**CodeNext Draft 2**

**Recommendations to Support Public Schools;**

**Corrections to Section 23-4E-6310**

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The success of Austin’s public schools depends on the continued availability of affordable family-friendly housing for students, families and staff throughout the city and on continued safe access to school campuses. As the CodeNext Advisory Group (CAG) member appointed to represent Austin’s public schools, I strongly recommend the provisions listed below as critical additions to the current draft. I have also provided corrections for Section 23-4E-6310, which is intended to incorporate current land use regulations for public schools, including open-enrollment charters, beginning on page 7.

**Recommended Code Additions to Support Public Schools**

1. Within 600’ of a public school property line, zone all properties Residential R2C with any further upzoning contingent on the production of family-friendly housing affordable at 60% Median Family Income (MFI) or lower.

2. Within a half-mile radius of public school campuses, create permanent deeply affordable family-friendly housing through Community Land Trusts, with land acquisition to be funded by fees-in-lieu gained from the proposed expansion of the City’s density bonus program to commercial properties and other appropriate funding sources, including use of public land.

3. Target all density bonus fees-in-lieu, both commercial and residential, to the production of family-friendly housing serving very low-income residents, recognizing that on-site units that are typically too small for use by families with children.

4. Encourage the preservation of older “market affordable” single-family homes, duplexes and multi-family housing by withholding increased entitlements on existing market affordable properties absent a strong affordability requirement.

5. Maintain current occupancy limits for unrelated adults to improve opportunities for families with children to access family-sized housing.

6. Maintain current Vertical Mixed Use (VMU) provisions, which require that the number of affordable units be based on a percentage of the total units in the structure - not just the bonus units, as Draft 2 now states – and ensure that these same provisions are applied to any Commercial properties that secure new Residential entitlements under CodeNext.

7. Maintain current on-site parking requirements citywide, tying any reductions to the production of affordable housing.

8. To ensure continued safety and access to public school campuses, apply a zone suffix (such as SSZ: School Safety Zone, modeled on the Draft 1 ‘O’ suffix) that will maintain current on-site parking requirements for properties within 600’ of an urban public school property line.

9. As an alternative the zone suffix proposal, within 600’ of the property line of a public school campus, require a Neighborhood Traffic Analysis (NTA) for any proposed residential project of 3 or more units and for any proposed commercial or retail use, with required review by the affected campus’s principal and Campus Advisory Council, as well as the district’s Planning and Transportation departments.

**Background**

The loss of family housing and displacement of longtime residents is a grave concern citywide, particularly so in areas immediately surrounding public schools. Over half of AISD students come from low income families, and the take-home pay after deductions for an entry level teacher is roughly $33,000 per year - less than 60% of the Median Family Income (MFI) for a one-person household in the Austin area. Yet today’s market continues to produce tiny expensive units unsuitable for families and unaffordable for most public school employees. A recent sampling of 6895 new apartment units near corridors showed a total of just 46 AISD students in residence.

The Austin Independent School District (AISD) – Austin’s largest district serving over 80,000 students – recently conducted a study of Student Yield Factors by Housing Type, which showed the vast majority of AISD families rely on single-family homes, duplexes and townhomes as their primary housing products. Those AISD families who do live in multi-unit apartment complexes largely depend on “market affordable” older housing stock or subsidized family-friendly projects. Code consultant John Fregonese recently stated to the Austin City Council that Austin already has a higher ratio of multi-unit housing than it needs and emphasized the importance of calibrating the code to preserve existing older market affordable housing, both single- and multi-unit.

The Draft 2 map does expand mapping for Accessory Dwelling Units and/or duplex use to more “high opportunity” areas (generally, wealthier neighborhoods west of Burnet Road), which may extend housing options for some residents. But due to Austin’s extremely high land costs and property taxes, even if more “missing middle” housing is built in these areas, it will likely be unaffordable to most public school families or employees without some form of subsidy (extremely small units in these areas may be more affordable due to their tiny size, but will not accommodate a family with children). Further, Draft 2 continues to give away valuable entitlements, such as vastly reduced on-site parking, without requiring any affordability component in return.

Code consultants have repeatedly stated that code changes alone cannot produce deeply affordable housing in our overheated real estate market, and Texas’ regressive tax structure only adds to that burden for low-income residents. It is essential for decision makers to understand these realities, rather than looking to the new code for solutions it cannot deliver.

That said, the code can play a role by providing maximum leverage to produce new affordable units, while stemming the loss of existing market affordable housing. The following recommendations are crafted to support our public schools by addressing housing needs for low-income families with children and ensuring safety and access for Austin’s public school students.

