

**APPROVED BASE MOTION OF THE  
DRAFT LAND DEVELOPMENT CODE REVISION**

Approved on First Reading the Draft Land Development Code published on October 4, 2019, with the following amendments as described more specifically below:

- Staff’s First Supplemental Report (“STAFF1”), issued on October 25, 2019
- Staff’s Second Supplemental Report (“STAFF2”), issued on November 25, 2019
- Staff-accepted Planning Commission Recommendations (“PC”), as described in the Report of the City of Austin Planning Commission issued on November 22, 2019 and
- Council initiated Amendments.

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**I. RESIDENTIAL [R1-R3]**

— **HEIGHT**

**[STAFF1] HGT-2 Top Plate**

*Clarification*

Revise Section 23-12A-1030 (*General Definitions*) to clarify that the definition of “top plate” applies.

— **RESIDENTIAL DEVELOPMENT REGULATIONS**

**[STAFF1] RES-1 Density**

*Clarification*

Revise Division 23-3C-3 (*Residential House-Scale Zones*) to clarify the minimum and maximum number of units allowed per lot in each Residential House-Scale zone.

**[STAFF1] RES-2 Preservation Incentive**

*Substantive Revision*

- Change the limitation on improvements to habitable space from value of structure cost to a percentage increase or absolute amount of square footage.
- Clarify that additional dwelling units added to the lot are through uses permitted in the zone.

**[STAFF1] RES-3 Private Frontage**

*Clarification*

Where private frontage is required in a residential zone, specify that at least one residential unit must face the public right-of-way and provide private frontage.

**[STAFF2] RES-4 Additional Changes to Preservation Incentive**

*Substantive Revision*

To better achieve the goals of the preservation incentive, revise proposed regulations to:

- Require that a portion of the front façade of the preserved unit be retained and that any modifications include the addition of a private frontage, if one does not exist;
- Limit the floor area that can be added when utilizing the preservation incentive, potentially by requiring the bonus unit to count towards maximum FAR and exempting or partially exempting the preserved unit;

- Clarify the extent to which a preserved structure may be modified, using the requirements applicable to nonconforming structures as a baseline, and include appropriate administrative/enforcement provisions;
- Clarify that a bonus unit added through the preservation incentive may be for any residential use allowed in the base zone, which may result in more than one ADU; and
- Clarify that for a multifamily use that utilizes the preservation incentive, the number of new units that can be added is equal to the number of preserved units plus one additional unit.

**[STAFF2] RES-5 Fences**

*Clarification*

- Clarify that the 4-foot height limit within the front setback is limited to Residential House-Scale Zones and Residential Multi-Unit Zones; all other zones are permitted to have fences up to 8-feet in height in the front setback.
- Clarify the applicable distance restrictions for fences near the intersections of streets and driveways.

**[STAFF2] RES-6 Graduated Impervious Cover**

- Consistent with Planning Commission’s recommendation, reduce allowed impervious cover to 40% for Residential House-Scale Zones with one unit.

**[PC] R21 Double height space relation to FAR**

*Staff-Supported PC Rec.*

PC Intent: In calculating FAR (Floor Area Ratio), all conditioned space 15' tall and taller count twice toward FAR

Staff Response: Staff agrees.

**[PC] R2 SF-attached FAR calibration**

*Staff-Supported PC Rec.*

PC Intent: Sync SF-attached FAR equal to FAR for duplex (and duplex/multifamily FAR in bonuses). Ensure we do not allow gaming of FAR with subsequent subdividing.

Staff Response: Staff will review the FAR limit for duplexes and SF-attached in RHS zones.

**[PC] R5 R4 FAR adjustment**

*Staff-Supported PC Rec.*

PC Intent: Revise R4 FAR to be graduated by unit count, increasing to incentivize more missing-middle units and re-evaluate bonus FAR in consideration of bonus viability.

Staff Response: Staff agrees with the intent of this recommendation that FAR be tailored to maximize higher unit yields.

**[PC] R22 Garage FAR exemption**

*Staff-Supported PC Rec.*

PC Intent: In calculating FAR (Floor Area Ratio), allow a garage / carport exemption of 200 sq ft per unit

Staff Response: Staff agrees.

**[PC] R30 R1 floor area calibration for small lots** *Staff-Supported PC Rec.*

PC Intent: Calibrate R1 single-family (small lot) floor area allotment to keep existing small lot amnesty homes compliant.

Staff Response: Staff will review R1 to align with small lot amnesty allowances.

**[PC] R10 Clarify entitlements for multiple forms** *Staff-Supported PC Rec.*

PC Intent: Clarify code when a mix of forms are utilized, such as a duplex and an ADU.

Staff Response: Staff will clarify code requirements for a mix of forms.

**[PC] R31 Correct R1 map to match existing small-lot amnesty lots** *Staff-Supported PC Rec.*

PC Intent: Make R1 (replacement zone for small-lot amnesty) match current zoning by mapping it everywhere current small-lot amnesty SF zoning is mapped.

Staff Response: Staff agrees and is making map corrections for lots below 5000. Lots between 3500-4999 sq ft will be zoned to R2C; lots between 2500-3499 will be zoned R1.

**[HARPER-MADISON #3]**

Consider opportunities for interior neighborhood commercial spaces to offer walkable access to basic amenities such as but not limited to daycares, pharmacies, neighborhood groceries, restaurants, and civic spaces.

**[HARPER-MADISON #6]**

Preserve and amend NCCDs to ensure changes related to ADUs, Parking, Preservation Bonuses, Affordability Bonuses and Transition Area mapping apply within the NCCDs.

**[HARPER-MADISON #7]**

Allow co-housing in all R-zones.

**[GARZA #3] RESIDENTIAL SECTION - SMALL NEIGHBORHOOD GROCER**

A. Allow small neighborhood grocers as CUP in all zones

DIRECTION: Work with Economic Department to identify the square footage of a small neighborhood grocer and where this type of use can benefit areas that have difficulties accessing healthy food options.

**[CASAR RES1] Compliant Properties**

If changes to the code cause properties in RM1 zones and below to be non-conforming, allow existing residential uses to be compliant and allow such residential uses to expand to current code site development standards. New site development standards from R1 to RM1 should only apply to new builds. However, properties in RM1 zones and below should not be allowed to expand their impervious cover to levels higher than 40% for single unit development/expansion, as listed in the staff-supported

planning commission recommendation, while allowing for 45% impervious cover for two-unit development, as listed in the staff-supported planning commission recommendation.

### **[CASAR RES2] Site Development Standards**

To incentivize smaller housing types, R-zones should allow for increased allowable size of structures only as the number of units increases. This would mean a fourplex would be allowed to be a bigger size than a triplex, a triplex would be allowed to be a bigger size than a duplex, and a duplex would be allowed to be a bigger size than a single family house. Also, staff should continue to explore having a different graduated FAR for large lots compared to small lots to keep with the goal of incentivizing moderate size, family friendly housing. Here is an illustration of FAR requirements that would incentivize family friendly, but modest size, homes without prescription:

- (1) 0.35 FAR for one unit
- (2) 0.5 FAR or for two units
- (3) 0.65 FAR for three units
- (4) 0.8 FAR for four units

### **[CASAR] RES3 AMEND PC R22:**

#### **[PC] R22 FAR Exemptions**

In calculating FAR (Floor Area Ratio), allow a partial attic and partial garage / carport exemption.

### **[CASAR] RES4 Preservation Bonus**

Consider the preservation bonus as follows (without specific numbers or methods being prescribed)

- (1) Allow the preserved unit(s) to be expanded and remodeled up to the allowable FAR for the unit(s).
- (2) Limit the size of a single preservation unit ADU to be larger than the current allowable size (e.g., 1,600 sq ft) and two-unit preservation bonus to 0.5 FAR (or whichever graduated FARs are adopted).
- (3) Consider allowing lots utilizing the preservation bonus to utilize a simple subdivision process and allow them to waive minimum lot sizes upon subdivision.
- (4) Clarify that preserving only the existing ADU does not qualify as preservation.
- (5) Reduce the required age of a qualifying home to be preserved from 30 to 15 years.
- (6) If possible, increase impervious cover if preservation bonus is used. Reduce impervious cover in R2 zones for developments of only one unit (as recommended by the Planning Commission) or an amount that negates the increase in impervious cover, and potentially reduce the impervious cover for R2 zones generally to negate any increase in impervious cover.
- (7) Waive parking requirements for preservation bonus units.
- (8) To utilize the preservation bonus, there must be an increase in units.

