



June 30, 2014

Matt Dugan  
Development Services Process Coordinator  
City of Austin Planning and Development Review Department  
505 Barton Springs Road  
Austin, TX 78704

Dear Mr. Dugan,

I appreciate the opportunity to comment on the Land Development Code (LDC) Diagnosis Draft dated May 5, 2014. The document demonstrates considerable effort and I would like to thank the authors for the attention they have given to the goals established in *Imagine Austin*. The following remarks are submitted respectfully as part of the on-going dialog among the City's many stakeholders. My concerns center on the way the document structures discussion about the current and future LDCs. Each point given below is intended to help create a diagnosis that fosters more constructive conversation within the CodeNEXT process.

**Clarity of assumptions for evaluating land development codes**

Any assessment is predicated on some basis for evaluation. In order to have a discussion about an assessment, this basis must be stated explicitly. Doing so for the LDC Diagnosis is especially important given the multiple perspectives that can be used to think about codes and code making. Throughout the text, several kinds of land development codes are referenced, including use based codes (the predominant kind code in Austin), form based codes, performance based codes (page 68), and planned unit developments (page 40). Each is based on its own set of principles and, correspondingly, each has its own strengths and its own weaknesses. In the draft, land developed under one kind of code is often narrowly criticized with the assumptions of another. While such criticism is valuable, it can also be one-sided. With regard to the goal of open discussion about the city's next LDC, all stakeholders should understand the premises of the criticisms given in the text. *I suggest revising the draft such that it informs stakeholders about the different perspectives on code making by including a brief statement—perhaps in a call out box—on the kinds of codes discussed in the text, the primary motives for using each approach, and the respective advantages and disadvantages of each approach.*

**Measures of failure and of success**

Beyond stating the principles that support different perspectives on codes, an evaluation about municipal operations requires explicit definitions of operational failure and success. A general sense of frustration about the current LDC is conveyed through language that describes its processes as too complex, too unpredictable, and too expensive. Many share this perception and it would not be controversial to say that approvals, reviews, appeals, etc. should be provided more simply, more transparently, and more cost effectively. The authors, though, do not offer



performance metrics or benchmarks by which stakeholders can judge precisely how bad or how good the current situation is. As such, the assessment remains highly abstract. The lack of benchmarks limits discussions about relationships between the means enabled by the present and possible future LDCs and ends of providing for health, safety, and welfare. *I suggest revising the draft such that it includes measures of service and outcomes in Austin and in comparable cities.*

#### Instances of vague language

In a reliable assessment, descriptions are unambiguous and evaluations are proportionate to the available data. These requirements are met throughout much of the draft, but several passages include misleading or unsupported language. For example, on page 56, "Parking requirements serve as a 'tax' [quotation marks in original] on new development..." Calling attention to the need to reconsider parking requirements is very much warranted, but the description is not apt. These requirements may contribute to development costs, but they are not *taxes*. The metaphoric use of the word not only establishes a false analogy, it is pejorative and, therefore, possibly polarizing. Such language is counterproductive to public discussion. On page 80, "The LCD's expanding complexity over the years combined with Austin's booming development activity have exponentially increased demands on staff..." While the experiences of people in crowded city offices indicate high demand, the use of the word *exponentially* is not justified by the evidence that the authors give to readers. *I suggest revising the draft such that (1) descriptions of municipal policies and practices are correct, (2) potentially politically charged language is not used, and (3) summary evaluations reflect the data and analyses given in the text.*

#### Relationships between intermediate and final products

Assessments are intermediate products made in pursuit of a greater goal. On page 7, the Code Diagnosis is presented in this way: "This report[, which] defines the basis or need for revising the current LCD[,] does not prescribe or recommend the direction for the new code." In several instances, however, the authors use language that suggests prescriptions. For example, on page 43, "A code is most effective at addressing compatibility in different neighborhoods when duplexes are treated as a range of allowed forms, rather than just allowed uses." While this very specific opinion may, ultimately, prove to be beneficial for Austin's next LDC, it is contrary to the stated intent of the diagnosis. *I suggest revising the draft such that it offers only suggestions for discussion rather than prescriptions for final products.*

In conclusion, I believe the authors have provided an extensive and valuable survey of issues related to land development in Austin, one that begins to serve its very important purpose. I also believe that more must be done to frame these issues for meaningful public discussion. The lack of explicit assumptions about how one might judge competing schools of thought on code writing, the lack of specific measures of failure and success, instances of misleading or unsupported terms, and occasional leaps to a final solution should be remedied. Thank you again for this opportunity to provide comments. I look forward to reading the final text.

Sincerely,  
Allan W. Shearer, Ph.D., ASLA  
Associate Professor