

Date: March 20th, 2018
To: City of Austin Design Commission
From: David Carroll, Design Commission Chair
Subject: Recommendations regarding third draft of CodeNEXT code and map

Per LDC §25-2-586, the Design Commission evaluates and makes recommendations to the Planning and Zoning Director regarding whether density bonus projects substantially comply with the Urban Design guidelines, one of the three Gatekeeper Requirements for the Density Bonus Program. The Design Commission proposes the following recommendations to the third draft of the CodeNEXT:

- 23-3E-1: The Commission suggests that the proposed Density Bonus of Max Dwelling Units per Acre be more equitable. This has been concentrated in east Austin and not been allowed in west Austin. This could be seen as racially and/or economically bias. Density must be distributed evenly to be effective at achieving affordability throughout Austin.
- 23-3E-1060: The Commission supports this proposed Downtown Density Bonus fee for non-residential projects.
- 23-3E-1060B: The draft does not include a fee-in-lieu schedule. This regulation can not be properly evaluated without knowing what the cost to developers will be for the added entitlements.
- 23-3E-1070: It is unclear who the designated review group will be in determining the fee-in-lieu schedule. As Gatekeepers of the Density Bonus Program, the Design Commission would be the obvious choice.
- 23-3E-2: The Commission proposes that all downtown have a two-tiered Density Bonus Program, like the current program in the Rainey Street District. The first FAR tier should have a properly calibrated affordable housing requirement without a fee-in-lieu option. The second tier could have a fee-in-lieu option.
- 23-3E-2040: If a design of a proposed project changes significantly after the Density Bonus is approved then it should be required to return to the Design Commission to be re-evaluated for compliance.
- 23-3E-2050: The Commission recommends that the Community Benefit requirements be expanded to include all projects opting into the Density Bonus Program.
- 23-3E-2050: The Commission recommends that the Community Benefit options include mobility alternatives that support biking, and pedestrian transit, and manages off street parking and ride-share loading availability to reduce street traffic and support Vision Zero's mission to reduce pedestrian fatalities. If they are not providing on site affordable housing, the applicant should also be required to file a restrictive covenant agreeing to provide more Community Benefits.
- 23-3E-2060E1c: A sales price of 3.5 times the annual income of a household at 120 percent MFI is not affordable. This is well over what most middle-class families can afford and must be re-evaluated. Why is this so much higher than the amount outlined in the Proposed Administration Procedures for Affordable Housing Bonus Program document on the CodeNEXT website? It says 3.5 times 80 percent MFI.
- 23-3E-4020D1: Why is the location of affordable housing in "high opportunity areas" left to the discretion of the Housing Director? This process should be transparent and clearly defined. How will these decisions be measured against land that could provide equivalent opportunity?

- 23-4D-5010: The Commission recommends that all properties along Imagine Austin Corridors be included in the Affordable Housing Bonus Program. (Draft 3 maps zone some corridors MS2B which prohibits using the Affordability Housing Bonus Program.)
- 23-9C-2020A: The Commission supports lowering the threshold for triggering a Traffic Impact Analysis.

Thank you for this opportunity to participate in the CodeNEXT process.

David Carroll, AIA
Chair
Design Commission

03-19-2018

CODE NEXT COMMENTS DRAFT 3

23-3E-1020

(B) Review Authority

1. (1) Authority and responsibility for implementing this chapter is delegated to the Housing Director, which is referred to in this chapter as “the director.” However, the city manager may from time to time delegate particular functions under this chapter to one or more other City departments, which shall control over the general delegation in this subsection.

2. (2) In exercising authority under this chapter, the director may consult with other City departments regarding issues within that department’s area of expertise. For a summary of general functions performed by various City departments under this Title, see Section 23-1B-3020 (Overview of City Departments).

Coordinating with other departments within their area of expertise is important in determining the best suited recommendations for public realm improvements and implementation of the urban design guidelines. The director should consult other departments to receive comprehensive scope of development impact.

23-3E-1040

(D) **Proportional Bedroom Count.** Affordable units must be delivered and maintained such that the mix of the number of bedrooms in the affordable units is the same as the mix of the number of bedrooms in the market rate units, except that the provision of dedicated two or three-bedroom affordable units may count as two or three one-bedroom/ efficiency market-rate units at the discretion of the director.

Two or three bedroom units should not be counted individually towards compliance of the number of units required. We need more affordable units for families

23-3E-1040

1. (4) A non-residential bonus area is calculated as indicated in Section 23-3E-1060 (Non- Residential and Mixed Use Bonus Fee).

Affordable unit MFI 80% set too high. Is there a possibility to lower MFI for affordability requirements

23-3E-1050

1. (C) **Housing Fee-in-lieu.** An applicant may pay a fee-in-lieu of providing the affordable units in compliance with the following:

(1) The total fee-in-lieu of affordable units required for a development is determined by multiplying the bonus square feet by the corresponding residential housing fee-in-lieu per square foot or multiplying the bonus units by the corresponding residential housing fee-in-lieu per unit as published in the City's fee schedule at the time the project's site plan is submitted.

Is there an example of the fee schedule yet to have an awareness of typical fee in lieu x bonus square feet.

D) **On-site Production.** On site production of affordable units may be proposed if the off-site production of affordable units produces more affordable units or a greater community benefit, as determined by the director. On-site affordable units:

1. (1) Must be deed-restricted to achieve at least the same affordability period and income restrictions as the project accessing the Affordable Housing Bonus and may include any combination of new units or units in an existing structure;
2. (2) Must include at least the same number of units and same bedroom count mix as would be required in the bonus, except that the provision of dedicated two or three bedroom affordable units may count as two or three one-bedroom/efficiency market-rate units at the discretion of the director;

How does the director determine if off site affordable units propose a better community benefit than On site affordable units? Provide metrics for the characterization of choosing to provide units off site. Areas of high opportunity is required for off site affordable units. Two and three bedroom units should not count as one bedroom or efficiency market rate units to amount to the units required for the bonus.