**[CASAR] RES5 ADU**

Allow mobile homes, RVs, tiny homes, and airstreams to be utilized as dwelling units and staff should include requirements for health and safety.

**[ALTER #4] FAR Calibration**

Staff should come back with code language and modeling demonstrating the impacts on housing and affordability capacity to eliminate attic, garage, and balcony exemptions from FAR calculations in residential-house scale and transition zones. Staff should prepare information to demonstrate what if any impact eliminating those exemptions would have on housing unit capacity. The new code should include an updated and clear definition of “Residential Unit” so that only spaces truly meant for separate habitation are allowed to access increased FAR and impervious cover entitlements, (including artist studio and other work/live spaces within the additional unit).

## II. TRANSITION AREAS [R4, RM1]

### — HEIGHT

#### [STAFF1] HGT-1 Residential 4 (R4) Height

*Clarification*

Revise applicable R4 standards to clarify that bonus height, for purposes of the affordable housing density bonus, applies to both top plate and overall height.

### — LOCALIZED FLOODING

#### [STAFF2] LCF-1 Potential Map Changes

*Substantive Revision*

Pending outcome of ongoing analysis of impervious cover changes within local flood problem areas, consider reducing the application of missing middle zones, if warranted, to mitigate the risk of drainage problems.

### — MISSING MIDDLE HOUSING | MAP CHANGES

#### [STAFF2] MAP-1 Transition Area Mapping

*Substantive Revision*

- (a) Apply comparable equivalent R2 zoning in areas defined as “Susceptible” or “Early – Type 1” by the UT *Uprooted* Report. (b) Apply R3 in areas identified as “Dynamic” to support incremental increases in housing diversity. (c) Similar to the October 4 draft, apply R4 to areas identified as “Late” to support more missing middle housing.
- Consistent with proposal from Supplemental Staff Report No. 1, on predominantly residential corridors where transition zones are mapped, reduce the depth of the transition zone (i.e. R4, RM1) by adjusting the depth to include the residential properties fronting the corridor. In general, this would result in the citywide reduction of transition zone application depth by one lot on predominately residential corridors.
- Where transition areas are reduced or eliminated, identify alternative options for increasing the supply of missing middle housing.

#### [STAFF2] MAP-2 High Opportunity Areas

*Substantive Revision*

To increase the supply of missing middle housing in recognized high opportunity areas, consider map revisions that locate additional missing middle housing opportunities near:

- Imagine Austin Centers
- Parks
- Schools
- Grocery stores
- Corner lots
- Mobility bond-funded improvements

#### [STAFF2] MAP-3 Map

*Corrections*

Continue updating the “LDC Map Corrections” spreadsheet as errors in applying established criteria are identified, with greater attention to typography and its relationship to walkshed routes.

— **MISSING MIDDLE HOUSING | TEXT CHANGES**

**[STAFF1] MM-1 Type 3 Short-Term Rentals**

*Substantive Revision*

Revise Sections 23-3C-3030 and -4030 (*Allowed Uses and Permit Requirements*) to prohibit Type 3 STRs in the two transition area zones: R4 and RM1. Consider allowing them for projects providing on-site affordability to help off-set the cost associated with those on-site affordable units.

**[STAFF1] MM-2 Impervious Cover for Two-Unit Residential**

*Substantive Revision*

Revise Section 23-3C-3130 (*Residential House-Scale 4 Zone*) and Section 23-3C-4060 (*Residential Multi-Unit 1 Zone*) to limit impervious cover to 45%, rather than 50% or 60%, respectively, for projects with two units or less. In staff's view, the additional impervious cover is not necessary to accommodate the construction of two units in an R4 or RM1 zone because other residential zones that allow two units on a similarly sized lot are limited to 45% impervious cover.

**[STAFF1] MM-3 Unified Development Agreements**

*Clarification*

Revise applicable provisions to clarify that no more than two lots may be joined for purposes of applying site development standards under a unified development agreement.

**[STAFF2] MM-4 Reductions in Maximum FAR**

*Substantive Revision*

- Revise RM1 regulations to reduce maximum FAR from 0.8 to 0.6 for residential development of three units or less. Consider additional FAR reductions as needed to incentivize housing capacity and discourage larger size units in missing middle zones.
- Revise R2 regulations to reduce maximum FAR for two-unit projects on larger lots, with current code as a point of reference, while ensuring that FAR limits are sufficient to allow construction of ADUs on lots less than 7,000 square feet.

**[STAFF2] MM-5 Floor Area Calculations**

*Substantive Revision*

Revise calculation of gross floor area to better account for usable space, such as garages and attics, which contribute to size and mass. Use current McMansion ordinance as a point of reference, but ensure that proposed rules are simple and open to less interpretation.

**[PC] T1 Substitute Amendment**

*Staff-Supported PC Rec.*

PC Intent: Overriding any other instruction, mapping of any additional transition zones should not be placed in any areas identified in the uprooted study found as being susceptible, early or dynamic gentrification stages but instead place in other high opportunity areas in locations identified by Council direction or Planning Commission suggestion prioritizing areas with higher levels of transit service.

Staff Response: This recommendation is consistent with staff's continued refinement of the application of transition areas in vulnerable areas.

**[PC] T5 Zoning Map - Additional Context Sensitive Mapping Criteria for Transition Areas**

*Staff-Supported PC Rec.*

PC Intent: Increase depth and zone density for transition areas when conditions exist for maximizing density where corridors, centers and high capacity transit co-exist. There are areas where IA and TPN corridors also serve as high capacity transit service routes and intersect IA centers with high density RM, MS, and MU zones.

Staff Response: Staff will review centers for additional opportunities to maximize the application of transition zones.

**[PC] T9 Zoning Map - Transition Areas Near Parkland**

*Staff-Supported PC Rec.*

PC Intent: Map additional missing middle near dedicated parkland of substantial size or programming with consideration for safety.

Staff Response: Staff will review the application of new transition zones to areas adjacent to parkland in high opportunity areas.

**[PC] T12 Zoning Map - Missing Middle Goal**

*Staff-Supported PC Rec.*

PC Intent: Map transition zones, high opportunity areas and IA centers with missing middle zones to achieve the goal of 30% missing middle housing.

Staff Response: Staff agrees the draft Code should seek to achieve this goal, in a manner consistent with other applicable council direction.

**[PC] I19 Map Red and Green Lines as Corridors**

*Staff-Supported PC Rec.*

PC Intent: Keeping with Council and PC comments regarding gentrifying areas, flood plains, etc., map our existing and planned rail line stop walk-sheds as corridors with transition zones with transit supportive densities.

Staff Response: Staff will review current and proposed transit stops for the Green and Red lines for additional transition area mapping.

**[HARPER-MADISON #5]**

Reduce minimum lot size requirements in missing middle zones to better facilitate fee-simple ownership of missing middle units on current standard lot sizes.

**[HARPER-MADISON #10]**

Study and model potential code revisions to all impervious cover in missing middle zones and the utilization of green stormwater infrastructure on site to improve water quality, stormwater management, and ensure project feasibility. Consider ways GSI can be used to unlock affordability.

- a) GSI alternatives to impervious limitations should be drafted in a prescriptive manner to eliminate uncertainty and provide swift review.
- b) Performance based GSI standards should also be provided to maintain design flexibility and context sensibility.



**[GARZA #2] TRANSITION AREAS SELECTION - MISSING MIDDLE CHILDCARE**

- A. Increase the number of children allowed in the Childcare Large use from a maximum of 24 kids to 36 kids
- B. Allow as a permitted use childcare large under R3, R4
- C. Allow a MUP for Childcare commercial use under RM1

**[CASAR TA1] R4 Site Development Standards**

A small increase in impervious cover in R4 with reduced impervious cover in R2 zones to mitigate, in the same watershed, the increase in impervious cover.

**[CASAR TA2] RM1 Site Development Standards**

- (1) Allow an affordable housing height bonus to reach 45', the bonus height in R4.
- (2) More easily allow stacked row homes and create a new RM1 zone that focuses on row homes.