**Detailed Concerns and Recommendations**

**Concern: Draft Code Overlooks Tools to Retain and Create Family-Friendly Affordable Housing**.

While somewhat improved over Draft 1, Draft 2 continues to potentially incentivize the demolition existing family-friendly and/or market affordable housing by allowing multiple new smaller units to be built on sites previously zoned for single-family homes and duplexes. Further, Draft 2 substantially weakens the city’s current VMU affordability programs, and fails to tie significant on-site parking reductions to any affordability requirement that could help families or individual residents. While Draft 2 does not contain explicit provisions to require family-sized housing, it does offer a new “Preservation Incentive” in some Residential zoning categories, which could potentially preserve family-sized homes near schools.

**Detailed Recommendations:**

1. Within 600’ of a public school property line, zone for Residential R2C with any proposed upzoning contingent on providing family-friendly housing affordable at 60% Median Family Income (MFI) or lower. Zoning for housing types demonstrated to attract families with children would help retain existing family-friendly housing near schools, while providing leverage to ensure that any proposed larger-scale housing contain a strong affordability component and family-friendly design. R2C zoning provides housing types demonstrated to attract families with children and offers a “Preservation Incentive” that could help retain existing family-sized homes if it were zoned near schools. While this incentive is also available in R3, R3 categories allow up to three structures on a site, increasing the temptation to tear down existing family-sized homes and replace them with multiple smaller units for singles or couples.

2. Within a half-mile radius of public school campuses, create permanent deeply affordable family-friendly housing through land acquisition to be funded by fees-in-lieu gained from the proposed expansion of the City’s density bonus program to commercial properties and other appropriate funding sources, including public land**.** Such land should be placed in a Community Land Trust, or otherwise deed restricted for permanent family housing affordable for rent at 50% MFI or lower or for purchase at 60% MFI or lower, and should be prioritized for families with children as a legally protected class under the federal Fair Housing Act. Housing types should be those shown to attract families as supported by AISD data: single-family homes, duplexes and townhomes with a minimum of 2-3 bedrooms, or supportive multi-family housing as exemplified by Foundation Communities’ projects. Housing funded in this manner could include placing several housing units on one lot.

3. Target all density bonus fees-in-lieu, both commercial and residential, to family-friendly housing serving very low-income residents. In the current market, large multi-unit projects are virtually all efficiency and one-bedroom units so the draft proposal to ensure bedroom counts for on-site density bonus units match the mix of the base product will produce few, if any, units of a suitable size for families. Moreover, most parents would rather not raise kids an environment designed exclusively for adult singles (read: poolside margarita parties vs. playgrounds). Because density bonus units skew overwhelmingly toward tiny apartments for singles or couples, any fees-in-lieu realized from these programs should be employed to ensure a balance of housing types. This approach supports the Austin Strategic Housing Blueprint goal that 25% of new or preserved units should have two or more bedrooms to provide opportunities for families with children.

4. Encourage the preservation of older “market affordable” single-family detached homes, duplexes, and multi-family housing by not increasing entitlements on existing market affordable properties without a strong affordability requirement. Holding the line on increased entitlements will be particularly important in mapping areas that are already experiencing gentrification and displacement, as well as those areas that may be next in line due to relatively lower land prices. This approach further supports the Austin Strategic Housing Blueprint goal of ensuring the preservation of at least 10,000 existing affordable housing units.

5. Maintain current city occupancy limits for unrelated adults to improve opportunities for families with children to access family-sized housing. Draft 2 does not propose a change to occupancy limits for unrelated adults, but as this issue has been raised in the CodeNext process, it must be noted that the current occupancy limit is one of the few tools Austin has to offer families with children a better shot at the city’s dwindling supply of family-sized housing. As previously noted, families with children are a protected category under the federal Fair Housing Act and deserve this consideration.

6. Maintain current Vertical Mixed Use (VMU) provisions for affordable units and ensure these are also applied to new any Commercial/Residential Uses. Austin’s current VMU program requires that the number of affordable units be based on a percentage of the total units in the structure - not merely the number of bonus units requested as Draft 2 now states (Draft 1 contained a footnote that appeared to preserve the current program, but it has been removed). In addition to preserving current VMU affordability requirements, please ensure that the new code also applies these same provisions to any Commercial properties that will secure new Residential entitlements under CodeNext.

7. Maintain current on-site parking requirements citywide to provide leverage for more affordable housing. The proposed reductions in on-site parking definitely have the potential to reduce construction costs, which is one of their main selling points. But unfortunately, nothing in the draft ensures that these cost savings will actually be passed on to Austin residents (as developers will tell you, construction costs simply set the floor for rent, but the market sets the ceiling). Absent language that ties parking reductions to the production of affordable units, there is no guarantee that merely cutting parking requirements will result in lower rents or purchase prices. The proposed citywide parking reductions are one of the draft’s biggest new entitlements for developers. Given the dire lack of affordable housing and dearth of traditional tools under state law, Austin can ill afford to give away this substantial bargaining chip for free.

