HousingWorks
AUSTIN

MEMORANDUM

TO: CodeNEXT
FROM: Mandy De Mayo, HousingWorks Austin
Melissa Neslund, RECA Policy Chair
RE: LDC and Affordability
DATE: January 28, 2014

In December 2013, a group of nonprofit and for-profit residential developers and professionals gathered together to discuss the Land Development Code and its impact on affordability. Participants included representatives from HousingWorks Austin, the Community Housing Development Organization (CHDO) Roundtable, the Real Estate Council of Austin (RECA), and the Home Builders Association of Greater Austin (Home Builders). The discussion that occurred over two separate two-hour meetings centered on problems inherent to the current code and development review process, as well as solutions for consideration in the LDC Rewrite.

The Imagine Austin Comprehensive Plan laid out a vision for compact, connected, and complete communities. Imagine Austin identified Household Affordability as one of the eight "priority programs." The LDC Rewrite provides a unique opportunity to look at rules and regulations guiding development in Austin through the lens of affordability. The group of individuals and organizations represented at the December 2013 meetings shared a common experience of trying to develop an affordable product (whether deeply affordable, subsidized housing or market-rate affordable housing) within an environment that is arguably hostile to affordability.

The major themes – and recommendations - are outlined below.

CULTURE/ENVIRONMENT

Development Review Process. Participants agree that the development review process is broken and needs significant change. In order to have a meaningful LDC Rewrite, the Development Review Process must be revised and improved at the same time. Currently, the departmental structure is hierarchical with very specialized technical staff. There is a clear need for more skilled generalists who can function in a "flatter," less compartmentalized organization.

Imagine Austin's Speaker Series "Best Practices in Development Review: Faster! Smoother! Smarter!" underscored the need for an improved process. Topics discussed at that event included empowering staff to make decisions at a lower level (rather than escalating and delaying decision-making authority). However, that

concept is predicated on the assumption of well-trained staff with a dedication to customer service and timely review.

Stakeholder group recommendations include creating an ombudsman for each project (to shepherd the development through the process); or, alternatively, forming a dedicated review team (consisting of multiple disciplines) to review plans and clear comments simultaneously. Either approach would contribute to consistent and timely decision-making.

The goal should be an organizational culture that *encourages* well-designed development in line with the city's broader goals, including affordability. In addition, the development review process should be transparent and consistent, with accountability and reporting measures to ensure the public's ability to track individual projects and overarching trends.

Competing Priorities. The city has identified a myriad of arguably worthy priorities – sustainability, water quality, tree preservation, accessibility, compatibility, etc. – which are often considered in silos and may, in fact, compete against one another. While affordability is presumably one of the city's priorities, there is no comprehensive cost benefit analysis of the trade offs. Someone needs to be tasked with oversight for affordability, ensuring, at very least, thorough affordability impact statements are provided when code, rule, or policy changes are being considered.

COSTS

Fees. Austin has a host of development fees, a sample of which is attached. Development fees include a variety of impact fees, review fees, permit fees, and mitigation fees. Each of the fees has a specific (presumably worthy) purpose, yet when the fees are layered onto each other, the bottom line impact is startling. And often there is a disconnect between the actual fee and the purported end use. For example, developers pay a Parkland Dedication Fee (based on the size of a development), but frequently there is no tangible benefit between the fee paid and the resulting park or improvement. Often the fees seem to disappear into a "black hole." The stakeholder group recommended that the city develop an annual report on all the fees collected by various departments and how those funds were expended.

SMART Housing. When SMART Housing was instituted in the early 2000s, the incentives offered (expedited review and fee waivers) were substantial and meaningful, relative to overall development costs of the time. Over the years, the waivers have remained essentially unchanged, while the number of fees have increased and expanded (see above). Additionally, expedited review is an unfulfilled promise. Even with reduced affordability requirements, the incentives

for participation are not sufficient to entice private developers to produce a significant number of affordable units.

SMART Housing is an important incentive program that has the potential to deliver a significant number of affordable units. Over the years, there have been numerous recommendations (starting with the Affordable Housing Incentives Task Force report in 2008) for "SMARTer" Housing. Building on those recommendations, the city should look at expanded fee waivers to *include all current and future fees* (including license agreements, UDAs, and upcoming utility impact fees), as well as cost participation for infrastructure improvements. The cost of infrastructure improvements (e.g., water, wastewater, etc.) is often passed onto the developer (and, thus, the end user) and can represent a sizeable portion of a development budget. Rather than externalizing these infrastructure costs, the city should share in the costs (in proportion to the affordability offered). Between expanded fee waivers, truly expedited review, and infrastructure cost sharing, more private developers would be incentivized to participate in SMART Housing and more affordable units would be incorporated throughout the city.

LAND USE

Parking. Parking requirements complicate site development and often represent a significant portion of a development budget. While the group acknowledged the need for effective transit options in order to completely eliminate parking requirements, there was significant discussion around reduction of parking requirements, incentives for shared parking, and public-private approaches such as a Parking Enterprise Fund. As viable transit options emerge in different parts of the city, developers need the flexibility to manage the parking they provide based on transit accessibility, financing requirements, and their target markets. In most cases, administrative approval for residential parking reductions is warranted.

Density and Infill Tools. Currently, Special Use Infill Options and Design Tools are only eligible for use in Neighborhood Planning Areas that have adopted the tools. Accessory Dwelling Units (attached or detached), secondary apartments, small lot amnesty, cottage lot, and other infill tools should be allowed by right, rather than through an "opt in" process.

With the city's population expected to double in the next two decades, we will need to be creative about how and where we develop. Austin will need to reconsider its minimum lot size (5,750 s.f.) for a "standard" lot, as well as the minimum lot sizes for duplexes (7,000 s.f.) and other housing types. If we want to incentivize the "missing middle" in housing types, we need to provide the tools to do so.

Rules. In addition to the complexity of the LDC, Austin is burdened by a "shadow code" consisting of staff interpretations and ever-changing and expanding rules. City departments may adopt "rules" on a quarterly basis to implement, administer,

enforce, or comply with city code or ordinance. A variety of departments – including Planning and Development Review, Austin Fire Department, Austin Transportation, Watershed Protection – propose new rules on a quarterly basis. Sixteen new rules are proposed for first quarter 2014. As an example, the Watershed Protection Department proposed Rule Posting R161-13.32 to "revise" manhole spacing requirements and prohibit the use of inlets and outfalls to meet maintenance requirements. More manholes mean more materials, labor, and maintenance and, thus, translate to increased cost. But the city-required "affordability impact statement" did not take into consideration the increased cost for the developer (and thus end user), despite public comment to the contrary.

Serious consideration should be given to limiting the number of rule and code changes permitted during any 12-month period with, of course, exceptions made in critical cases affecting, such things as public health and safety.

Nonprofit and for-profit residential developers and professionals, representing HousingWorks Austin, Real Estate Council of Austin, and Home Builders Association of Greater Austin, met during December 2013 to craft detailed recommendations on how CodeNEXT can advance household affordability throughout the City of Austin. The recommendations included in this paper are a starting point. As the Opticos team - working with the City of Austin and the Code Advisory Group – completes its code diagnosis and embarks on the preliminary draft code, the group will reassemble to provide additional input and recommendations.