**[KITCHEN #2] Dumpster location**

-Minimize disruptions and conflicts with residential and commercial service needs

- 1. Consider incorporation of East Riverside Corridor Regulating Plan, Affordability Unlocked, or other design standards as they relate to dumpster location and requirements to minimize disruptions for dumpster services. This should consider appropriate distances from residences, screening requirements, as well as frequency and allowable hours of service.

**[KITCHEN #4] Parking requirements in transition areas**

Modify and/or clarify the code to create options to reserve on-street, accessible parking to ensure that caregivers, meal delivery drivers, and volunteer or ride share drivers have access to seniors' housing, and in other cases on as-needed basis, in a way that is legal and/or that staff recommends.

**[KITCHEN #5] Reduce restrictions on parking for eldercare facilities**

-To ensure enough parking to enhance visitability. (PC A 13)

- 1. Encourage accessible elder care by reducing restrictions, including parking, on elder care facilities, including occupancy limits, in all zoning categories, except industrial and airport zones.

**[KITCHEN #6] Review transition zone areas greater than 5 lots**

-To review Council's direction to map depth 2-5 lots.

- 1. Review Activity Centers and apply the same criteria for mapping areas adjacent to Activity Centers as was applied for those adjacent to corridors and Transit Priority Networks.

### III. CENTERS AND CORRIDORS [RM/MU/MS/CC/DC/UC]

#### — COMMERCIAL ZONING REGULATIONS

##### [STAFF1] COM-1 Private Frontage

*Clarification*

Where private frontage is required in a commercial or mixed-use zone, specify the percentage of building facade that must include private frontage.

#### — COMPATIBILITY

##### [STAFF1] CMP-1 Measuring Compatibility

*Clarification*

The relationship of compatibility and the triggering property line is defined in 23-12A (*General Definitions*); however, for clarity and ease of use, staff recommends including language that references how compatibility is measured in relation to the triggering property line in each applicable zone.

##### [STAFF1] CMP-2 Compatibility Allowances

*Clarification*

Clarify what is allowed to be constructed in the compatibility setback, similar to what is provided for under current code.

##### [STAFF2] CMP-3 Distance from Triggering Property

*Substantive Revision*

Revise the compatibility standards of CR and all MU and MS zones to have height reductions within 100 feet of a triggering property lot line.

#### — DOWNTOWN REGULATIONS

##### [STAFF2] DT-1 Commercial Core (CC) Subzone Bonuses

*Substantive Revision*

Staff supports the Planning Commission recommendation to allow all Commercial Core (CC) subzones to participate in the Downtown Density Bonus Program (DDBP), with no cap on floor area ratio (FAR) or height. This will help achieve greater market-rate and income-restricted residential units.

##### [STAFF2] DT-2 Research and Development - Non-Hazardous

*Substantive Revision*

Allow Research and Development - Non-Hazardous as a permitted use in CC and DC zones.

##### [PC] NR1 Uncap FAR in bonuses

*Staff-Supported PC Rec.*

PC Intent: Remove the maximum FAR in the bonus configuration of all MU and RM zones, except staff should look at RM 1.

Staff Response: Staff agrees that bonus FAR should not limit bonus dwelling units.

##### [PC] NR2 Restore current code for ground-floor height in corridor zones *Staff-Supported PC Rec.*

PC Intent: Make 15' minimum required height for bottom of the structure in MS zones and for corridor mixed-use zones with an activated ground floor.

Staff Response: Staff agrees that 15' is a suitable ground floor height for MS zones, where pedestrian uses are required on the first floor.

**[PC] NR5 Recalibrate bonus heights in RM, MU, MS, UC zones** *Staff-Supported PC Rec.*

PC Intent: Increase heights under bonus configurations in RM2, RM3, RM5, MU1, MU2, MU3, MU4, and MS3 to match natural building heights and sync one of UC's heights to UNO's 300' height. UC base heights should match the height of existing zones that are zoned into UC but a wide range of base heights should be available for future mapping.

Staff Response: Minor changes to bonus heights (not base height) would help capture more affordable (income-restricted) housing.

**[PC] NR6 Fix Cottage Court form** *Staff-Supported PC Rec.*

PC Intent: Follow residential WG guidance on cottage courts for RM zones

Staff Response: Staff is re-evaluating cottage court provisions to improve feasibility.

**[PC] NR13 Grandfathered under-parked buildings** *Staff-Supported PC Rec.*

PC Intent: Create a process for allowing applicants with change-of-use or minor construction on sites that have not met parking requirements for more than 10 years to continue without adding parking

Staff Response: Staff agrees with the intent of this recommendation.

**[PC] NR21 Allow Hotels in MU1&2** *Staff-Supported PC Rec.*

PC Intent: Allow hotels through a CUP in MU1 and MU2.

Staff Response: Staff agrees.

**[PC] DT2 Substitute Amendment** *Staff-Supported PC Rec.*

PC Intent: Consider an unlimited CC Base as is, and height unlimited with the bonus

Staff Response: Staff agrees that additional units, both income-restricted and market rate, should only be available through the Downtown Density Bonus Program, with no change to the base entitlements. This is in line with other recommendations from staff in the 10/4 draft to uncap the DDBP in certain subdistricts.

**[PC] I7 Rezone some Highland tracts to UC and add Activity Center and Transition Areas zoning in all Activity Centers and** *Staff-Supported PC Rec.*

PC Intent: Consider rezoning some Highland tracts and other Activity Centers to UC and apply transition zones from the Activity Centers.

Staff Response: Staff will continue to review centers for additional opportunities to map transition areas. Additionally, staff will review mapping new UC-60 zone (per PC Recommendation NR5) in Regional Centers, including Highland Mall properties.

**[PC] I14 MU3, MU4, MU5A, MU5B, MS2A, MS2B**

**Compatibility Height Stepback Distances**

*Staff-Supported PC Rec.*

PC Intent: Per Council direction and consistent with other zones that can reach 60' or more in height, Compatibility Height Stepback Distance from the triggering property for MU3, MU4, MU5A, MU5B, MS2A, MS2B zones should reach base standard height at a distance greater than 100 ft. from the lot line of the triggering property, provided transit zones are mapped from IA centers and TODs such that compatibility does not impact within them.

Staff Response: Staff will consider the application of additional transition zones near TODs and Centers to reduce the impact of compatibility on those properties. Staff agrees with the standardization of compatibility requirements in these zones.

**[HARPER-MADISON #1]**

Incorporate specific requirements for Waller Creek into the Downtown Civic Spaces Overlay that establishes metes and bounds for a common Waller Creek centerline for consistent planning and regulatory purposes within the LGC, establishes a 60' minimum building setback for new development from the newly-defined creek centerline and provides a variance process for encroaching into the 60' setback.

**[CASAR CC1] University Neighborhood Overlay**

Increase affordable housing bonus capacity in Inner and Outer West Campus without increasing the base.

**[CASAR CC2] Downtown**

- (1) Prohibit new curb cuts onto pedestrian streets, and expand pedestrian streets in the downtown plan to include the remainder of 2nd street from the Central Library to I-35, the length of the protected bike lane on 3rd street, and the bike lane on 5th street to the downtown station.
- (2) Consider eliminating the capitol dominance overlay while maintaining capitol view corridors in the area around the most frequent transit service.

**[CASAR CC4] Uses**

- (1) Allow temporary uses to serve or sell alcohol if they receive appropriate permitting.
- (2) Allow the Director to permit evidence of the temporary use to stay (such as art, landscaping etc)
- (3) Allow temporary uses to have portable toilets.
- (4) Allow indoor crop production to be allowed anywhere commercial warehouses are allowed, not just on AG land.
- (5) Eliminate commercial blood plasma as a discrete use, and combine it with medical office.
- (6) Add meditation, philosophy, and theology to definitions of religious assembly, instead of just religious services.

- (7) Remove Transitional and Supportive Housing as a use and allow them to be treated just as other residential uses.
- (8) For any corridor, change personal storage to a CUP if it is a P or MUP. Create a new minimum distance requirement from other personal storage uses. Create findings for Council to incorporate into the LDC related to the impact of Personal Storage on transit service.
- (9) For MU zones, change alcohol sales from unpermitted to CUP.
- (10) Allow government uses as a MUP in all zones where it is not permitted.
- (11) Permit RVs and manufactured homes on AG zoning as the primary dwelling unit.
- (12) Increase the number of allowed employees from one to two for home occupation and from two to five for live/work.
- (13) For home occupation, increase trips per day from 4 to 16 (to allow for an 8-hour day with 30-minute appointments).
- (14) Change definition of "multifamily" use for small multifamily (4-10) and multifamily (11+), and define 3 units as residential.

