



**RECA**  
REAL ESTATE COUNCIL  
OF AUSTIN

May 23, 2016

**MEMORANDUM**

**FROM:** Real Estate Council of Austin (RECA)

**SUBJECT:** Response to *Developing Complete Communities for all Austinites: Household Affordability Code Prescription*

Dear Members of the Land Development Code Advisory Group:

We would like to offer our continued gratitude for your time, efforts and commitment to the CodeNEXT process. We remain steadfast in our strong support for a revised Land Development Code that implements *Imagine Austin* and would offer that the road-map to the draft Code is clearly laid out in the City's comprehensive plan.

The Household Affordability Prescription aligns very closely with our recent call for the City to produce a minimum of 15,000 new housing units every year for the next decade. There are many prescriptions recommendations we support, others we'd recommend taking a step further and a few we feel miss the mark in achieving more affordability throughout our City.

For example, we do not believe the proposed prescriptions should be solely focused on form-based areas along designated *Imagine Austin* corridors or designated districts/centers. In fact, we believe missing middle housing and increased density must be incorporated throughout our City, albeit contextually integrated within established neighborhoods.

Below is our comprehensive response to the Household Affordability Prescription:

**DIVERSITY OF PEOPLE AND BUILDINGS**

**Density Bonus Programs**

The revised code will replace the existing inconsistent density bonus programs with a new program to cover *Imagine Austin* Centers and Corridors where larger buildings are deemed acceptable. This should align with Federal Transportation Agency (FTA) criteria, which contemplates both the existing stock of affordable housing and the policies and programs to increase and sustain the supply at specific affordability levels. This is important because alignment with FTA criteria is essential should Austin seek federal funding to support future transit investments. The testing conducted at the Sound Check 6 utilizing *Envision Tomorrow* preliminarily indicated that such programs would be feasible (allowing projects to be financially feasible while also producing affordable housing benefits) in a number of corridors and centers throughout Austin.

## **RECA RESPONSE**

RECA supports combining varying density bonus programs to eliminate inconsistencies throughout Austin. However, we also encourage allowing greater density by-right and at a certain agreed-upon threshold (greater than our existing suburban zoning permits). A density bonus program should be available.

A second type of density bonus program will be available in and around Imagine Austin Activity Centers and Corridors with access to transit where smaller buildings with height and bulk appropriate to their neighborhood context are more appropriate. This “density bonus” could take the form of allowing more units within the same size building height and bulk.

## **RECA RESPONSE**

RECA recommends a single, administrative density bonus program, with varying levels of density, allowable Missing Middle uses, and height. A clear program and process should be in place, and expedited review should be considered. We agree there should be consideration to extend some additional density, height, and Missing Middle housing, however feel strongly that it should extend beyond the parcels with frontage on Corridors or within Activity Centers. We recommend a minimum of a ¼ mile distance in from Corridors and/or ¼ mile radius around Centers.

## **Diversity of Housing Choice**

Promote diversity of housing options in targeted areas such as Imagine Austin Activity Corridors and Centers that have more transportation choices. During the mapping phase, Missing Middle will likely be focused within, and in “transition zones” along, Activity Centers, along Activity Corridors. When considering appropriate zoning categories during the mapping phase, consideration will be given to the local context such as the type of neighborhood and other characteristics such as natural features.

## **RECA RESPONSE**

RECA strongly recommends policies allowing for increased housing options City-wide. Additionally, we would respectfully request an analysis of existing housing stock and housing types throughout the City.

Provide a more diverse set of housing options within most form-based code districts; some will include a range of Missing Middle types that correspond with building forms appropriate for the walkable context.

## **RECA RESPONSE**

As with our previous response, RECA believes Missing Middle options should be encouraged and permitted City-wide.

Adjust lot size minimums and maximums in the form-based code districts to accommodate a diversity of housing options including Missing Middle building types.

## **RECA RESPONSE**

RECA is supportive of modernizing and adjusting lot size minimums and maximums, but strongly encourages analyzing existing use-based zoning districts and their associated site development regulations, in addition to the new form-based districts. We do not believe every single-family home must be on a lot with a minimum lot size of 5,750 SF or that every multi-family project must be on a lot with a minimum size of 8,000 SF.

Simplify the permitting process for Missing Middle projects between 3 and 10 units when they adhere to the form-base standards in the code. The new code may be applied in a manner that takes account of the physical form and character of a neighborhood, rather than applying a one-size-fits-all approach uniformly across all residential neighborhoods.

