



**Neighborhood Housing and Community Development**

P.O. Box 1088, Austin, TX 78767 -1088

1000 East 11<sup>th</sup> Street, Ste 200, Austin, TX 78702

(512) 974-3100 ♦ Fax (512) 974-3161 ♦ [www.austintexas.gov/housing](http://www.austintexas.gov/housing)

**DATE:** November 16, 2015

**TO:** Mayor and Council

**FROM:** Betsy Spencer, Director

**SUBJECT:** Resolution No. 20140925-090: Planned Unit Development (PUD) Density Bonus Code Amendment

---

This memorandum serves to address Resolution No. 20140925-090, which directed staff to initiate a code amendment to modify the in lieu donation option for the affordable housing requirement in Planned Unit Developments (PUD) accessing the density bonus. City Council requested that staff consider the following options:

- Remove the fee in lieu option and require onsite affordable housing.
- Require a significant portion of the affordable housing requirement to be provided onsite and allow a portion to be provided through fee in lieu.
- Consider an exceptions process for the onsite affordable housing requirement.

City Council Resolution No. 20140925-090 and the staff recommended amendments apply solely to the density bonus portion of the Planned Unit Development section of the land development code. There is no affordability requirement tied to Planned Unit Development zoning, only an option to include income restricted affordable units as a piece of the Tier 2 voluntary community benefits. There is an affordable housing requirement for Planned Unit Developments that access the density bonus. Three Planned Unit Developments have chosen to participate in the density bonus program since it was introduced in 2008.

The public hearing on the proposed code amendments is set to be conducted at the November 19<sup>th</sup> City Council meeting. Staff will be requesting Council approval of staff recommendations.

Summary of staff recommended code amendments:

- Affordability requirement is proposed to apply to all development types that participate in the density bonus, including non-residential. *The affordability requirement currently applies to residential uses only.*
- Developments with no residential use are permitted to pay the fee-in-lieu by right.

- Remove requirement for “prevailing level of affordability” report. *This requirement is no longer relevant because the rental Median Family Income (MFI) was lowered to 60% in the 2013 amendment.*
- Affordability term for ownership housing will be 99years.
- Land donation in lieu of on-site affordable units must be approved by the Director of Neighborhood Housing and Community Development.
- Request for approval of a fee-in-lieu of on-site affordable housing must be submitted in writing NHCD per the guidelines. *There are currently no guidelines for how an exemption request is submitted.* The NHCD Director will assume feasibility of on-site units. The written request must demonstrate the infeasibility of complying with the on-site requirement.
- NHCD will develop procedures regarding the overall PUD submission and approval process as it relates to the administration by NHCD staff.

The draft ordinance includes the staff recommended code amendments related to the Planned Unit Development Density Bonus. See Web links referenced in the memo on Page 3.

The following factors informed staff’s recommendation of the proposed amendments:

- The proposed amendments allow for City Council to consider the benefits of approving a fee-in-lieu of all or a portion of the on-site affordable housing requirement. The stakeholder process did not result in a consensus or a strong majority that favored the removal of the fee-in-lieu option.
- The proposed amendments insert a requirement for a written request for fee-in-lieu approval and place the accountability on the developer to evidence the rationale as to why complying with the onsite affordable housing requirement would be infeasible. This proposed requirement also ensures that developers work with NHCD staff to evaluate the identified barriers or challenges and to explore options for resolving these barriers or challenges before a fee-in-lieu request goes before the City Council for consideration.
- Each Planned Unit Development is different and therefore will present different factors regarding complying with the onsite requirement. The staff recommendations allow for a level of flexibility that can be responsive to the particular nature of Planned Unit Development zoning.

Additional policy considerations:

Although not included in the proposed amendments due to the specific scope of the Resolution, Neighborhood Housing and Community Development Office staff will explore initiating a code amendment that would add an affordable housing requirement to the Planned Unit Development Tier 1 minimum requirements (Subpart B, Section 2.3).

In addition to the stakeholder meetings specific to the Council initiated code amendments, staff held a stakeholder meeting to provide an opportunity for community members to share feedback on the overall PUD ordinance.

The goal of this additional action was to ensure that the staff and City Council were made aware of additional stakeholder recommendations and concerns that may not be directly applicable to the PUD Density Bonus code amendment process.

A summary of feedback collected at the August 2015 meeting can be found on the NHCD website. A link to this document is provided in the *Reference Documents* section of this memo.

Questions and comments can be directed to:

- Regina Copic, Real Estate Development Manager, [regina.copic@austintexas.gov](mailto:regina.copic@austintexas.gov); 512.974.3180;
- Jessi Koch, Planner Senior, [Jessi.Koch@austintexas.gov](mailto:Jessi.Koch@austintexas.gov); 512-974-3100.

Reference Documents (links):

- [Code Amendments chart](#)
- [Draft amended PUD Ordinance](#)
- [Summary of staff efforts and City Council and boards and commission action](#)
- [PUD Resolution No. 20140925-090](#)
- [PUD Ordinance No. 20131003-096](#)
- [Community Development Commission action/motion sheet from June 30<sup>th</sup> meeting](#)
- [Planning Commission September 22nd approved meeting minutes](#)
- [Stakeholder feedback from June 24<sup>th</sup> meeting](#)
- [Stakeholder feedback from July 30th meeting](#)
- [Stakeholder feedback from August 12th meeting](#)

cc: Marc A. Ott, City Manager  
Bert Lumbreras, Assistant City Manager  
Sue Edwards, Assistant City Manager  
Greg Guernsey, Director, Planning & Zoning Department