#### **[CASAR CC5 (New)] DOWNTOWN MAPPING AND CALIBRATION**

Amend [STAFF2] DT-1 Commercial Core (CC) Subzone Bonuses, [PC] DT2 Substitute Amendment, and [PC] A9 Unlimited CC Bonus to Increase Community Benefits

Allow an unlimited CC bonus across Downtown, except do not map this unlimited bonus in the small area of Downtown where there currently is no bonus, on first reading. Council intends to add a bonus with new height and density in this northwest area on second reading, while maintaining a transition in height to areas that are primarily Residential House-Scale within the Downtown area. This transition in heights is to be considered the transition zone for house-scale areas in the Downtown. Staff and stakeholders should explore options for achieving this goal.

Within the boundaries of the Downtown Plan Overlay, if staff demonstrates that greater participation in the affordable housing bonus program would be achieved, DC zones may be mapped where CC zones are currently proposed, while maintaining a reasonable transition in height to areas that are primarily Residential House-Scale within the Northwest District of the Downtown Austin Plan Overlay.

Late night cocktail lounge uses that are being newly permitted in Downtown areas (where they were previously unpermitted) should be allowed, but only by conditional use permit.

#### **[CASAR PC-NR10] MICROBREWERY TASTING ROOM RIGHT-SIZING**

Intent: Increase the allowed size of microbrewery tasting rooms on smaller sites.

Staff Response: Staff agrees that on-site tasting areas should be enlarged to accommodate smaller breweries/micro-breweries, but the floor area should not exceed 50%

**[CASAR PC-NR17] ALLOW MOBILE FOOD TRUCKS IN ALL RM, MS, MU ZONES (AND AMENDED AS FOLLOWS)**

Intent: Allow mobile food trucks in all RM2 and above zones with CUP and MU1 and MU2 with a Minor Use Permit (where they are currently prohibited)

Staff Response: Staff supports some level of heightened review for food trucks in MS and MU zones, but is opposed to allowing food trucks in RM zones, which are solely residential.

**[CASAR PC-NR22] CREATE AN MS1 ZONE**

Intent: Create a new MS1 zone for 3-story commercial with MS uses.

Staff Response: While staff regards the currently proposed zoning spectrum sufficient to meet Council directives and capacity goals, establishing additional zones for future use may be prudent.

**[KITCHEN #7] Review MU/MS categories**

-To ensure we provide appropriate zoning to achieve and support transit and corridor investments with housing opportunities.

1. Staff is directed to explore a zoning category that would enable and ideally incent large retail centers along corridors and major transit intersections, when they redevelop, to incorporate housing, including affordable housing. In addition, explore appropriateness of the proposed MU and/or MS zoning for tracts along corridors and major transit intersections, to accomplish and incent greater opportunity for affordable housing in mixed use developments, including capturing current “V” designations
2. Review MU and MS mapping along corridors, particularly along major transit corridors and those being upgraded with significant multi-modal transportation bond improvements.
3. Ensure the designated zoning provides maximum affordable housing potential, particularly on the larger corridor tracts at major intersections, including capturing or utilizing current “V” designations.
4. Review use assignments for MU and MS to ensure maximizing housing opportunities along transit corridors are not diminished by such uses as personal storage or uses in conflict with residential use.

**[KITCHEN #8] Mature Uses in MU5B zone**

-To provide family friendly housing in dense residential category

1. Explore options for revising proposed restrictions and/or creating a public process for appealing the uses under MU5B zoning that allow for adult entertainment in a residential location.
2. Proposed code currently provides for location restrictions such as:
  - 1) within 1000 feet of another adult entertainment establishment;
  - 2) within 1000 feet of a lot with a school, church, public park or playground, licensed day-care, museum or library is located; or

- 3) where 50 percent or more of the lots within 100- foot radius are zoned or used for a residential use.
3. On this last restriction, please consider modifications as follows:
  - Adjusting 50% threshold and provide rational or consideration of a more sensitive/protective threshold percentage for families; and
  - Include residences that are part of the actual commercial tract in considering number of impacted residential units triggering restriction.

#### **[FLANNIGAN – ZONING #1] Special Use in Historic Districts**

Revise special uses in historic districts to address the difference between the Code’s nondiscrimination clause as defined in Ch. 23-3D-1360 A.9 and the City’s official nondiscrimination policy and to expand the applications for Conditional Use Permits.

**[TOVO #34]** Update the draft code Section 23-3C-10130 (University Neighborhood Overlay) to reflect changes adopted on November 14, 2019, and December 9, 2019, and revise capacity numbers.

**[TOVO #35]** Update the draft Code Section and update capacity numbers to reflect changes to the Mueller Planned Unit Development adopted on December 5, 2019.

#### **[TOVO #39] Bars**

Leave in place the current CUP requirements for late night/outdoor bars, and for lower-impact neighborhood bars, establish a graduated scale that allows such establishments in more intense zones, and then requires MUP’s or CUP’s in medium intensity and low-intensity zones, respectively.

#### **[ALTER #1] Imagine Austin Centers**

Additional mapping of increased entitlements to maintain our housing capacity goals should first prioritize adding capacity by mapping additional entitlements within Imagine Austin Centers, starting with Regional Centers, (except those that currently have a regulating plan or are to be mapped F25) in high opportunity areas, as well as within Imagine Austin Centers containing undeveloped (greenfield) areas.

#### **[ALTER #2] Corridor Uses**

Staff shall identify options for removing personal storage as a by-right permitted use on all corridors. Personal storage could be allowed via a MUP or CUP.

#### **[ALTER #5] Development Reserve**

Areas currently zoned as Development Reserve that are to be maintained as undevelopable open space for the foreseeable future, such as greenspace owned and operated by homeowner associations, should be mapped as Conservation Land (23-3C-9070) or some other suitable zone to reflect their status as

privately owned open space.

**[ADLER #3] DOWNTOWN REGULATIONS – DT-3 Waller Creek** *Substantive Revision*

The new code should require a minimum 60' setback from the (to be established) creek centerline in the Waller Creek District for buildings and permanent structures.

**[ADLER #4] COMPATIBILITY – CMP-3 CORRIDOR AND CENTER SITES**

Development on parcels within activity centers or fronting activity corridors that participate in an affordable housing bonus program should receive a waiver of compatibility standards.



## IV. AFFORDABLE HOUSING

### — AFFORDABLE HOUSING

#### **[STAFF1] AH-1 Planned Unit Developments**

*Correction*

Revise Section 23-3C-9130 (Planned Unit Development Zone) to reinstate more specific affordability provisions, modeled on current code, as Tier 2 superiority criteria in Subsection (E).

#### **[STAFF1] AH-2 Affordability Unlocked**

*Correction*

Revise the applicability provision in Section 23-3D-10090 (Affordability Unlocked Density Bonus) to include the Former Title 25 (F25 Zone), so that development on properties zoned F-25 may qualify for the Affordability Unlocked density bonus.

#### **[STAFF1] AH-3 Delete Duplications**

*Correction*

Revise Section 23-4E-1040 (Affordable Housing Bonus Calculation) to delete the tables contained in Subsections (C)-(F), which are duplicates of Subsection (B).

#### **[STAFF1] AH-4 Supplemental Edits to Bonus Program**

*Clarification*

Revise Division 23-2E-1 (Citywide Affordable Housing Bonus Program) to improve the overall clarity and uniformity of the LDC affordable housing bonus provisions. While largely non-substantive, the revisions will aid in the administration and enforcement of density bonus programs codified in the LDC and in separately adopted regulating plans.

#### **[STAFF1] AH-5 Rename the “-A” Subzone**

*Clarification*

Retitle this subzone, which provides a density bonus for mixed-use properties, in order to avoid confusion with other zone titles containing “A” in the title.

#### **[PC] A1 Income Restricted Affordable Housing Management**

*Staff-Supported PC Rec.*

PC Intent: Allow the management and monitoring of scattered-site affordable units so that they can be made feasible.