23-3E-1060

1. To determine the total fee, the bonus square footage of the non-residential development is multiplied by the non-residential housing fee-in-lieu (dollar amount per square foot as published in the City's fee schedule at the time the project's site plan is submitted), using the following formula:

2. Fee Adjustment and Update

The director shall evaluate and, if necessary, may provide recommendations annually to the city council to adjust the housing fee-in-lieu, non-residential bonus fee, or required set aside of affordable units. A designated review group may provide recommendations to the director on adjustments to the fee-in-lieu rate.

Who is the designated review group to provide recommendations for adjustments in the non residential fee in lieu. Will this be a new volunteer board or city staff?

23-3E-2040

(c) The director makes a written recommendation on the application and then submits the recommendation to the Planning Commission for its review and recommendation; and (d) The council determines that:

1. (i) The development includes additional community benefits described in Section 23-3E-2060 (Community Benefits), exceeding those offered to achieve the floor area ratio in Figure (1) (Downtown Density Bonus Program Map);
2. (ii) The same methodology and bonus area is granted for each community benefit as described in the Downtown Density Bonus Program to achieve the desired bonus area;
3. (iii) The council determines that approving the additional floor area ratio substantially furthers the goals and objectives of the Downtown Austin Plan and the Austin Comprehensive Plan; and
4. (iv) Residential parking is offered separately from the dwelling unit.

Council determines that approving the additional floor area ratio substantially furthers the goals and objectives of the Downtown Austin Plan and the Austin Comprehensive Plan. Keep a comprehensive approach to density and community benefits.

5. (6) The fee-in-lieu may vary by use and downtown district. The applicable fee-in-lieu within each of the nine districts is established by the City's fee schedule. Example of fee schedule is important to see how the different districts vary in cost. Opportunities for development of bonus area in less desirable districts that may drive density and affordability and the creation of high opportunity areas.

Downtown Density Bonus Gatekeeper Requirements

(A) To issue a density bonus under the Downtown Density Bonus Program, the director must determine that the proposed development meets the following requirements:

1. (1) The applicant shall submit a **schematic level** site plan, building elevations, and other drawings, simulations or other documents necessary to fully describe the urban design character of the development and relationship of the development to its surroundings to the director.

Reviewing a project at a schematic phase allows applicants to incorporate recommendations from Design Commission and valuable feedback to improve community benefits in the public realm without being too deep into design and coordination of consultants.

1. (a) The application shall include a vicinity plan locating the project in context and showing a minimum 9 block area around the project, the location and nature of nearby transit facilities, and a landscape plan.

Imperative to be able to define contextual implications of new development on a site to help determine areas of conflict when TIA is not required. Understanding patterns and flow of multi-modal traffic along development frontage to review for safety and possibility for additional benefits at the public realm.

2. (b) The site plan and landscape plan shall be certified in compliance with the City's *Great Streets Standards*.

2. (2) The Design Commission shall evaluate and make recommendations regarding whether the development is in substantial compliance with the City's *Urban Design Guidelines* and the director shall consider comments and recommendations of the Design Commission.

Director to supply metrics for how they determine substantial compliance requirement based on the applicant's careful implementation of the urban design guidelines. Design Commission and Director should use the same weighted scale to alleviate disparate interpretations of substantial compliance. The Director and Design Commission should always operate with the intent of clear and predictable outcomes.

3. (3) The applicant shall execute a restrictive covenant committing to provide streetscape improvements along all public street frontages, consistent with the City's *Great Streets Standards*.

Director shall thoughtfully consider recommendations from Design Commission. The director shall provide written determinations on how the applicant has substantially achieved the recommended improvements or implemented an equivalent alternative.

4. (5) After the director determines the applicant meets the gatekeeper requirements, the applicant shall provide sufficient written information so that the director can determine:

1. (a) The site's primary entitlement;

2. (b) The amount of bonus area that the applicant is requesting;

3. (c) The total dollar amount the applicant will pay if the applicant chooses to obtain the entire bonus area exclusively by paying a fee in-lieu, and the amount of the fee to be dedicated to each community benefit; and

4. (d) The community benefits the applicant proposes to provide to obtain bonus area if the bonus area will not be obtained exclusively by paying a fee in-lieu.

Applicant requirement of providing specific written information of how they have achieved the bonus density program is integral to determining the achievements of the program. Keeping historic metrics on how many on site and off site affordable units are created, how many community benefits are generated and what kind, and how much money is raised through fee in lieu, establishes the data for continued improvement on the program's implementation. The continued efforts of Design Commission are reflected by the creation of safer, and inclusionary public environments which furthers the goals and objectives of Imagine Austin.

5. Changes in Design of Proposed Building

6. If the design of a building changes after a density bonus is approved under this section, the director shall review the new design for compliance with this section before the building permit is approved. A building permit for a final design will not be approved until the design complies with this section and the restrictive covenants are amended to reflect new or revised community benefits.

Follow through of changes before permitting is crucial to the effectiveness of the bonus density program. Continued full cycle reporting of how recommendations have been implemented and carried out through construction to ensure affordability and community benefits have been achieved.

Reporting, Compliance, and Enforcement

(A) The Housing Director shall establish reporting, compliance, monitoring, and enforcement mechanisms and procedures for implementing the S.M.A.R.T. Housing Policy and Program.

Is there a specific approach the housing director will establish for reporting, compliance, and enforcement. Should there be a special task force to carry out the