### **RECA RESPONSE**

Missing Middle housing must be defined and the associated permitting process should be modified to incentivize residential development such as duplexes, triplexes, fourplexes, mansion apartments, row houses, etc. Definitions of each type of Missing Middle and a simplified development review process should be considered. A new Site Development Plan process should be provided for all Missing Middle housing types, regardless of the total number of units proposed. To that point, we also do not think 10 units should be the trigger for a commercial site plan. There should be consideration based on residential unit type, rather than number of units.

Provide additional opportunities for flexible housing: cooperatives, prefabricated housing, group homes, mobile and manufactured homes, RVs, tiny homes, temporary and permanent shelters.

### **RECA RESPONSE**

RECA supports this prescription, and would suggest this applying city-wide.

### **Fair Housing**

Pursuant to the City of Austin's Fair Housing Action Plan, the revised code will maintain, expand, and revise density bonus programs to:

- a. Align bonus programs and formulas for calculating the number of units, accessibility requirements, the affordability periods, and onsite requirements. This will require economic analysis to calibrate the required community benefits.
- b. Incentivize and provide additional opportunities for housing units with two bedrooms or more particularly in high opportunity areas, which typically include access to educational jobs, transportation, and positive environmental conditions. These factors can limit or expand a person's social mobility, potential, and even life expectancy.

### **RECA RESPONSE**

- a. RECA recommends consideration be taken into account based on location (project economics in the Central Business District (CBD) is very different than a suburban subdivision), and they should not be analyzed economically as such. Any economic analysis performed by the City should be reviewed and vetted by individuals (potentially a third party) with real-world experience and based on all existing market factors. On-site affordability mandates and term lengths must consider site context and the market factors.

- b. We believe market demands rather than one size fits all regulations should drive the unit mix of affordable and market rate units. We are not opposed to additional incentives or opportunities to encourage larger units.

Pursuant to the City of Austin’s Fair Housing Action Plan, land use and regulatory requirements will be modified to expand housing choice and reduce housing access barriers:

- Provide a more refined set of zoning districts, transect and use-based, that replace the complicated “opt-in, opt-out” regulations and process in order to affirmatively further fair housing choice throughout Austin.
- Provide additional housing choices.

### **RECA RESPONSE**

RECA supports both points.

## **COMPACT COMMUNITIES AND AFFORDABILITY**

### **Density Limits**

In the form-based districts, density will be addressed by the form standards contained within each district. These standards include building placement, height, mass, impervious cover, parking placement, lot width, open space, landscaping and so on. These standards will allow for appropriate built forms to be developed to fit the context of the neighborhood while allowing additional supply and diversity of housing types.

### **RECA RESPONSE**

RECA supports this prescription generally, but reserves the right to comment further once the form based code is released. Additionally, a diversity of housing types should be applied city-wide and not limited to form based districts.

Reduce the minimum lot size requirement to promote Missing Middle housing. New lot size standards will be incorporated into each form-based district that is supportive of the various neighborhood contexts. Rather than minimum lot size standards, the form-based code districts will include minimum and maximum lot width and depths, build-to areas, and building placement standards. In the use-based Single-Family and Multifamily zoning districts, the lot sizes will be reduced in certain contexts to promote Missing Middle residential uses as well as fit within the context of the neighborhood.

### **RECA RESPONSE**

RECA questions why this proposed reduction in lot-sized regulations are limited to formed-based districts? We call for a complete overhaul of site-development regulations for all zoning districts.

Maintain the Minimum Site Area requirements. These requirements, found at Sections 25-2-560 through -563 of the Land Development Code, limit the number of dwelling units on a

site by requiring a certain amount of square footage of site area for each type of unit. The presence of this requirement has proven to be a significant incentive for projects to participate in the Vertical Mixed Use (VMU) density bonus program. The requirements should be evaluated, however, to determine whether the application of the requirements is adversely impacting the development of housing with two or more bedrooms.

### **RECA RESPONSE**

RECA believes this prescription contradicts the premise of this paper. Some by-right increase in allowable density is critical to moving the needle on housing supply and affordability. Site Area requirements significantly limit density, especially on smaller infill sites. This encourages sprawl and garden-style multi-family projects with large acreage. There should be a middle-ground: for example, some level of increased density is permitted by right in an effort to achieve more housing throughout the City, and an even higher density could be achieved through a density bonus program requiring affordability.

### **Compatibility and Transitions**

See the Code Prescriptions identified in the Natural and Built Environment Code Prescription on pages 22-23.