Staff Response: Programmatic measure. Staff will evaluate the feasibility of using certified providers for this purpose following code adoption.

#### **[PC] A3 Increase Income Restricted Housing in High Opportunity Areas**

*Staff-Supported PC Rec.*

PC Intent: The opportunities for income restricted housing high opportunity areas need to be maximized.

Staff Response: Staff is working on options for achieving greater income-restricted housing in high opportunity areas.

#### **[PC] A9 Unlimited CC Bonus to Increase Community Benefits**

*Staff-Supported PC Rec.*

PC Intent: Offer an unlimited bonus in the CC zone to increase community benefits, including affordable housing.

Staff Response: Staff supports affordable housing through the Downtown bonus program.

**[PC] I2 Repeat offender affordable housing program participation** *Staff-Supported PC Rec.*

PC Intent: Consider not allowing offenders with any properties registered with the Repeat Offender Program (ROP) to participate in all affordable housing bonus programs, Affordability Unlocked, and the S.M.A.R.T housing program.

Staff Response: Staff is open to the concept of not allowing offenders with the ROP to participate in housing programs; however, staff will need to confer with Law as to how or if this could be permitted.

**[PC] I4 Post-construction requirements and penalties for affordable housing program participation** *Staff-Supported PC Rec.*

PC Intent: Revise, align and strengthen post construction requirements; reporting, compliance, monitoring, and enforcement mechanisms and procedures; and penalties for all affordable housing bonus programs, Affordability Unlocked, and the S.M.A.R.T housing program.

Staff Response: Staff is working to unify compliance and enforcement language across all affordable housing bonus sections in the code.

**[GARZA #1] AFFORDABLE HOUSING SECTION - EQUITY OVERLAY**

BOUNDARIES: The area for the overlay should be delineated by the vulnerability map in the UT Uprooted study. Staff has already proposed this in their report.

A. PRESERVE EXISTING MULTIFAMILY: For current affordable multi-family

- a. Map and zone to current structure and appropriate RM zone
- b. No new height in the base or the bonus

B. ONSITE AFFORDABILITY: Promote more onsite affordability

- a. Require onsite affordability to be at least 10% of the total and no fee in lieu option

**[CASAR AH1] Existing VMU**

Keep the affordability requirements of VMU for currently zoned VMU lots. Set the base heights and residential densities for currently zoned VMU lots at the base height and densities of the current VMU lot.

**[KITCHEN #9] Maintain “V”- Vertical Mixed Use for affordable housing creation**

-To ensure we maintain zoning on properties currently with -V designation

1. Carry over existing -V zoning designation on tracts to preserve the existing affordable requirements related to minimum residential units and 10% affordability based on total square footage of the development.

[TOVO #7] Properties with current Vertical Mixed Use zoning should access the AHBP with requirements of at least 10% affordable units or more.

**[CASAR AH2] Density Bonus Calibration**

- (1) Recalibration: Require NHCD to set goals, report quarterly, and recalibrate set-asides and fees-in-lieu every year during the budget process. When recalibrating, explore ways to account for the increase in total value, not just the bonus value.
- (2) Affordable Homeownership: Include a condo or HOA fee in the maximum sale price for homeownership. Assess a reasonable assumption based on local trends for condo fees and increases over time. (e.g., 80% MFI homeowner may only be able to afford a home valued at 70% MFI plus condo fees)
- (3) Allocation of Bonus Funds: Create a process so that NHCD can easily assign bonus dollars to create on-site affordable homes during the development review process.

**[CASAR AH3] Enforcement**

Applicants may lease on-site affordable units as follows:

- (1) Accept tenants from the City’s waitlist, when one is established. Staff should fast-track the development of the waitlist program. Contract with a third-party nonprofit to manage service providers and the waitlist; and income-qualify, lease, and manage tenants for affordable housing units created through density bonuses; or
- (2) Applicant may contract with a third-party non-profit to manage the affordable units created through density bonuses, if the third-party nonprofit is on a list approved by the city.

**[CASAR PC-15] MONITORING AND COMPLIANCE FEE FOR AFFORDABLE HOUSING PROGRAM PARTICIPATION**

Intent: Consider requiring a monitoring and compliance fee from all participants of the affordable housing bonus programs.

Staff Response: Because newly utilized land use restriction agreements address non-compliance with reporting/monitoring and affordability requirements, NHCD will wait to make a decision about monitoring fees or fines for non-compliance.

[TOVO #11] The Land Development Code should include a compliance and monitoring fee to properties that participate in the AHBP program.

**[POOL #7] Ensure Support for Monitoring of Affordable Housing Units**

Review the possibility of enacting a "monitoring and compliance fee" as a requirement to participate in the Affordable Housing Bonus Program.

**[KITCHEN #10] Extend VMU set asides for AHBP**

- To ensure broader opportunities for affordability
  1. Ways for Properties to access AHBP with at least 10% set asides
  2. Include VMU in at least every 3-year lookback period / evaluation cycle to analyze participation and success.

**[KITCHEN #11 Reduce Requirements for Initial Ground Floor Commercial Use in VMU**

- To ensure greater flexibility for residential affordability and future commercial
  1. Where market does not yet support ground floor commercial use, explore ways to reduce those requirements so that some of the ground floor space can be used as occupied residential space, provided that such ground floor space is constructed in such a way that it is able to be converted to pedestrian oriented commercial use in the future when warranted, while still requiring some of the ground floor space to be commercial.

**[KITCHEN #12] Strike definition of “Transitional and Supportive Housing” in 23-C-2030 Land Use Definitions**

- To remediate the confusion around distinguishing different populations in need of housing
  1. Remove barriers to supportive housing in the proposed code.
  2. In accordance with the Fair Housing Act, reduce barriers for transitional housing and refine its definition.
  3. Report back to council on the above two directions before second reading.

**[KITCHEN #13] Diversify, Sustain, and Cultivate Art, Music and Culture (PC I 18)**

-To ensure we provide path to codify opportunities for creation and cultivation of the City’s artistic community.

Create a new article: 23-3F: Diversify, Sustain, and Cultivate Art, Music, and Culture. Creation will provide path for future work by staff with the community to establish its General Provisions and content to sustain, diversify, and strengthen the music and arts industries and communities.

The new section will provide city-wide regulations to promote arts, music, and culture with the goals of protecting existing assets and promoting new ones in areas inequitably deficient of art, music, and cultural assets, supporting housing and jobs for musicians and artists and sustain these important elements of Austin’s economy.

**[TOVO #2]** Tie all increases in entitlements over current base zoning to strong affordability requirements or to the creation of missing middle housing. Include on-site affordable unit(s) for projects of five units or more insofar as staff modeling of code changes shows that site development standards after first reading, and market conditions will in fact produce an on-site affordable unit or in-lieu fee.

[TOVO #3] The Land Development Code text should contain provisions for the City of Austin to partner with local nonprofit organizations to identify qualified tenants and provide ongoing monitoring to manage on-site affordable units in smaller projects.

[TOVO #4] To protect renters, right zone city wide existing missing middle housing, including triplexes and fourplexes.

[TOVO #8] Standardize VMU Median Family Income affordability levels to 60% for rental units and 80% ownership.

[TOVO #9] Include VMU in at least every 3-year lookback period / evaluation cycle to analyze participation and success.

[TOVO #10] To the extent it is legally feasible to do so, exclude properties and property owners on the Repeat Offender List from participating in the AHBP program until they are no longer listed or the Housing Director has made a determination that participation is permissible because the existing multi-family structure requires extensive repairs and rehabilitation costs that will exceed 50% of the market value as determined by the building official. Should this determination be made, public notification is required.

[TOVO #13] Continue the analysis of the opportunities or challenges associated with allowing for income averaging for income-restricted units and propose a unit threshold for which income averaging would be permitted.

[TOVO #14] Institute fees or fines, and/or other enforcement mechanisms, for non-compliance within the Affordable Housing Bonus Program.

**[TOVO #15] Housing Opportunity in MU/MS Zones**

Staff should require a percentage of onsite residential with an affordability requirement in MU zones and develop an incentive within MS zones.

[TOVO #16] Prohibit STRS within density bonus units.

[TOVO #17] Prohibit non-owner-occupied STRS within missing middle zones, except for on lots where the affordable housing bonus program is used, and only for the duration of participation in the affordable housing bonus program. No greater number of STRs than affordable units shall be allowed.

