

Transit Oriented Development Ordinance and Resolution Option Summary

TOD Ordinance Summary of Issues

Ordinance		Language Adopted and Reading	Language Amended	Proposed Change	Staff Comments Recommended
1	Second Reading TOD Ordinance			Approve third reading of the TOD Ordinance	Recommended
Ordinance Change Requested by Mayor Pro Tem Goodman					
Section 25-2-766.21 Page 7, Line 19	(A) The director shall prepare a station area plan for each transit oriented development (TOD) district. The director shall permit Capital Metropolitan Transportation Authority, the neighborhood plan contact team, if any, neighborhood organizations, business-owners and property-owners, and other affected persons to <u>may</u> participate in the preparation of a station area plan.	(A) The director shall prepare a station area plan for each transit oriented development (TOD) district. The director shall permit Capital Metropolitan Transportation Authority, the neighborhood plan contact team, if any, neighborhood organizations, <u>business-owners and property-owners</u> , and other affected persons <u>to may</u> participate in the preparation of a station area plan.			Recommended. Staff also recommends adding: <u>Austin San Antonio Intermunicipal Commuter Rail District</u> in anticipation of future stations along the proposed Austin to San Antonio Commuter Rail line.

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Late Backlog

Ordinance Changes Requested by Council Member Alvarez

Not in March 24th draft ordinance	Regarding TOD Districts located <i>within</i> the area designated as a Community Preservation and Revitalization (CP&R) Zone: 1) set an affordable housing goal of 25% of residential units at 60% of MFI. 2) Require that a station area plan only allow changes to the site development regulations in a manner that allows increased development density for gateway and midway zones if the following are true: (a) the proposed development includes a residential component; and (b) the proposed development meets the goals for affordable housing for TOD Districts located within the area designated as a CP&R Zone 3) Regarding TOD Districts located within the area designated as a Community Preservation and Revitalization Zone, stipulate that a station area plan may not recommend changes to the site development regulations for the transition zone of a TOD District if said changes would allow increased development density.
Regarding the revised goal for affordable housing:	Staff supports the affordable housing goals identified in the proposed change and recommends the following ordinance language: Section 25-2-766.22, delete the current paragraph (7) and add a new Paragraph (7): (B) A station area plan: "(7) for TOD areas fully or partially within a Community Preservation and Revitalization Zone established by Council, shall include a housing affordability analysis and feasibility review that describes potential strategies for achieving a goal of 25% of new housing to serve low and moderate income families, including home ownership and rental opportunities for families at or below 60 percent of median family income." Regarding the limitations on development density: Staff does not recommend the proposed limits on development density for the following reasons: a) The proposed change would apply to the MLK and Plaza Saltillo TODs. The gateway and midway zones for the MLK TOD represent 19 acres out of a total of 87 acres within the TOD. For the Plaza Saltillo TOD, the midway zone would be a maximum of 11 acres out of a total of 122 acres within the TOD. The result of the proposed amendment is that approximately 85% of the property within the Plaza Saltillo and MLK TODs could not be considered for additional density during the public Station Area Planning process. This restriction could limit: 1) affordable and market rate residential units; 2) additional commercial and retail space providing employment and local business opportunities, and 3) potential transit ridership (continued);

				b) Each TOD will be the subject of a detailed public station area planning process. A specific goal of the planning process is to identify strategies for achieving the Council's affordable housing goals. The proposed restrictions may limit flexibility and opportunities for creating incentives for affordable housing in TODs. If the Council chooses to adopt the proposed changes the following language is suggested: In Section 25-2-766.22(B), add the following new Paragraph (3), delete Paragraph (7), if required, and renumber the remaining paragraphs accordingly: (B) A station area plan: <u>(3) in a community preservation and revitalization zone established by council;</u> <u>(a) for a transition zone, may not prescribe site development regulations that are more permissive than those prescribed by the applicable zoning district before adoption of the station area plan;</u> <u>(b) for a gateway zone or midway zone, may not prescribe site development regulations that are more permissive than those prescribed by the applicable zoning district before adoption of the station area plan, unless:</u> <u>(i) the regulations apply to a development that contains residential units; and</u> <u>(ii) the development meets the goal of providing at least 25 percent of the residential units to households with an income of not more than 60 percent of median family income for the Austin area;</u>
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Not in March 24th draft ordinance

Regarding TOD Districts located outside the area designated as a CP&R Zone:

- 1) set an affordable housing goal of 25% of units at 80% of MFI for units providing homeownership opportunities and at 60% of MFI for units providing rental opportunities.
- 2) Require that a station area plan only allow changes to the site development regulations in a manner that allows increased development density for TOD Districts located outside of the CP&R Zone if the following are true:

- (a) a proposed development includes a residential component; and
- (b) the proposed development meets the goals for affordable housing for TOD Districts located outside the area designated as a CP&R Zone.