### **RECA RESPONSE**

Please find our responses from the previous prescription paper below:

1. A complete re-analysis of our existing compatibility standards should be prioritized. While some of the elements are effective, the appropriate transitions between single-family and commercial development, are not one-size-fits-all. Designated growth centers and corridors should be looked at differently than a site interior to an established neighborhood.
2. Site characteristics, such as topography, should be considered when applying compatibility standards.
3. A review of the capability standards applicability should be analyzed. For example, civic uses such as schools, day cares and churches should not warrant the same protections as an established single-family residence. Further, a residential structure being utilized for commercial purposes should not trigger compatibility standards.

Evaluate the impacts of compatibility standards in the use-based districts on household affordability especially affordable housing.

### **RECA RESPONSE**

RECA believes we must re-visit compatibility standards City-wide, not only within form-based districts. Administrative relief should be permitted based on site-specific conditions, i.e. topography, drainage conditions, elevation or height of triggering property, etc. Applicability and small vs large site criteria should also be analyzed. Consideration should also be taken into account for properties that abut commercial property along corridors. There are many project examples along corridors where units have been lost due to setbacks and height step-backs associated with compatibility.

## **MOBILITY, LAND USE, CONNECTIVITY, AND AFFORDABILITY**

### **Transit-Oriented Development**

Integrate transit-oriented development standards into form-based code standards and apply these standards near high-capacity transit stations. These standards include building form and placement, reduced parking requirements, parking amount and location standards, diverse and compact lot sizes, adaptable buildings that accommodate shifting markets and uses, connectivity requirements including interconnected streets and walkable block sizes, and a diversity of uses that promote complete communities.

#### **RECA RESPONSE**

RECA is generally supportive of this prescription, but reserves the right to comment further once the draft standards are presented. We support a uniform review process and implementation of the standards.

The CodeNEXT team will recommend that these standards be applied in the higher intensity form-based districts such as T4 and T5, applied to centers and corridors and areas that are within a ½ mile of high-capacity transit stations, rail, and bus rapid transit stations, and will consider the context of the adjacent community. This decision will ultimately rest with the City Council during the “mapping” of the zoning code.

#### **RECA RESPONSE**

RECA calls for this to be expanded to larger portions of the City and not limited to certain districts, centers or corridors.

As stated in the Density Bonus section, a revised density bonus program will be available in and around Imagine Austin Activity Centers and Corridors to promote housing near transit. It may, in some cases, be appropriate to build residential units in place of some ground floor commercial to address the City’s unmet demand for more affordable housing units, particularly beyond ½ mile from a station.

#### **RECA RESPONSE**

RECA agrees that the market should drive whether projects include commercial uses on the ground floor; in many cases these spaces are vacant and un-leased. If residential is needed from a market stand-point the Code should allow for it. The Code should not dictate specified uses on any property or within any floor of a proposed building.

In addition to the standards for transit-oriented development, T3 zones and higher will have development standards and uses that support transportation choices including local and express bus, bike infrastructure, and walking. Along certain activity corridors, urban districts such as T4 and higher will support walkable access to services, particularly along corridors that are within walking distance (½ mile or less) to bus stops.

#### **RECA RESPONSE**

RECA generally agrees with this statement but reserves the right to comment further upon review of the draft development standards.

## **Parking and Affordability**

Reduced Parking Minimums: CodeNEXT will recommend that the revised code will have reduced parking minimums in areas of the city targeted for compact development, especially when those areas have public transit and other mobility choices. Parking reductions in these areas will happen within the local context, taking into account the type of street and street network available as well as surrounding development and uses. In order to further incentivize reduced parking where appropriate:

- Include a bonus system where, in exchange for providing a public benefit such as affordable housing or community open space, a developer could choose the next most restrictive level of parking for their zoning category and provide fewer spaces than would otherwise be required.
- Reduce parking minimums near high-frequency transit stops.
- Waive minimum parking requirements for developments that build all of their units as affordable housing near transit stops including local bus.

### **RECA RESPONSE**

RECA supports this prescription. We would also note that less parking on-site equates to less impervious cover, drainage and run-off issues. Further, reducing parking also allows for less curb cuts which leads to an improved pedestrian experience and allows for more on-street parking.

There is a need to rethink and refine the City's shared parking and Residential Permit Parking (RPP) Program with an eye toward balancing neighborhood, business, environmental, and affordability needs.

### **RECA RESPONSE**

RECA supports this prescription.

## **QUALITY, SAFE AND AFFORDABLE NEIGHBORHOODS**

### **Development Review Process**

CodeNEXT will re-organize and re-format the Land Development Code to make code requirements clear and understandable. For example, as stated in the Natural and Built Code Prescription, site development and building design standards will be integrated into the base zoning district.