[TOVO #18] Reduce percentage of short-term rentals Type 3 allowed in MU and MS zones.

[TOVO #19] Prohibit income-restricted units from being permitted as short-term rentals

**[ALTER #3] Affordable Housing**

Parcels currently zoned for commercial-only use such as CS, GO, GR, LO, NO that do not allow residential uses by right today should be mapped to include an affordability requirement with any residential development. This can be accomplished by either re-mapping them for an MU zone that contains an affordability requirement, or creating a zone that has an affordability requirement to the MS category that these parcels were mapped to in the October 4th draft.

## V. NON-ZONING

### — LANDSCAPE REQUIREMENTS

**[STAFF1] LSC-1 Surface Parking Lot Perimeter Landscape** *Substantive Revision*

Revise Section 23-3D-3070 (*Surface Parking Lot Perimeter Landscape*) to allow use of use of trees in perimeter landscape, provided that they comply with Diversity Standards and do not replace required shrubs.

**[STAFF1] LSC-2 Submittal Requirements** *Substantive Revision*

Revise 23-3D-3140 (*Submittal Requirements*) to remove requirement to identify all existing vegetation, soils, landscape features, and rock materials.

**[STAFF1] LSC-3 Front Yard Planting** *Substantive Revision*

Revise Section 23-3D-3040 (*Front Yard Planting*) to adjust front yard planting setback categories to better match zoning front and side yard setback—i.e., 5 -15 feet and greater than 15 feet.

**[STAFF1] LSC-4 Vegetated Roof** *Substantive Revision*

Revise Section 23-3D-3130 (*Functional Green Landscape Elements*) to eliminate requirement that a vegetated roof be located over an occupied space.

### — PARKLAND DEDICATION

**[STAFF1] PLD-1 Private Parkland** *Clarification*

Revise Section 23-4B-2030 (*Private Parkland*), Subsection (A), to require that easements granting access be approved by the city attorney.

**[STAFF1] PLD-2 Private Parkland** *Substantive Revision*

Revise Section 23-4B-2030 (*Private Parkland*), Subsection (E), to require that access be granted by easement, to eliminate the fiscal surety requirement in Paragraph (E)(2), and to consolidate and clarify the remaining provisions.

**[STAFF2] PLD-3 Applicability to Missing Middle Housing Types** *Clarification*

Clarify applicability of PLD requirements to missing middle housing categories.

### — PARKING

**[STAFF1] PRK-1 ADA Parking Calculations** *Clarification*

Revise Section 23-3D-2040 (*Parking for Persons with Disabilities*) to clarify: (i) that ADA parking is required for structures of 6,000 square feet or more, notwithstanding the size of individual uses within the structure; and (ii) how ADA parking requirements are determined for buildings containing multiple uses with different ADA parking requirements.

**[STAFF1] PRK-2 ADA Parking Applicability**

*Clarification*

Clarify whether ADA parking is required for single-family or duplex units, less than 6,000 square feet, that meet the qualifications to have a 100% reduction in off-street parking.

— **SIGN REGULATIONS**

**[STAFF1] Staff Supplement 1 – Appendix B: Proposed Revision to Chapter 23-7 (Signage)**

**[STAFF1] SGN-1 Landscape Wall Signs**

*Correction*

- Revise Section 23-7C-2050 to replace reference to “Low Density” sign district with “Residential House-Scale Sign District.”

**[STAFF1] SGN-2 Wall Mural Signs**

*Correction*

- Revise Section 23-7C-2120 (Wall Mural Sign) to specify that wall mural signs may not be illuminated.

— **TREE PROTECTION**

**[STAFF2] TRP-1 Limitation on Administrative Variances for Heritage Trees**

*Correction*

Consistent with October 4 staff report accompanying the LDC Revision, revise applicable regulation to limit allowance for heritage trees variances to be approved administratively to residential projects with sufficient frontage and onsite affordability.

— **TRANSPORTATION**

**[STAFF1] TRNS-1 Sidewalk Requirements**

*Clarification*

- Revise Section 23-8E-6010 (*General Sidewalk Requirements*) to clarify that sidewalk dedication may be required at site plan and to specify that dedication for new subdivisions must be by easement depicted on the plat.
- Revise Section 23-8F-2030 (*Joint Use Driveway*) to require that vehicular access through a joint use driveway be depicted in an easement in order to be allowed as an alternative to direct access to an abutting public or private street.

— **WATER QUALITY**

**[STAFF1] EV-1 Save Our Springs Ordinance**

*Substantive Revision*

Delete proposed SOS Ordinance amendments in Article 23-4D (*Water Quality*) and defer them to a subsequent public process, to allow additional time for stakeholder review and discussion.

**[STAFF1] EV-2 Project Assessments**

*Clarification*

Revise Section 23-2C-1060 (*Project Assessments*) to specify that, in addition to “critical environmental features,” review under Subsection (D)(2)(e) may include “critical water quality zone, water quality transition zone, and steep slopes.”



**[STAFF1] EV-3 Lake Austin Setbacks**

*Clarification*

Revise Section 23-3D-10070 (*Setback Exceptions*) to specify, in Subsection (D), that the allowance for pools in setbacks does not apply in the LA Zone. Addresses a longstanding conflict between general setback regulations and heightened restrictions on development applicable in the LA Zone and within critical water quality zones.

**[STAFF1] EV-4 Commercial Recreation Shoreline Setback**

*Clarification*

Revise Section 23-3C-8060 (*Commercial Recreation Zone*) to specify, in Subsection (D), that permanent improvements are prohibited within 100 feet of the shoreline, rather than 75 feet, to coincide with the width of the critical water quality zone.

**[STAFF2] EV-5 Clarify Applicability of Barton Springs Zone Overlay**

*Clarification*

Clarify the meaning of “retail uses” for applicability of the BSZO.

**[PC] I6 Improve Site Plan Process**

*Staff-Supported PC Rec.*

PC Intent: Explore ways to cut down on the time it takes to deliver site plan approvals.

Staff Response: There is a multipronged, inter-departmental effort to streamline and shorten the site plan process which includes, among several needed tools, enabling language in the draft LDC authorizing staff to scale application requirements based on the type of development proposed.

**[PC] I13 Change Heritage Tree Ordinance - Administrative Modification** *Staff-Supported PC Rec.*

PC Intent: (1) Add administrative approval condition for removal of a Heritage Tree fronting a corridor and (2) correct language to add clarity

Staff Response: Staff agrees with this recommendation, which is consistent with the October 4 staff report.

**[PC] I15 Tree Canopy**

*Staff-Supported PC Rec.*

PC Intent: The land development code related to tree planting and protections should enable City to increase canopy from 35% to 40% and be equitably spread through all city districts. Tree canopy measurements last taken in 2010 and 2014 show Austin tree canopy is at 35%. Forestry Dept. states that best practice is 40%.

Staff Response: Staff agrees with the intent of this recommendation and will consider programmatic measures, as well as code revisions, for better achieving it.

**[HARPER-MADISON #9]**

Consider a process that will, without limitation, allow pocket-parks, parks under 1/4 acre, to be approved through the building permit process to expedite and simplify their development for PARD and community groups.

**[CASAR NZ1] Drainage**

1. Review the plumbing code to clarify and strengthen mitigation for lot to lot flood risks in residential house scale and missing middle zones.
2. Explore expanding requirements for drainage management, including Regional Stormwater Management Program, to all newly built residential house scale homes based on impervious cover rather than just some zones.
3. Requirements for drainage management should be drafted in a prescriptive manner to eliminate uncertainty and provide swift review.

**[CASAR NZ2] Water Quality**

1. Explore allowing staff the discretion to incorporate Green Stormwater Infrastructure into the City's rights-of-ways when it is appropriate and would not create future non-compliance issues.

**[CASAR NZ3] Landscaping**

1. Clarify that irrigation requirements do not require permanent irrigation when it is unnecessary, such as for landscaping that has low watering needs.

**[CASAR NZ4] Parking**

1. Parking requirements for certain uses:
  - (a) For home occupations and live/work, eliminate any additional parking requirements for employees.
  - (b) For commercial uses in MU, MS, and above, consider reducing the minimum parking requirements by a portion, such as by one-third, without losing any ADA parking.

