



Formal Comments on CodeNEXT Affordable Housing Density Bonus Program 2017 Draft

14th July 2017

About the HBAGA

As the largest trade association in central Texas, the Home Builders Association of Greater Austin (HBAGA) represents over 700 member companies. In 2016, our members built nearly 80% of the 2,846 homes in the City of Austin alone. The mission of the HBAGA is to promote the practice and professionalism of the home building industry here in Greater Austin; with the vision that all people live in homes and communities that enable them to thrive. It is with this mission that the HBAGA works actively with elected officials, city staff, our members, and the community at large, to advocate on housing issues that impact our community.

With the release of the draft Land Development Code in January, the HBAGA formed a task force including a wide variety of members with expertise in many different development areas. Throughout a series of meetings, the task force explored the practical implications of the code's first draft through case studies and modeling. On June 6, 2017, the HBA task force produced a position paper regarding the draft text of CodeNEXT. The subsequent release of the affordable housing density bonus program prompted further task force involvement and research, leading to the comments included in this document.

It is our hope that the final version of CodeNEXT will improve the city in which we live and work, and that the HBAGA can be an ally and a resource to ensure that everyone can afford to live, grow, and play in our community.

Mission

The mission of the Home Builders Association of Greater Austin is to advance the practice and professionalism of the home building industry in our community.

Vision

All people in the Greater Austin area live in strong communities and homes that enable them to thrive.

Core Values

*Integrity
Collaboration
Professional Excellence
Community-Minded
Prosperity for All*

Overview

In 2012, the City of Austin adopted the Imagine Austin Plan to memorialize the vision for the future of our city. In this plan, the city outlined 6 core principles for action that the city should take to enact our shared vision:

1. Grow as a compact, connected city
2. Integrate nature into the city
3. Provide paths to prosperity for all
4. Develop as an affordable and healthy community
5. Sustainably manage water, energy and other environmental resources
6. Think creatively and work together

The HBAGA agrees with Imagine Austin’s vision for the city, and believes that a successful zoning code will work together to pursue its 6 core principles.

The HBA of Greater Austin also believes that those principles, when applied to a code and zonings throughout the City; can begin to meet the needs of the marketplace with regards to supply, and therefore make an impact to affordability challenges facing our neighbors. It is through that lens that the following recommendations have been summarized.

The HBA’s Infill Builders Council’s CodeNEXT task force has identified several major concerns with Chapter 23-3E-1 of the code. In this first draft, it is natural for there to be areas that need improvement, and the HBAGA is committed to following the process to assist throughout the code’s evolution into final form. The problems identified by the task force are significant, and if not properly addressed, will prevent us from achieving our shared goals of affordable and plentiful housing.

Comment Overview

1. **Density Bonus Program should be a bonus, not a penalty.**

In much of residential urban Austin, the Density Bonus Program reduces the number of base entitlement units in T4 zonings, which is the lowest density residential zoning it was applied to. T4 zoning encourages missing middle housing types, which are vital to reducing housing costs, helping keep residents in their neighborhoods and reducing sprawl. The Density Bonus Program reduces the T4N.SS sub-zoning, for example, the least dense under the program, from eight to four units across central Austin, which can go back up to the original eight units if the “bonus” is used. We are strongly opposed to decreasing the number of base units available to meet city-wide missing middle housing needs. A 50% reduction in base units is a huge loss of less expensive missing middle housing in areas where they are needed most.

2. **Too few affordable units will be created.**

Under the program, going from four to eight units creates only one affordable unit. With less than eight units, there are not enough bonus units created under the 10% affordability requirement to offset the cost. Because of the form based T4 code, the units on any tract must fit within a prescribed building envelope, regardless of unit count. The bonus criteria combined with the prescribed building envelope force a choice between four approximately 1000sf units under the base zoning or eight smaller units, only one of which is affordable. Even with the “half floor” bonus envelope, which our models showed was hard to design for and requires multiple stairwells, the one affordable unit created would be less than 500sf, an efficiency similar in size to several other units in the building. This size limit is not an incentive, nor is it family friendly. Any program must include more than a “half story” height bonus envelope to make it feasible to build all eight units as something other than efficiencies.