### **RECA RESPONSE**

RECA strongly supports this prescription, in addition to the larger overhaul of the development review process

CodeNEXT will, to the greatest extent possible, eliminate, consolidate, or restructure conflicting code provisions to increase the simplicity of applying the new code.

## **RECA RESPONSE**

RECA strongly supports this prescription.

CodeNEXT will provide a more refined set of zoning districts, (form-based and conventional) that replaces the complicated “opt-in, opt-out” regulations and process.

## **RECA RESPONSE**

RECA strongly supports this prescription.

## **Environmental Regulations**

Maintain the context-sensitive prescriptions identified in the Natural and Built Environment Code Prescription on pages 10-12 and 15-17.

## **RECA RESPONSE**

Please find our responses from the previous prescription paper below:

### **(10-12)**

1. While a significant amendment to the City’s Watershed Ordinance has taken place in the recent past, we do not think it should be off the table for reconsideration, especially in looking at the City contextually.
2. The City currently evaluates infrastructure capacity, so this comment needs further clarity as to its intention. Regional approaches to Stormwater Management should be pursued in earnest. Site-by-site solutions can only do so much.
3. The requirement to detain redeveloped sites to pre-developed conditions does nothing to incentivize redevelopment and in many cases, is extremely challenging or impossible, due to the lack of stormwater infrastructure downstream. This requirement does not incentivize redevelopment in the central City, but rather encourages sprawl and expands our unaffordability problem. The City needs to take some responsibility for aging public infrastructure. Waiting for developers and redevelopment to upgrade aging central City infrastructure is irresponsible.
4. We support additional options to mitigate run-off and flooding. Regional and site-specific solutions should be considered. The Regional Stormwater Management Program (RSMP) should also incorporate the two-year storm event as well as the proposed 95<sup>th</sup> percentile storm event that is recommended in the prescription paper. Further, if there is an existing flooding issue (due to conveyance or lack of infrastructure or aged infrastructure), then RSMP should not be denied if the redevelopment and infill has not increased the issue.
5. The requirement to use water as a resource will require a modification to the 48-hour and 72-hour draw down times. The Technical Criteria Manuals need to be consulted and addressed in conjunction with the Code re-write.
6. The requirement to re-use on-site storm water as a resource (on-site irrigation) will create a burden on many developments, specifically urban development properties and sites with poor soils. This requirement would require a modification to the 48-hour and 72-hour draw down times. We support

incentives for developers to utilize innovate water quality measures and/or grey-water re-use, however we disagree this is a one size fits all approach. The Technical Criteria Manuals should also be consulted and addressed in conjunction with the Code re-write.

7. The recommendation to utilize excess Right-of-Way (ROW) for green infrastructure is positive in theory but typically the excess ROW is allocated for future mobility improvements, expansions, etc. and based on the future Austin Metropolitan Area Transportation Plan. Coordination with the Transportation Department will be necessary to vet the viability.

**(15-17)**

1. Cost impacts to expanded landscape requirements should be considered, in conjunction with all the other recommendations.

2. We are generally in support of tree preservation based on site context.

5. What is the intended definition of “Significant” trees? The Code currently defines Protected and Heritage trees.

10. Protected and Heritage tree species should be re-analyzed.

**Affordability Impacts to Small Businesses and the Cultural Arts**

Allow for compatible retail and commercial uses by right including arts, culture and creative uses such as rehearsal, gallery, studio, performance or exhibit spaces and offices in areas where form-based zones have been applied and a diversity of uses is desired. This includes adequate commercial space allowances in corridors, centers, and in between these areas and neighborhoods.

**RECA RESPONSE**

RECA generally agrees, but recommends consideration to allow cultural and creative uses City-wide and not solely within form-based districts.

Revise the density bonus program in targeted areas such as cultural districts by adding the preservation or creation of an existing creative venue or business as a Community Benefit. Density bonus fee-in-lieu requirements will be evaluated for 501(c)(3)s to promote emerging small non-profits. The existing density bonus provisions will be evaluated to determine if they can incorporate preservation or development of a music or creative venue that will be used for rehearsal, gallery, studio, performance, or exhibit spaces and offices.

**RECA RESPONSE**

RECA generally supports, but reserves the opportunity to comment further once draft density bonus provisions are released.

The opportunity to expand live/work units will be found in all form-based code districts in order to promote the opportunity for the small businesses, including artists to be able to work where they live. The allowance of live/work units will be both within the uses regulated by the different

form-based code districts but also in the regulation of building types to ensure the proper form to allow for live-work units.

**RECA RESPONSE**

RECA generally agrees with this prescription, but it should not be limited to form-based code districts.