**[CASAR NZ5] Transportation**

1. Maintain the Director's current ability to deny a proposed development, instead of administratively reducing the density or intensity, if it presents a risk to public safety that cannot be reasonably mitigated.

**[CASAR NZ6] On-Premise Signs**

1. In areas with a significant number of pedestrians, such as downtown, propose options for on-premise signs to be focused for pedestrian use.

**[KITCHEN #14] Water Forward**

-To ensure climate resiliency and responsible stewardship of water resources.

Consider enhancements to the code that could increase the beneficial use of stormwater from smaller storm events to be beneficially used onsite and reduce demands on potable water. As part of this analysis, report back to council on any affordability impacts of any proposed changes.

### **[FLANNIGAN – NON-ZONING #1] Signage**

Revise Ch. 23-7 of Draft 1 to reflect non-substantive changes related to new zoning districts and administrative procedures, but to maintain provisions related to off-premise signage as codified in the current LDC Ch. 25-10, adding no new restrictions or limitations to off-premise signage.

The City Manager should initiate a separate public process for new off-premise signage requirements as discussed during the 8.22.2019 City Council Item 83.

### **[FLANNIGAN – NON-ZONING #2] Parking**

Maintain parking maximums but develop a process that allows an applicant to apply for an administrative variance based upon completion of a parking study defining the market need and proof of mitigation in order to achieve community goals with context-sensitive requirements.

Regional parking structures that include compatible uses such as transit-supportive and bike and ped supportive elements should be allowed in the Downtown Capital View Corridors. The parking regulations should further incentivize participation in joint parking plans and construction of regional parking structures instead of on-site parking.

### **[POOL #1] Trees – Protecting our Canopy & Promoting Climate Resiliency**

Explore the possibility of a "No-Net Loss and 50-by-50 Tree Canopy Policy" to set near-term goal of no net loss of canopy, and a long-term goal of 50% canopy cover by 2050 to align with the City of Austin climate plan and resiliency goals.

Consider including a "Tree Species Prioritization for Resiliency" list in the code. The protection list should prioritize native and well adapted trees and those expected to be more common as a result of climate change.

Consider the benefits of restoring the public process for heritage tree removal and develop an incentives program that relaxes and makes flexible site development standards to encourage on site preservation of heritage trees for parcels on all corridors.

### **[ELLIS #1] Heritage Tree Preservation Bonus**

The new code should create a Heritage Tree Preservation Bonus program for developments in Imagine Austin Centers and along Imagine Austin Corridors and explore its application to the Transit Priority Network. The bonus program should offer a well-calibrated incentive of flexibility in development standards (e.g. an additional floor of building height) in exchange for the preservation of an existing, healthy heritage tree. The program should include a defined set of criteria including a provision requiring that the project demonstrate they require the bonus to achieve the goal of tree preservation. The bonus should be administratively approved, and the heritage tree preservation bonus program should not negatively impact the viability of an applicable affordable housing bonus program.

**[FLANNIGAN- PROCESS #3] Conservation Subdivision**

Develop conservation subdivision guidelines that may be required for new greenfield residential development sites that promotes environmental sustainability, ecosystem preservation, and natural flood mitigation while maintaining the city’s Residential House-Scale entitlements and furthering its housing-capacity goals.

**[ADLER #1] PLD-4 CORRIDOR AND CENTER SITES**

*Clarification*

Clarify code text to reflect current PARD practice: Development on parcels within activity centers and fronting activity corridors that are less than 1 2/3<sup>rd</sup> acres in size should not be required to dedicate parkland on site, unless dedication of parkland is necessary to provide for pedestrian connectivity to a creek, existing or planned park, or existing or planned trail connection. Dedication of parkland should be limited to the amount of land required for the pedestrian connectivity need. Any remaining applicable fees in lieu of dedication will still be required.

## VI. PROCESS

### — AUSTIN ENERGY

#### **[STAFF1] AE-1 Removal of Utilities Prior to Demolition or Relocation**

*Clarification*

Revise Sections 23-6C-3040 and 23-6D-1040 (Requirements Regarding Utility Service) to strengthen requirement for coordination between DSD and utility providers regarding need to remove utilities prior to demolition or relocation.

#### **[STAFF1] AE-2 Subdivision Requirements**

*Clarification*

Ensure that the standards currently codified in Section 25-4-200 (Electric System) are incorporated, directly or by reference, into proposed Chapter 23-5 (Subdivision).

#### **[STAFF1] AE-3 Wording Changes**

*Clarification*

- Revise Section 23-3C-1030 to replace “utility easements” with “utility requirements.”
- Revise Section 23-6C-2040 (Licensed Contractor Requirements) to delete reference to solar permits and the Solar Energy Code.
- Revise 23-3D-3170 (Planting and Soil Standards) to clarify requirements for AE review and approval before street trees may be located in utility easements.

### — AUSTIN FIRE DEPARTMENT

The changes described below reflect input from the Fire Marshall on how the LDC can better address wildfire risk through changes to the development review process.

#### **[STAFF1] AFD-1 Project Assessments**

*Substantive Revision*

Revise Subsection 23-2C-1060 (Project Assessments), Subsection (D)(2)(f), to specify that project assessments may be used to determine whether a site is located in a “wildfire risk area” as well as a floodplain.

#### **[STAFF1] AFD-2 Emphasize Importance of Mitigating Wildfire Risk**

*Substantive Revision*

Revise Section 23-4A-1010 (Purpose) to add mitigation of wildfire risk to the list of enumerated purposes in Subsection (B).

#### **[STAFF1] AFD-3 Heightened Wildfire Protections for Hill Country Development**

*Substantive Revision*

Revise the natural area protections in Section 23-3C-10090 (Hill Country Roadway Overlay), Subsection (H)(3), to specify that: “Natural areas may be managed for ecosystem function or wildfire safety under a vegetation management plan approved by the Environmental Officer, Arborist, and Fire Marshall.”

**[STAFF1] AFD-4 Fire-Resistant Fences & Walls**

*Substantive Revision*

Subject to further review, consider adding a provision to Section 23-3D-10060 (Fences and Walls) requiring that “ignition-resistant material” be used for fences in wildfire risk areas that are located within 10 feet of a structure.

— **AUSTIN WATER UTILITY**

**[STAFF1] AWU-1 Requirements for Service Extension Requests**

*Substantive Revision*

Revise Section 23-5C-3060 (Requests for Utility Service) to eliminate requirement that applicants for service extensions in the ETJ request annexation if not covered by a certificate of convenience and necessity.

**[STAFF1] AWU-2 Determination of Service Units**

*Correction*

Revise Section 23-9C-3010 (Service Units Where a Meter is Purchased) to delete table specifying applicable service units, which is established through the annual fee schedule.

— **BOARD OF ADJUSTMENT**

These proposed revisions address concerns raised by BOA Chair Don Leighton-Burwell in his October 18, 2019 letter to Council, and in subsequent discussions with staff on how the draft LDC Revision may impact BOA.

**[STAFF1] BOA-1 Type 2 Special Exception**

*Substantive Revision*

Delete Section 23-3B-4040 (Type 2 Special Exception), which would authorize the BOA to vary regulations where a structure is built in reliance on permits issued in error.

**[STAFF1] BOA-2 Notification Requirements**

*Substantive Revision*

Revise Section 23-3B-2020 (Code Interpretations) to require that the director notify the BOA of: (a) all code interpretations issued by the director, within the 20-day appeal deadline; and (b) all appeals filed by a party, if the appeal is submitted after the 20-day deadline.

— **COMPREHENSIVE PLAN & RELATED ZONING MAP CHANGES**

**[STAFF1] APPENDICES A & A1: Proposed Amendments to the Imagine Austin Comprehensive Plan – Growth Concept Map**

**[STAFF2] CPA-1 Map Changes**

Where a neighborhood plan FLUM includes transition areas or similar planning designations, consider appropriate adjustments to the boundaries of the proposed transition area zones and corresponding land use designation shown on the Growth Concept Map.

**[STAFF2] CPA-2 Text Changes**

Consider additional text changes to ensure consistency between the comprehensive plan and zoning map, particularly as it relates to the use of comparable equivalent zoning outside of transition areas and the broader allowance for colocation of residential and commercial uses.