3. **“Goldilocks” problem**

Under the current draft of the Density Bonus Program and the T4 zoning rules, very few lots meet the criteria necessary to get the eight units on them. We support the reduction in parking requirements under the program, but even with reduced parking, T4 zoned lots, which are already scarce on the map, are generally too small to fit eight or too big to limit to eight units. This creates a narrow “Goldilocks” effect, because sites have to be just right to even consider participation. A single protected tree might make it impossible to participate, for example. This further limits the number of potential units and needs to be factored in to any related estimates or modeling.

4. **Lower Density Fee in Lieu Bonus**

Actual construction of affordable units under the Density Bonus Program is always the top priority, but it is almost impossible to build them under lower density zonings like LMDR, because there are simply too few units per lot to offset the cost of making one of them affordable. The HBA supports the inclusion of a program allowing lower density building permits to pay a fee in lieu “density bonus” to generate a new income stream dedicated to affordable housing, where funds are historically limited.

5. The Austin Housing Coalition

The Austin Housing Coalition includes various organizations who support the development of safe, affordable housing for Austin. The HBAGA supports their review of the Density Bonus Program, echoing their concerns that the Program be applied throughout the city and increasing entitlements for affordable units that will allow for more family-friendly designs.

Comments

Division 23-3E-1: Citywide Affordable Housing Density Bonus Program

Chapter 23-3E-1040: Density Bonus Calculation

Table 23-3E-1040(B): Affordable Unit Set Aside Requirements

Comment: This table indicates a 200% difference in the percent of unit set asides depending on whether they are located in inner Austin or outer Austin. The HBAGA voices its concerns on the map used to determine inner vs. outer Austin and believes that any wide-reaching economic forecast deals with an inherently unpredictable arena and cannot be relied upon as a prediction of the future or used to inform policy in such a specific and significant way.

Chapter 23-3E-1040: Density Bonus Calculation

(C) Affordability Periods

(1) Rental Units. An applicant shall agree to, and the City shall ensure, continued affordability of all affordable ownership units for 40 years. The affordability period for ownership units begins on the issuance of the last final Certificate of Occupancy for the development.

Comment: Has there been consideration of maintenance costs over the 99-year period? The cost of maintenance will increase with time which will inevitably affect affordability.

Chapter 23-3E-1050: Alternatives to On-site Production of Density Bonus Units

(D) Off-site Production.

(3) Must be within one mile of the property seeking the bonus

Comment: The reality of our city makes this requirement too limiting. It is highly unlikely for a small residential developer to have multiple projects within a 1-mile radius. One option to consider in addition to the 1-mile radius could be to pay a fee-in-lieu that could be collected by the city and granted to nonprofits who may have access to land outside of a 1-mile radius of the project.

Chapter 23-3E-1070: Application Procedures

(B) Density Bonus Affordable Housing Review. Any applications requesting to meet the density bonus affordability requirements through a fee-in-lieu, provision of affordable units off-site, or land dedication in compliance with Section 23-3E-1050 (Alternatives to On-Site Production of Density Bonus Units) must be reviewed by a designated review group, prior to application approval by the Housing Director.

Comment: The HBAGA requests clarification of the identity of the “designated review group,” and suggests creating a Commission to deal with such cases.

Chapter 23-3E-1090: Compliance and Enforcement

(A) The Housing Director shall establish processes, compliance, and monitoring criteria for implementing the affordability requirements of this Division.

Comment: The HBAGA requests clarification regarding the Director’s role. Current language leaves too much ambiguity.

Chapter 23-3E-1100: Additional Developer Incentives

(A) An applicant who provides income-restricted affordable units as verified by the Housing Director may request a parking adjustment in compliance with Article 23-4D (Specific to Zones) from the Planning Director to be made prior to Site Plan approval.

Comment: The ability to reduce parking requirements is a benefit generally supported by the HBAGA. However, by reducing available parking, a unit’s value may see a decrease, as buying a home with no parking is undesirable in today’s market. Additionally, in an 8-unit development where 7 units are market rate and 1 is affordable, it could potentially and unfairly single out the tenant residing in the affordable unit.

Chapter 23-3E-1100: Additional Developer Incentives

(B) Fee waivers can be accessed for a development under the S.M.A.R.T. Housing Program in Division 23-3E-4.

Comment: While a positive gesture, the fees that can be waived are all minor and do not add up to a significant financial incentive.

Division 23-3E-4: S.M.A.R.T. Housing

Chapter 23-3E-4050: Fee Waivers and Exemptions

Comment: While a positive gesture, the fees that can be waived are all minor and do not add up to a significant financial incentive.



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