



Neighborhood Housing  
and Community Development

# **Planned Unit Development Density Bonus**

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

August 26, 2015  
City Council Housing and Community Development Committee

# Council Resolution No. 20140925-090

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



# Council Resolution No. 20140925-090

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## 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

# Council Resolution No. 20140925-090

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## Phase II Stakeholder Engagement:

June 24<sup>th</sup> stakeholder meeting to discuss draft staff proposed amendments

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

\*August 12<sup>th</sup> stakeholder meeting to solicit feedback about the PUD ordinance in general outside of the parameters of the current code amendment.

# Council Resolution No. 20140925-090

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## 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

# **Staff Recommended Code Amendments**

# Draft Staff Recommended Amendments

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- **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

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- **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



# Staff Recommended Code Amendments

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

# Staff Recommended Code Amendments

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

# Staff Recommended Code Amendments

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Current Ordinance Language	Proposed Amendments
<p>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</p>	<p><del>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</del></p>

# Staff Recommended Code Amendments

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

# Staff Recommended Code Amendments

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Current Ordinance Language	Proposed Amendments
<p>2. makes donations for affordable housing under Section 2.5.5 (<i>Alternative Affordable Housing Options</i>).</p>	<p><u>2B. Developments with no residential units, donate the amount established under Section 2.5.6 (<i>In Lieu Donation</i>) for each square foot of bonus square 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 Department.</u> <del>makes donations for affordable housing under Section 2.5.5 (<i>Alternative Affordable Housing Options</i>).</del></p>

# Staff Recommended Code Amendments

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

# Staff Recommended Code Amendments

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

# Staff Recommended Code Amendments

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



## Staff Recommended Code Amendments

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

# Staff Recommended Code Amendments

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Current Ordinance Language	Proposed Amendments
<p>B. subject to approval by the city council, donates the amount established under Section 2.5.6 (<i>In Lieu Donation</i>) for each square foot of bonus square 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 Department.</p>	<p>B. Subject to approval by the city council, <u>in developments with residential units, the developer may</u> donate the amount established under Section 2.5.6 (<i>In Lieu Donation</i>) for each square foot of bonus square 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 Department.</p>

# Staff Recommended Code Amendments

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