develop 20 percent of
planned for the PUD, as	the residential habitable square
determined by the Director	footage planned for the PUD. , as
of the Neighborhood	determined by the Director of the
Housing and Community	Neighborhood Housing and Community
Development Department;	Development Department; or
or	

Current Ordinance Language	Proposed Amendments
B. subject to approval by	B. Subject to approval by the city council, <u>in</u>
the city council, donates the	developments with residential units, the
amount established under	developer may donate the amount
Section 2.5.6 (<i>In Lieu</i>	established under Section 2.5.6 (<i>In Lieu</i>
Donation) for each square	Donation) for each square foot of bonus
foot of bonus square	square footage above baseline to the
footage above baseline to	Affordable Housing Trust Fund to be used
the Affordable Housing	for producing or financing affordable
Trust Fund to be used for	housing, as determined by the Director of
producing or financing	the Neighborhood Housing and Community
affordable housing, as	Development Department.
determined by the Director	
of the Neighborhood	
Housing and Community	
Development Department.	

Current Ordinance Language	Proposed Amendments
B. subject to approval by	(B Continued)
the city council, donates the	A request for in lieu donation for all or a
amount established under	portion of the affordability requirement in
Section 2.5.6 (<i>In Lieu</i>	Section 2.5.2.A must be submitted in writing
Donation) for each square	to the Director of Neighborhood Housing
foot of bonus square	and Community Development Department.
footage above baseline to	The request must include supporting
the Affordable Housing	documentation sufficient to demonstrate
Trust Fund to be used for	the infeasibility of compliance with Section
producing or financing	2.5.2.A. Any request for fee in lieu must be
affordable housing, as	presented to and approved by city council.
determined by the Director	
of the Neighborhood	
Housing and Community	
Development Department.	