Regarding the revised goal for affordable housing:
Staff supports the affordable housing goals identified in the proposed change and recommends the following ordinance language:

Section 25-2-766.22, delete the current paragraph (7) add a new Paragraph (7), or renumber accordingly:

(B) A station area plan:

"(7) for TOD areas outside a Community Preservation and Revitalization Zone established by Council, shall include a housing affordability analysis and feasibility review that describes potential strategies for achieving a goal of 25% of new housing to serve low and moderate income families, including home ownership opportunities for families at or below 80 percent of median family income and rental housing opportunities for families at or below 60 percent of median family income."

Regarding the limitations on development density:

Staff does not recommend the proposed limits on development density for the following reasons:

The proposed change is similar to the approach used to achieve affordable housing in the University Neighborhood Overlay (UNO) and the Rainey Street area. However, in those areas zoning was approved concurrent with affordable housing standards.

The TODs will be the subject of a detailed public station area planning process, designed in part, to identify strategies for achieving the Council's affordable housing goals. Any zoning for increased density will be proposed as part of the station area planning process and will be subject to Council review and approval. Implementing the proposed restrictions in advance of the SAP may limit flexibility and opportunities for creating incentives for affordable housing in TODs.

Original Description Language Acquired Process Change Staff Comments/Recommendation				
4 (cont)				If the Council chooses to adopt the proposed changes the following language is suggested: In Section 25-2-766.22(B), add the following new Paragraph (4), delete Paragraph (7), if required, and renumber the remaining paragraphs accordingly: (4) outside a community preservation and revitalization zone, may not prescribe site development regulations that are more permissive than those prescribed by the applicable zoning district before adoption of the station area plan, unless: (a) <u>the regulations apply to a development that contains residential units; and</u> (b) <u>the development meets the goals of providing:</u> (i) <u>at least 25 percent of the home ownership residential units to households with an income of not more than 80 percent of median family income for the Austin area; and</u> (ii) <u>at least 25 percent of the rental residential units to households with an income of not more than 60 percent of median family income for the Austin area;</u>

Ordinance Description	Not in March 24th draft ordinance	Regarding the Saltillo TOD District, stipulate the following: (a) that the entire area contained within the proposed boundaries of the Saltillo TOD District is designated as a transition zone; (b) that the station area plan may not recommend a gateway zone for any portion of the Saltillo TOD District; and (c) that the station area plan for the Saltillo TOD District may only recommend the creation of a midway zone for all or part of the property owned by Capital Metro.	Staff does not recommend the proposed change. The result of the proposed amendment is that approximately 90% of the property within the Plaza Saltillo TOD (111 out of 122 total acres) could not be considered for additional density during the public Station Area Planning process. This restriction could limit: 1) affordable and market rate residential units; 2) additional commercial and retail space providing employment and local business opportunities, and 3) potential transit ridership Any zoning for increased density will be proposed as part of the station area planning process and will be subject to Council review and approval. Implementing the proposed restrictions in advance of the SAP may limit flexibility and opportunities for creating incentives for affordable housing in TODs. If the Council chooses to adopt the proposed change the attached map of the Plaza Saltillo TOD (Appendix D, Exhibit 2) should be substituted for the current map included in the draft ordinance and the following language added to the ordinance: Add a new 25-2-766.22(C) to read: <u>(C) This Subsection applies in the Plaza Saltillo TOD district. A station area plan may not include a gateway zone or expand the original boundaries of a midway zone.</u>
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Ordinance Changes Requested by Council Member Slusher

