

- Affordable Housing:
  - The affordable housing amenity should be based on the total area of the PUD project.
  - The affordable housing amenity should be indexed on the cost for housing in Austin and automatically recalibrated every year.
  - The affordable housing fee-in-lieu option should require a supermajority vote by the City Council. The fee should only be used for housing within one mile of the PUD that is affordable to families earning 40% of the median family income for at least 99 years.
  - The onsite affordable housing amenity should require a minimum of 25% of the residential units to be affordable to families earning 40% of the median family income for at least 99 years.
  - At least 50% of the affordable housing units should be designed for families with children.
  
- Zoning:
  - Upzoning of the existing zoning of any lot in a PUD for the purpose of establishing the base zoning for the PUD should be explicitly prohibited. If zoning has not been established for all of the lots in the PUD, the base zoning shall be the lowest density zoning in the City's zoning categories. If a PUD is comprised of lots with different zoning, the base zoning shall be the zoning for the lot with the lowest density zoning. If a PUD is comprised of a mixture of lots with and without existing zoning, the base zoning shall be the zoning for the lot with the lowest density zoning.
  - Property owners within 200 feet of property with interim or no zoning that is seeking PUD zoning should have valid petition rights.
  - The Waterfront and Lake Austin overlay and PUD ordinances should be amended so that the PUD ordinance cannot override the Waterfront or Lake Austin overlay ordinances.
  - PUD zoning should be removed from the Waterfront and Lake Austin overlay ordinances. PUDs should not be allowed in the Waterfront, including the South Central Waterfront, and the Lake Austin overlay districts.
  - PUD zoning should be prohibited on individual single-family zoned lots.
  - A PUD that fails to begin development within five years of initial approval of a PUD agreement should lose PUD zoning and revert back to the zoning that was in effect on the property before the PUD zoning was approved. The PUD should forfeit all amenities already provided.

- Entitlements and Amenities:
  - All PUD agreements should provide a clear statement of the total value of the amenities received by the public and entitlements granted to the developer.
  - Applicants for PUD zoning should be required to provide a pro forma financial statement for the proposed PUD.
  - Each PUD agreement should require the PUD's traffic impact to be fully mitigated by the PUD.
  - The PUD ordinance should provide clear specifications for the type of open space required. Private balconies, patios, pools, detention ponds, floodplains, and other similar areas should not be counted towards open space requirements.
  - An amenity should be used to meet only one criterion in one Tier. An amenity should not count towards criteria in more than one Tier.
  - Tier 2 should specify a minimum number of criteria that must be satisfied.
  - Tier requirements should be recalibrated annually to encourage better environmental protections and development standards that are not required under the base zoning.
  - Parkland dedication fees for PUDs should be at least 25% higher than would otherwise be required under base zoning.
  - Net zero water usage and zero carbon footprint should be included in the Tier 2 requirements.
- Variances, Waivers, and Exceptions:
  - PUDs should not be granted variances, waivers, or exceptions from code requirements for:
    - Floodplains
    - Critical environmental features
    - Compatibility and residential design standards
    - Heritage trees
    - SOS, Barton Springs, and Edwards Aquifer watershed protections
    - Scenic roadways
    - Historic preservation
    - Impervious cover
  - A supermajority vote by the Council should be required for variances, waivers, and exceptions from code requirements.

- Performance and Accountability:
  - Annual “look back” provisions like those in 380 incentive agreements should be included in all PUD agreements to verify that a PUD has fulfilled the requirements in the PUD agreement.
  - “Clawback” provisions should be included in all PUD agreements to allow the City to recover the value of the entitlements granted to PUDs that fail to fulfill the requirements in the PUD agreement.
  - If, as a result of an appeal of its property tax appraisal, a PUD generates less property tax revenue in a year than the amount upon which the PUD agreement was based, the PUD shall make the City whole on the net difference.
  - An amendment to a PUD agreement should be conditioned upon a determination by the City that the requirements in the existing PUD agreement have been fulfilled.
  - The City should audit PUDs to verify that they are fulfilling their PUD agreements and requirements for superior development.
  - Parties to PUD agreements should be required to disclosure information about incentives they have received from and contracts they have had with the City of Austin during the previous 10-year period.
- Approval and Public Engagement:
  - Public input should be allowed at all Council briefings and hearings on a PUD.
  - A supermajority vote by the City Council should be required to override the 10-acre minimum requirement.
  - A supermajority vote by the Council should be required to approve a PUD agreement or an amendment to a PUD agreement.
  - The Council should require the City to produce gentrification and affordability impact statements for each PUD.
  - The Council should not approve a PUD that is likely to negatively impact gentrification or affordability.
  - PUD agreements should be analyzed with the City’s WebLOCI financial analysis tool and the results should be provided to the Council and the public.

Mr. Guernsey,

Planned Unit Development zoning is intended to preserve the natural environment, encourage high quality development and innovative design, and ensure adequate public facilities and services. PUD zoning is intended to produce developments that are superior to development under conventional zoning and subdivision regulations. PUD zoning is not intended to enhance existing entitlements or to avoid existing regulations. PUD zoning is best used to create large-scale mixed-use projects.

