



To: City of Austin, Planning and Zoning Department

Re: Austin Board of REALTORS® Official Response to Draft Land Development Code

From: Andrei Lubomudrov, Senior Policy Advisor, ABoR

Cc: Greg Guernsey, Director, Planning and Zoning Department
City of Austin Council Members and Staff
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Date: June 7, 2017

Summary

The Austin Board of REALTORS® (ABoR) is not supportive of the current draft land development code. The code, as written, does not substantively address the deficiencies of the current land development code identified in the May, 2014, “Land Development Code Diagnosis” prepared by Opticos Design, Inc. The proposed code suffers from major flaws in the following areas:

- 1. the code is not less complex, but rather lacks transparency, and is far from user-friendly;**
- 2. the code does not clearly expand housing choices throughout the city; and**
- 3. it exhibits little effort toward improving housing affordability, as the affordability incentives policy is still not publicly available for review or comment.**

ABoR expects that the improved code our city adopts will address the challenges outlined so clearly in the Code Diagnosis and finds that, while attempts towards the tactical clarity of the code have been made, the draft code does not reflect the change necessary to positively impact our local housing market in a meaningful way.

That being said, ABoR remains committed to the process of adopting a new code that provides the solutions our community needs. Adopting such a code can be accomplished in a reasonable timeframe when we remain committed to shared values and priorities. This process should be a collaborative one that is responsive to Austin’s needs and cannot be delayed further than it already has.

In most respects, the draft code falls short of addressing the issues identified in the Code Diagnosis document. Critically, the draft code does not substantially reduce the complex and confusing orientation of Austin’s Land Development Code as it essentially introduces three separate Zoning Codes: one based on transect zoning, one based on non-transect zoning, and another based on special districts/overlays.

We have outlined several significant problems with the draft that limit its ability to address these issues below:

A. Deference to neighborhood plans and other small-area plans will leave complicated layers of regulations intact.

The draft code provides that neighborhood plans and other small-area plans will supersede underlying base zone requirements to the extent of any conflicts (see, e.g., section 23-4D-7090(D)). Thus, much of the city will continue to be within districts with base zoning modified by overlays. This layering of regulations means Austin will continue to experience the top three issues identified in the code diagnosis:

- Ineffective base zoning districts
- Competing layers of regulations; and
- Complicated “opt in, opt out” system.

This problem could be addressed by integrating provisions of the smaller-area plans into the new code, and making clear that the provisions of the new code will govern new development.

B. Limiting significant changes to corridors, and allowing only the districts proposed in the draft, will impair our ability to address housing affordability and choice.

Imagine Austin emphasizes that “the range of available housing choices must expand throughout the city” (p. 201.) The zones proposed in the draft code fall short of allowing the range of options many had anticipated. Even the transect zones appear to, in effect, preclude many of the housing options on the ground today. And applying these zones to only a small fraction of the city – such as to certain corridors and transition zones – will further restrict the range of available housing choices. These problems will limit our ability to address at least two of the main issues identified in the Code Diagnosis:

- Lack of household affordability & choice; and
- Not always in line with Imagine Austin.

These problems could be addressed by allowing for more housing options within the proposed districts; creating additional districts that are more supportive of additional housing options; and allowing for meaningful changes throughout the city, including the interiors of neighborhoods.

C. The parking changes proposed are significant and helpful, but should go further.

The draft code makes significant progress in reducing parking requirements: For residential uses, the draft essentially moves Austin from 1 space/bedroom to 1 space/unit; some small commercial uses would be exempt from parking requirements; and requirements for office uses would fall from 1 space/275sf to 1 space/500sf. These changes would, to some degree, address one of the major issues identified in the Code Diagnosis – Austin’s Auto-centric code.

And yet, Austin would still be left with an auto-centric code. Many now recognize that overly-prescriptive parking requirements reduce the type and amount of housing that can be built and stifle many small businesses. In response to these and other concerns, Buffalo recently eliminated parking requirements city-wide.¹ Boston recently addressed its housing shortage by easing its longstanding practice of requiring at least one parking space per unit² – the same requirement proposed in the draft code.