25-2-766.23 Page 8, line 21	Revise Section 25-2-766.23 (B) to read: <u>Amendments to a station area plan may be proposed by land owners not more than once per calendar year per property owned.</u>	Staff recommendation: In Section 25-2-766.23, add the following new Subsections (C) and (D): (C) For a station area plan that is within an adopted neighborhood plan area, an amendment to the station area plan must be reviewed and approved in accordance with the neighborhood plan amendment process established by council. (D) This subsection prescribes the review process for an amendment to a station area plan that is outside an adopted neighborhood plan area. (1) Except as provided in Paragraph (2), the director may not accept an application to amend a station area plan until one year after adoption of the plan. After that date, the director may accept an application to amend the plan relating to an individual property not more frequently than once each 12 months. An application may be filed for a station area plan west of Interstate Highway 35 only during the month of February and for a station area plan east of Interstate Highway 35 only during the month of July. (2) The director may accept an application to amend a station area plan at a time other than that prescribed by Paragraph (1) if the director determines that: (a) not accepting the application would result in a hardship to the applicant, and the development proposed by the applicant will not adversely affect the public health, safety, or welfare;
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6 (cont)	Revise Section 25-2-766.23 (B) to read: <u>Amendments to a station area plan may be proposed by land owners not more than once per calendar year per property owned.</u> (Continued)		
(b) the amendment would allow the development of a S.M.A.R.T. Housing certified project in which at least 40 percent of the proposed units are reasonably priced; or (c) the amendment would allow development that: (i) provides environmental protection that is superior to the protection that would otherwise be achieved under the existing station area plan; or (ii) promotes the recruitment or retention of an employment center with 100 or more employees.			
7	Review Section 25-2-766.02 concerning the minimum height as it applies to sites of less than 8,000 square feet.	Earlier versions of the ordinance specified minimum building heights within the TODs. Due to concern over the potential impacts to small sites an exemption for lots less than 8,000 square feet in size was added. The minimum building height requirement has been deleted from the ordinance and the related exemption has also been removed. No change recommended. If minimum building heights are included in the SAPs exemptions can be established at that time.	

Ordinance Changes Requested by the Austin Transit Communities Coalition (ATCC)

Section 25-2-766.22 Page 8, Line 12	(B) A station area plan: (7) shall include a housing affordability analysis and feasibility review that describes potential strategies for achieving a goal of 25 percent of new housing to serve low and moderate income families, including home ownership opportunities for families at or below 80 percent of median family income and rental housing opportunities for families at or below 60 percent of median family income;	(7) "shall include a housing affordability analysis and feasibility review that describes potential strategies for achieving a goal of at least 25% of new housing <u>within each TOD serving families at the following income levels: home ownership opportunities for families at or below 80% Median Family Income ("MFI") and rental housing serving families at or below 50% MFI."</u>	Revise subsection 25-2-766.22 (B) (7) to read: "shall include a housing affordability analysis and feasibility review that describes potential strategies for achieving a goal of 25 percent of new housing <u>within each TOD serving families at the following income levels: home ownership opportunities for families at or below 80 percent of median family income and rental housing opportunities for families at or below 60 percent of median family income;"</u>	Staff recommends similar language regarding stratified goals in the resolution. No change recommended to the ordinance. Including this language in the ordinance has the potential to create the impression that the stratified goals are a requirement.
Section 25-2-766.21 Page 7, Line 19	Not included in ATCC version of draft ordinance provided to Council at 2nd reading	Add the following language to the ordinance: "For rental units, the 25% affordability goal includes at least 10% of units at 40-50% MFI, 10% of units at 30-40% of MFI and 5% of units at less than 30% of MFI. For homeownership units, the 25% affordability goal includes at least 10% of units at 70-80% of MFI, 10% of units at 60-70% of MFI and 5% of units at less than 60% of MFI."	Revise Subsection to read: (B) A station area plan: (7) "shall include a housing affordability analysis and feasibility review that describes potential strategies for achieving a goal of at least 25% of new housing <u>within each TOD serving families at the following income levels: home ownership opportunities for families at or below 80% Median Family Income ("MFI") and rental housing serving families at or below 50% MFI."</u>	Staff recommends similar language regarding stratified goals in the resolution. No change recommended to the ordinance. Including this language in the ordinance has the potential to create the impression that the stratified goals are a requirement.

Ordinance Description		Language Adopted 2nd Reading		Proposed Change	Staff Comments Recommendation
10	Section 25-2-766.21	Not in version of ordinance provided to Council at 2nd reading.	Add the following language to the ordinance: "The City Manager is directed to adopt and implement policies and programs to achieve the affordability goals."	Similar language is recommended for the resolution, below.	
Ordinance Changes Requested by the Real Estate Council of Austin					
11	Section 25-2-766.12 Page 5, Line 23	(D) A use with a drive-in service is prohibited.	(D) A use with a drive-in service located more than 300 feet from an arterial roadway is prohibited	Not recommended. In many of the TODs permitting drive-in services within 300' of an arterial roadway would include a majority of the property within the TOD. Prohibiting drive-in services is consistent with the goal of creating a more pedestrian friendly environment in TODs. If the Council chooses to adopt the proposed changes staff suggests classifying a drive-in services use as a Conditional use.	
Ordinance Changes Recommended by the Planning Commission					
12	Section 25-2-147 Page 1, Line 18	Transit oriented development district is the designation for an identified transit station and the area around it. The district provides for development that is compatible with and supportive of public transit, a pedestrian-oriented environment, and S.M.A.R.T. Housing.	Transit oriented development (TOD) district is the designation for an identified transit station and the area around it. The district provides for development that is compatible with and supportive of public transit, a pedestrian-oriented environment, and S.M.A.R.T. Housing.	Staff supports the proposed change.	