Imagine Austin says that the current code does not guarantee superior results and the public is often skeptical of these projects. The 2016 Special Request Report on Planned Unit Development (PUD) Application Process prepared by the City Auditor noted that there are no detailed procedures or measures to evaluate proposed PUDs. Adres Duany (Austin Chronicle, April 12, 2007) complained that Austin's PUD ordinance empowers the lawyers and recommended that we "Get rid of the PUD code."

The PUD requirements need to be addressed in CodeNext. Currently the second draft CodeNext 2<sup>nd</sup> draft eliminates the assessment report, the baseline report, the 2 tier superiority format, the consistency and capability gatekeepers, and the affordability criteria. In addition, it does not require compliance with neighborhood plans as recommended in the Special Request Report.

The Zoning and Platting Commission has the following specific suggestions for improvement of the PUD requirements in CodeNext. We request that these be considered by the staff and consultants and that the commission be briefed on the issue in two weeks.

1. PUD Zoning should not be allowed on lots smaller than 10 acres
2. PUD zoning should not be used simply to allow building heights that are not available with conventional zoning.
3. Superior affordability should depend on the number of affordable units provided and the level of income restriction.
4. Green star rating of 2 should not be considered superior (or even sufficient) for a PUD.
5. Staff should verify measurements and estimates provided by applicants. Applicants should be required to provide updated information if inaccuracies are discovered.
6. PUD developments should pay for themselves. The City should not provide tax credits or funding for infrastructure.
7. Affordability requirements should be determined with approval, not at issuance of certificate of occupancy.
8. PUDs that contain no residential uses should be subject to fee-in-lieu requirements for affordable housing.
9. Fee-in-lieu, traffic mitigation funds, parkland contributions, etc. should not be refundable.
10. Criteria for superiority should be based on measurable, objective criteria instead of subjective opinions so that everyone can understand what can be approved.
11. Overriding fundamental requirements for PUD zoning should require a super majority vote of the City Council.
12. All PUDs should require a super majority vote of the City Council. This should not be difficult to achieve if the PUD is clearly a superior development with clear community benefits.
13. PUDs should be reviewed to ensure that they are built as planned and expected community benefits have been realized.
14. Superiority components should be recalibrated every five years.

15. Adjacent neighbors should have valid petition rights should be allowed even for properties w/o current zoning.
16. Superiority for open space should not include space that is not buildable as these areas would remain open under any zoning.
17. Citizen input should be allowed when staff gives PUD development briefings.
18. Land should be reserved for fire stations, schools, etc.
19. Superiority should not be evaluated relative to PUD code amendments that lower the bar.
20. Community benefits should be balanced with increased entitlements so that are good for both the applicant and the community.

Sincerely,

Jolene Kiolbassa, Chair Zoning and Platting Commission  
Cc: CodeNext consultants and City Council

Mr. Guernsey,

The Zoning and Platting Commission has the following request concerning the 3<sup>rd</sup> CodeNext draft.

1. Draft 3 should include a complete list of uses in one table similar to the table in § 25-2-491 of the current code. There are uses in some zones that aren't listed and it is occasionally not clear whether they are left off the list deliberately or by oversight. For example, public schools, safety services, and religious assembly are allowed in the current code LA, RR, and SF-1 zones, but not in equivalent zones in Draft 2. A complete table will help clarify and avoid errors. This table is also very useful when the land use commissions and Council considers zoning cases.
2. Provide a list comparing uses in Draft 3 and the current code so that we can understand which uses are equivalent, deleted, or new. A few specific examples are the following.
  - "Library, Museum, or Public Art Gallery" replaces Cultural Services which seems more clear but does this use prohibit "similar facilities" that were included in the Cultural Services definition in the current code. "Community Garden" is not on any use table although it appears frequently in Draft 2. Is it intended to be included as part of "Community Agriculture" or is "Community Agriculture" only equivalent to "Urban Farm"? A word search for Community Garden revealed that locations (such as 4C-2 pg. 4) in the draft include words that in a white font and therefore invisible. Why?
  - Are the Recreation uses (Indoor, Outdoor, Formal, Informal, Natural) equivalent to Community Recreation (Public, Private)?
  - Are certain uses being eliminated entirely, such as "Club or Lodge" and "Family Home" or are these now included in some other use with a different name?
  - When uses are combined or realigned such as "Medical Office <5000 sq ft", "Medical Office > 5000 sq ft", "Hospital services, limited", and "Hospital services, general" in the current code into fewer categories "Hospital" and "Medical Services" it is important to be specific about what is allowed in each category. Are surgery centers allowed in "Hospital", "Medical Services", or both?
3. For the near equivalent zones, list all changes in permitted uses for the equivalent zones. For example, if a use changes from CUP to P or N/A to something else, include it in the list of changes.
4. Provide clearly specified quantitative criteria for use permit (CUP and MUP) approvals. Certain uses (for example restaurants or medical offices) should have hours of limited if they are within a certain distance of a residential use. If they are further away, the hours could be expanded. For other uses the criteria may depend on the size. For example, a "Meeting Facility" use includes auditoriums, so a large space needs tighter restrictions than a smaller space. Clear criteria tables will provide the predictability that applicants and residents want and ease the decision-making burden.

Sincerely,

Jolene Kiolbassa, Chair Zoning and Platting Commission

Cc: CodeNext consultants and City Council