**Concern: Proposed On-site Parking Reductions Threaten Safety and Access for Students and Schools**.

Areas adjacent to urban public schools present unique safety and traffic challenges with anywhere from 300 to 3000 students - plus faculty, staff and parents - arriving and leaving throughout the day. This may include distracted pre-K kids as young as three, fourth graders on bikes, middle schoolers glued to cell phones, newly-minted teen drivers, idling full-size school buses, parents rushing to get to or from work, plus the occasional emergency vehicle. Public schools simply cannot provide sufficient on-site parking for all those who must arrive or leave the campus daily, or to accommodate large buses and emergency vehicles. To meet these needs, most campuses rely on on-street parking in the immediate vicinity.

As noted above, Draft 2 continues to propose significantly reduced on-site parking requirements, which, if enacted, will increase the number vehicles parked permanently on streets near public schools as nearby properties are redeveloped.[[1]](#footnote-1) This problem will be most acute for schools in central locations and/or rapidly gentrifying areas, increasing congestion, exacerbating student safety concerns and hindering access for parents, buses and emergency vehicles. Parking spillover has already been demonstrated in areas around new large multiplexes, both in Austin and in other cities where on-site parking has been significantly reduced.

# Though parked vehicles may increase safety in some settings by narrowing travel lanes and thus reducing vehicle speeds, researchers have specifically cited as tradeoffs (1) reduced visibility especially in high parking densities where children may dash out between vehicles and (2) the lack of accommodations for emergency or other large vehicles.[[2]](#footnote-2) The streets immediately adjacent to many of Austin’s urban public schools are already fully parked during school hours, as well as many evenings, so no additional safety benefit can be realized by adding more on-street vehicles - and the worst-case tradeoffs are potentially life threatening.

Finally, please note that many of the common tools for addressing on-street parking do not work in this context for the following reasons:

a. Limiting the times of day during which on-street parking is allowed, or prohibiting on-street parking. This would not allow access for parents/volunteers/students who need existing on-street parking during school hours or for evening meetings and events.

b. Metered parking. This places a burden on low-income parents/volunteers/students, and is already an issue around Pease Elementary where the city installed meters without contacting the campus or AISD. Families should not have to pay to be involved in their children’s education.

c. Painting "hockey sticks" to prevent blocking driveways or parking too close to the curb. Again, this does not address the problem of maintaining access for the school community. If all on-street spots are already claimed by overflow from nearby apartments, keeping driveways clear is irrelevant.

d. Prioritizing sidewalk construction to reduce walking in the street. Of course, school communities strongly support more sidewalks, but sidewalks alone do not address the issue of vehicle access for parents, staff, volunteers, school buses and emergency vehicles.

e. Using halo cameras to identify problems. Again, these would not address the issue of access. Once a large multiplex is built without sufficient parking, it’s virtually impossible to address that issue retroactively.

In short, public schools rely on nearby on-street parking to provide access for countless students, parents, staff and community volunteers, as well as school buses and emergency vehicles. Proposed code changes that overload nearby streets with significantly more parked vehicles pose a threat to student safety and limit access to Austin public schools.

**Recommendations:**

8. Develop a zone suffix modeled on the Draft 1 ‘O’ suffix (such as SSZ: School Safety Zone) or other tool for properties within 600’ of an urban public school property line that would retain current on-site parking requirements for all uses. For single-family homes or duplexes, this would require two on-site parking spaces per dwelling unit. For multifamily, commercial or other uses, on-site parking requirements would match those currently contained in the Austin Land Development Code, Section 25-6 Appendix A. <https://www.municode.com/library/tx/austin/codes/code_of_ordinances?nodeId=TIT25LADE_CH25-6TR>

For deeply affordable family-friendly units to be rented or priced at 60% MFI (Median Family Income) or below, on-site parking reductions or exemptions should be determined by the applicable director in consultation with the affected school community.

9. As an alternative the above zone suffix proposal, within 600’ of the property line of a public school campus, require a Neighborhood Traffic Analysis (NTA) for any proposed residential project of 3 or units and for any commercial or retail project, with required review by the affected campus’s principal and Campus Advisory Council, as well as the school district’s Planning and Transportation departments. For projects within a quarter-mile of a public school campus that are large enough to trigger a full-blown Traffic Impact Analysis (TIA), require review by the AISD’s Planning and Transportation departments, as well as all principals and CACs within the affected area. Reviews should explicitly require a proposed parking and traffic plan that demonstrates no negative impact on campus access or student safety.