Ordinance Description	Language Adopted and Reading	Proposed Change	Staff Comments Recommendation
13	Section 25-2-766.21 Page 7, Line 25	(B) A station area plan must be included in an adopted neighborhood plan, if any. An amendment to an adopted neighborhood plan to include a station area plan must be reviewed and approved in accordance with the neighborhood plan amendment process established by council.	(B) A station area plan must be consistent with an adopted neighborhood plan, if any. A neighborhood plan amendment must be reviewed and approved in accordance with the neighborhood plan amendment process established by council.
14	Section 25-2-766.21 Page 7	Not adopted at 2nd reading.	Add new paragraph (C): <u>A Station Area Plan must feature 100 percent S.M.A.R.T. Housing.</u>
15	Section 25-2-766.22 Page 8	Not adopted at 2nd reading.	Add new subsection: (B) A station area plan: <u>(9) shall include estimates of increased ridership from local residents</u>
16	Section 25-2-766.22 Page 8	Not adopted at 2nd Reading.	Add new subsection: (B) A station area plan: <u>(10) shall include consideration of public and civic art in and near transit stations.</u>
			The City charter requires any zoning change to be consistent with the Comprehensive Plan. The ordinance language adopted on second reading accomplishes this objective.
			Staff recommends maintaining S.M.A.R.T. Housing as a voluntary initiative. It is premature to require property owners in TODs to meet Green Building requirements in the absence of identified incentives. However, S.M.A.R.T. Housing standards such as Green Building and Accessibility / Visitability could be required of applicants who take advantage of any development incentives established during Station Area Plan process.
			Capital Metro has preliminary ridership estimates for each of the stations. The Station Area Plans will iteratively refine the estimates based on proposed land use plans. This issue will be addressed without mandating it in the ordinance.
			All Station Area Plans will consider this issue through either Capital Metro Station design or the City's Art in Public Places Program.

Ordinance Changes Recommended by the Zoning and Platting Commission

17	Subpart B Page 4, Line 24	Initial district regulations (prohibited, conditional uses and revised site development regulations) apply in Gateway, Midway, and Transition zones	Initial district regulations shall apply in the Gateway Zone only	Not recommended. The effectiveness of the initial TOD overlay will be minimized by removing Midway and Transition zones.
18	Section 25-2-766.04 Page 4, Line 3	(A) Transit oriented development districts (TOD) are established and classified as follows: (7) The North IH-35 Park & Ride TOD district is established as a town center TOD district.	Delete the North IH-35 TOD from the TOD ordinance	Not recommended. The North IH-35 TOD is integral in establishing TOD districts along the CMTA rapid bus line.

TOD Housing Resolution Summary of Issues

Resolution Number	Language in Major 4th Draft Resolution	Proposed Change	Staff Comments/Recommendation
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Resolution Changes Requested by the Austin Transit Communities Coalition (ATCC)