— **CRITERIA MANUALS**

**[STAFF2] CM-1 Relocate More Substantive Requirements to Code** *Substantive Revision*

Recognizing the important role that criteria manuals play in LDC implementation, consider code revisions that relocate more significant and impactful requirements to code rather than relying solely on criteria manuals.

— **DEMOLITION PERMITS**

**[STAFF1] DP-1 Exemption for Interior Demolitions** *Substantive Revision*

Revise Section 23-6C-2010 (Permit Requirements) to eliminate the permit exemption for interior demolitions in Subsection (B).

— **HISTORIC REGULATIONS**

**[STAFF1] HIST-1 Restrictions on Permit Issuance** *Substantive Revision*

Revise Section 23-6E-1050 (*Process of Historic Review*) to allow the building official to approve building, demolition, or relocation permits if the Historic Landmark Commission has not conducted a public hearing within 60 days from the date of application.

**[STAFF2] HIST-2 Applicability of Historic Districts & Historic Zoning** *Clarification*

Recognizing that a more restrictive requirement prevails over the less restrictive, consider ways that continued applicability

— **LOT LINES**

**[STAFF1] LOT-1 Front Lot Line** *Clarification*

Revise Section 23-12A-1030 (General Definitions) to clarify that, for a corner lot, the street providing primary “pedestrian access” determines the front lot line.

**[STAFF1] LOT-2 Side Lot Line** *Clarification*

Revise Section 23-12A-1030 (General Definitions) to clarify that an alley does not count as right-of-way for purposes of determining a side lot line.

— **PROCESS**

**[STAFF1] PRO-1 Community Organizations** *Clarification*

- Revise Chapter 23-12 (General Definitions) to adopt a uniform definition of “registered community organization” and use that term consistently throughout the LDC, in place of “registered neighborhood and environmental organization,” “neighborhood organization,”

“neighborhood association,” and other terms used to describe registered groups entitled to notification and other rights under the Land Development Code.

- This change, proposed by the Neighborhood Assistance Center, would correct longstanding inconsistencies in current code, which are carried forward in LDC Chapter 23-2 (Administration & Procedures), Chapter 23-3 (General Planning Requirements), and Chapter 23-6 (Permits and Special Approvals).

**[STAFF1] PRO-2 Ex Parte Contacts**

*Clarification*

Revise Section 23-1A-3020 (Classification of Applications and Decisions) to clarify that prohibition on ex parte contacts is limited to the Board of Adjustment.

— **SUBDIVISION**

**[STAFF1] SUB-1 Remainder Tracts**

*Substantive Revision*

Revise Section 23-5A-1050 (*Remainder Tracts*) to specify that the Commission must approve inclusion of a remainder tract if the omitted portion meets minimum lot area and “substantially complies” with other applicable regulations.

**[PC] P21 Clarify parking screening**

*Staff-Supported PC Rec.*

PC Intent: Clarify that required parking screening from sidewalks applies only to sidewalks in ROW, not interior sidewalks.

Staff Response: "Sidewalk" is intended for public use and must be ADA compliant. "Walkway" is for private use on private property and does not have to be ADA compliant.

**[PC] P11 Sunset F25**

*Staff-Supported PC Rec.*

PC Intent: Staff should develop a timeline and process for converting all F25 zoning to the new LDC.

Staff Response: Cities cannot automatically "sunset" zoning districts. However, consistent with the purpose of F25 zoning, staff supports establishing an appropriate timeline and planning process for rezoning F25 properties to a current LDC zone.

**[PC] P28 Conditional and minor use permits**

*Staff-Supported PC Rec.*

PC Intent: Consider clarifying that - to the extent appropriate - CUPs and MUPs only review those site characteristics inherent to the change/establishment of use, not all code requirements. Consider publicly posting guidelines for CUP and MUP reviews.

Staff Response: Staff agrees that standards for CUPs and MUPs should be clarified and will consider appropriate code revisions.

**[PC] I12 Maintain asbestos protections for workers and the public**

*Staff-Supported PC Rec.*

PC Intent: Amend the draft codes as necessary to not weaken local ordinances specifically relating to asbestos.



Staff Response: Staff proposal strengthens asbestos requirements by removing permit exemption for interior demolitions. Staff will further review proposed requirements to ensure that all appropriate protections are included.

— **TECHNICAL CORRECTIONS & REVISIONS**

**[STAFF2] TCR-1 Typographical & Wording Errors** *Correction*

Continue to update this document, on an ongoing basis, with typographical errors, including mistakes in spelling, grammar, and citation, as well as minor textual cleanups.

**[STAFF2] TCR-2 Departmental Comments** *Correction*

Continue to review departmental comments to identify process improvements, technical errors, and other non-substantive changes that will improve LDC implementation and usability.

**[HARPER-MADISON #2]**

All reviewing departments (AWU, AFD, AE, PARD, ATD, DSD, PZD, NHCD, WPD, PWD, Law, etc.) are integral to the success of the new code and should be directed to cooperate with each other to incorporate and implement Council’s policy direction and priorities to (i) increase housing supply, diversity and affordability into their requirements, regulations and processes, (ii) achieve our environmental goals, (iii) achieve our transportation goals, (iv) streamline the code and site requirement review process, and (v) make it more predictable.

**[HARPER-MADISON #4]**

Consider a process to allow administratively amended plats to replat up to 6 new lots in accordance with the Texas Local Government Code by acknowledging all Missing Middle-zones as "residential improvement areas" under state law.

**[CASAR P1] Limited Site Plans**

Allow small developments of 4-10 units to utilize a limited site plan. Allow up to 3 units to utilize the building permit process.

**[CASAR P2] Criteria Manual**

1. Require PC majority approval for the initial adoption of criteria manuals
2. Future changes may be appealed to PC; changes to the criteria manual go into effect until or unless the PC votes to reject the changes.
3. PC does not write or rewrite criteria manuals, only accepts or denies the original manual, and accepts or denies appeals to future changes. PC may make suggestions.
4. If there is a policy issue, PC can initiate code amendments for Council approval as currently allowed.

**[CASAR P3] Simple Subdivision**

Consider creating a simple subdivision process utilizing Residential Improvement Areas and reduced code requirements for:

1. Lots zoned R4 and RM1.
2. Lots utilizing the preservation bonus.

**[CASAR P5] Zoning Change Reports**

Include the following information in zoning change reports:

1. Mode Shift Impact
2. High Opportunity Impact
3. Displacement Impact

**[KITCHEN #18] Development of a proposed district level planning process for Imagine Austin Activity Centers and Corridors susceptible to change.**

-Direction to develop district level planning process to meet goals outlined in and beyond the LDC Revision Policy Direction document.

**[FLANNIGAN – PROCESS #1] Alternative Equivalent Compliance**

Expand the AEC process to allow for minor modifications to some base zoning requirements and to apply to Residential House-Scale zones in order to achieve the City’s goals in a context-sensitive manner, and include housing-capacity goals in the BOA variance approval criteria.

**[FLANNIGAN – PROCESS #2] Shared Use Easements**

All utilities and departments that regularly require easements should develop a process for sharing easement area as much as possible to minimize the total land dedicated to easements, in accordance with best management practices.

**[TOVO #38]** Require affidavit for demolitions as proposed by staff.

**[TOVO #40]:** Provide feedback about how the Land Development Code text and mapping proposals (especially with regard to FAR and other elements within missing-middle zoning categories) could impact the construction of multi-bedroom units.

**[MAYOR] PROCESS-RELATED DIRECTION**

Staff should prioritize publishing the revised code text and zoning map as soon as possible in order to allow substantial review and comment before second reading. Work related to other Council requests should be handled consistent therewith.

**[ALTER #6]** To increase efficiency of constructing and operating schools, consider appropriate revisions to the draft LDC and/or applicable land development standards agreements to generally:

1. simplify the development review and permitting process and
2. engage with local school districts to identify potential code revisions needed to ensure that reductions in minimum parking standards do not disrupt school operations, including transport of students to and from school.

**[KITCHEN #19]** Review proposed zoning for state and publicly owned lands, including lands controlled by Special Districts with elected boards, to ensure that zoning assignments align with current uses

**[POOL #9] PRIORITIZING SMART HOUSING PROJECT REVIEW**

Consider a “Prioritized” Expedited Review for S.M.A.R.T. Housing projects in which projects would be reviewed ahead of other applications including where an expedited review fee has been paid.