**Corrections to Section 23-4E-6310 School**

Section 23-4E-6310 School (Article 23-4E, Supplemental to Zones) is intended to incorporate the provisions Ordinance 20160623-090, which addresses land development regulations for public schools, including open enrollment public charters.

While Draft 2 addresses some of the omissions in Draft 1, the following corrections are still needed:

(1) Current draft section **23-4E-6310(B)(2)** states that public schools are “not required to comply with: The standards of Chapter 23-4 (Zoning) related to floor to area ration, building placement, building entrance, frontages, parking placement, common open space, visual screening, connectivity, building design and outdoor lighting.” [Emphasis added]. Most of the standards referenced here are contained in Chapter 25-2, Subchapter E, (Design Standards and Mixed Use), from which the Educational Facilities ordinance does indeed provide a blanket exemption for schools. (Ordinance, page 3, (D)(2) <http://www.ci.austin.tx.us/edims/document.cfm?id=257543>

However, the Ordinance does not grant schools a total exemption from the following standards:

“Outdoor lighting” – Public schools are only exempt from the requirement to shield security lighting, and are not exempt from other lighting requirements. (Ordinance, page 3, (D)(2))

“Visual screening” – Public schools are only exempt from “opaque fencing or screening around any building,” not all screening requirements. (Ordinance, page 3, (D)(2))

The Ordinance also provides a partial exemption for public schools for cut and fill standards (see Ordinance, page 6), but Draft 2 does not reflect this in the schools section or the cut and fill sections (23-3D-8060 and 23-3D-8070).

The limited lighting exemption granted by the Ordinance is already addressed in draft section 23-4E-6310(B)(3)(e), but limited exemptions for screening and cut-and-fill standards are not.

**Recommendations**: To address issues outlined above, please amend the relevant sections as follows:

**• Amend** **23-4E-6310(B)(2)(a)** to read: Development described in Subsection (B)(1) is not required to comply with: The standards of Chapter 23-4 (Zoning related to floor area ratio, building placement, building entrance, frontages, parking placement, common open space, connectivity and building design. [NOTE: This deletes “outdoor lighting” and “visual screening.”]

**• Amend 23-4E-6310(B)(3)** to add the following subsections:

(g) Opaque Screening or Fencing. No opaque fencing or screening is required around any building.

(h) Cut and Fill. The Director of the Watershed Protection Department may grant a variance from the requirement of a cut or fill of not more than eight feet for a public primary or secondary educational facility, within the desired development zone or the drinking water protection zone.”

**• Amend** **Sections 23-3D-8060** and **23-3D-8070** to add a subsection (D) stating: “The Director of the Watershed Protection Department may grant a variance from the requirement of a cut or fill of not more than eight feet for a public primary or secondary educational facility, within the desired development zone or the drinking water protection zone.”

(**2) Section 23-4E-6310(B)(2)(b)** exempts schools from standards related to block length and internal circulation, both of which clearly fall under the connectivity exemption provided by the Ordinance in reference to Chapter 25-2, Subchapter E, (Design Standards and Mixed Use). Connectivity standards now appear in Division 23-9H-1 (Connectivity), while Internal Circulation standards appear in Division 23-4C-1020 (General to Large Sites), but neither draft section currently includes an exemption for public schools.

**Recommendations:** To avoid confusion, please clarify the relevant sections as follows:

**• Amend 23-9H-1010 Applicability** to add a subsection (E) reading: “This Division does not apply to public primary or secondary schools under 23-4E-6310.”

**• Amend 23-4C-1020(A)(1)** to add a subsection (d) that reads: “Public primary or secondary schools under 23-4E-6310.”

**(3) Section 23-4E-6310(B)(6)** states that the Planning Director shall conduct a neighborhood traffic analysis on a Site Plan or Building Permit for a public primary or secondary school. In fact, the Ordinance states the Director shall conduct an NTA for “a site development permit application or a zoning or rezoning.”

**Recommendation:**

**• Amend 23-4E-6310(B)(6)** to reflect actual ordinance language as follows: “The Planning Director shall conduct a neighborhood traffic analysis on a site plan development permit application or a zoning or rezoning for a public primary or secondary school.”

1. During my CAG service, I repeatedly requested that current on-site parking requirements be retained for sites adjacent to public schools for safety and access reasons, and was told this issue would be addressed in the mapping phase, but to date it has not. [↑](#footnote-ref-1)
2. Narrow Residential Streets: Do They Really Slow Down Speeds? James M. Daisa, P.E. and John B. Peers, P.E., 1997 [↑](#footnote-ref-2)