19	Resolution: Section A	Each station area plan should include a feasibility analysis of potential strategies and policies to achieve affordability periods of 10 years for home ownership units and 30 years for rental units.	Change language to read: "Each Station Area Plan should include a feasibility analysis of potential strategies and policies to achieve affordability periods of at least 10 years for homeownership units and at least 30 years for rental units."	This requested change is redundant with existing language in Section D, which states that the city will "pursue policies, programs, or funding sources that may be available to achieve or exceed housing goals."
20	Resolution: Section C	For rental units those goals include 10% of units at 30-40% of MFI and 5% of units at less than 30% of MFI.	The last sentence should be modified to state: "For rental units those goals include 10% of units at 40-50% MFI, 10% of units at 30-40% of MFI and 5% of units at less than 30% of MFI."	Change text in Section C to read, "For rental units those goals include 10% of units at 40-50% MFI, 10% of units at 30-40% of MFI and 5% of units at less than 30% of MFI."
21	Resolution: Section B	The housing goals for each Station Area Plan may be modified during the Station Area Planning Process to establish affordability percentages and MFI levels appropriate to each Station Area.	Change language to read: "The housing goals for each station area plan may be increased during the station area planning process to reflect the incomes of the surrounding residents and allow surrounding residents to be able to afford housing in the Station Area."	No change recommended. While the intent of the resolution is to establish a benchmark of 25% affordability in each TOD area, the City should preserve flexibility in TOD areas with high land values such as the Convention Center TOD.
22	Resolution: Section D	n/a	Change language to clarify that the City Manager is responsible for pursuing policies to make affordability goals a reality in coordination with multiple city departments.	Change text in paragraph D to state, "The City Manager will direct the Community Development Officer to pursue policies, programs or funding sources that may be available to achieve or exceed housing affordability goals within the area of each Station Area Plan."

Resolution Description	Language in March 10 th Staff Resolution	Proposed Change	Staff Comments/Recommendation
Resolution: n/a 23	n/a	Add new Paragraph D: <u>"The goal of transit-oriented development is to achieve green building standards of Level 3 Star for residential and Level 2 Star or LEED for commercial."</u>	No change recommended. It is premature to require private property owners in TODs to meet Green Building requirements in the absence of identified incentives or subsidies.
Resolution Changes Recommended by Staff			
Resolution: Section A 24	The goal of transit-oriented development should be that 25% of the new housing in each TOD area is affordable to low and moderate income families.	Clarify language.	The <u>housing goal for transit-oriented development areas</u> should be that 25% of the new <u>housing units</u> in each TOD area <u>are</u> affordable to low and moderate income <u>households</u> , as further defined in this resolution.
Resolution: Section A, Section B 25	The following language is currently located in Section B: "The housing goals for each Station Area Plan may be modified during the Station Area Planning Process to establish affordability percentages and MFI levels appropriate to each Station Area."	Moving this language to Section A will improve the legibility of the Resolution.	Move the following language from Section B to Section A: <u>"The housing goals for each Station Area Plan may be modified during the Station Area Planning Process to establish affordability percentages and MFI levels appropriate to each Station Area."</u>
Resolution: Section A, Section C 26	The following language is currently located in Section A: "Each station area plan should include a feasibility analysis of potential strategies and policies to achieve affordability periods of 10 years for home ownership units and 30 years for rental units."	Staff recommends moving this language to Section C, to be located with other language that discusses analyses that will be conducted.	Move the following language from Section A to Section C: <u>"Each station area plan should include a feasibility analysis of potential strategies and policies to achieve affordability periods of 10 years for home ownership units and 30 years for rental units."</u>

Resolution Resolution	Language in March 2005 Resolution Proposed Change Staff Comments/Recommendation
Resolution: Section B	The housing goals for each Station Area Plan may be modified during the Station Area Planning Process to establish affordability percentages and MFI levels appropriate to each Station Area. Station Area Plans shall include an analysis of the area MFI of the neighborhood(s) surrounding the each TOD area, and - where the area MFI is lower than 80% of the City MFI - will identify tools and strategies to achieve the goal of 25% of new housing to be available to household at or below the area MFI. The Station Area Plan will also assess the potential fiscal impact of these tools and strategies. Change Resolution in response to Council Member Alvarez's request: Regarding TOD Districts located within the area designated as a Community Preservation and Revitalization (CP&R) Zone: 1) set an affordable housing goal of 25% of residential units at 60% of MFI. Regarding TOD Districts located outside the area designated as a CP&R Zone: 1) set an affordable housing goal of 25% of units at 80% of MFI for units providing homeownership opportunities and at 60% of MFI for units providing rental opportunities. In Section A, delete the following text: "Housing providing home ownership opportunities for families at or below 80% Median Family Income ("MFI") and rental housing serving families at or below 60% MFI is considered affordable." Delete existing Section B. Replace with the following text: (B) <u>For TOD areas not within a Community Preservation and Revitalization Zone established by Council, housing providing homeownership opportunities serving households at or below 80% of the City of Austin Median Family Income ("MFI") or rental opportunities serving households at or below 60% MFI is considered affordable.</u> Add new Section C and renumber the remaining sections according: (C) <u>For TOD areas fully or partially within a Community Preservation and Revitalization Zone established by Council, housing providing homeownership or rental opportunities serving households at or below 60% MFI is considered affordable."</u>