To move away meaningfully from an auto-centric code, parking requirements should be minimized with the understanding they largely will be driven market forces, such as buyer preferences and lender requirements. Parking issues that spill over into neighborhoods can and should be remedied through use of the City’s RPP program. If some parking requirements are retained, the draft should be modified to allow reductions that exceed 40 percent of standard requirements.

D. Administrative and procedural improvements are still needed.

Many of the problems caused by the current code are related to the permitting process. Staff have difficulty interpreting and applying the code, and those seeking a permit are subject to a long series of demands from numerous departments. These problems are highlighted in two issues identified in the Code Diagnosis:

- Code changes adversely affect department organization; and
- Incomplete and complicated administration & procedures.

The draft code does not appear to offer a meaningful solution to these issues. To effect real change, the city should work with stakeholders to revamp the permitting process in connection with the adoption of the new code. Several suggestions have surfaced that would go a long way toward this goal, such as providing comprehensive, integrated review with the initial filing of an application.

The draft code released on January 30, does however, point toward solid progress on at least two issues identified in the Code Diagnosis document: namely, lack of usability &

¹ Linda Poon, “Buffalo Becomes First City to Bid Minimum Parking Goodbye,” *CityLab*, Jan. 9, 2017, online at <http://www.citylab.com/housing/2017/01/buffalo-is-first-to-remove-minimum-parking-requirements-citywide/512177/>.

² Marcus Paul, “Boston eases parking space requirements to address housing shortage,” *BostonAgent*, March 29, 2017, online at <https://bostonagentmagazine.com/2017/03/29/boston-eases-parking-space-requirements-address-housing-shortage/>.

clarity, and ineffective digital code. The draft is nicely organized and formatted, and will likely be much easier to navigate digitally than the current code. The reliance on two core zoning systems – one form-based (the transect zones), and the other use-based (the non-transect zones) – means that the new code will still be fairly complicated; it would be far clearer if we could have just one unified system. But the reorganizing and graphics reflected in the draft will make the code much more user-friendly.

E. The Code does not clearly expand housing choices along and around corridors in so-called “transition zones.”

The draft code makes some modest inroads to a greater range of housing choices. However, in many cases, it also creates more stringent site-level restrictions while retaining much of the existing code’s complexity.

The proposed draft is not deliberate in creating zones that are tailored to Austin’s need for greater housing options with good access to transit. Rather, it seems that Austin is getting a combination of cookie-cutter form-based zones layered with locally-defined requirements such as impervious cover, heritage trees, conditional overlays, etc. The result of this chaotic marriage is a set of disparate tools that do not create a clear path toward the goals that Austin has embraced as a community.

To resolve this shortcoming, Austin needs zones that are specifically tailored to its needs and are ready-made to phase-in additional housing options in appropriate places. This includes expanding opportunities for accessory dwellings in residential cores and allowing more medium-density housing throughout Austin.

F. Lastly, it is very disappointing and concerning that key details, such as affordability incentives, are not yet available for review.

As we strive toward implementing an aggressive “Austin Housing Blueprint” and serve today’s community and tomorrow’s, we will need to creatively and aggressively address opportunities to achieve greater affordability and partner in achieving this affordability by way of incentives that yield the price point and housing we need.

It is hard to evaluate the Code as proposed when we are still missing key details, such as the affordability incentives section. The affordability incentives piece is directly relevant to the code since it creates the possibility of modifying property entitlements in exchange for publicly-defined benefits, such as affordable housing. While ABoR understands the importance of maintaining expectations around a timeline, we also believe it is important to view CodeNEXT in a larger context of how the Code can potentially impact affordability.

Thank you for the opportunity to comment in this draft. We look forward to continued involvement in the redevelopment of our land use code and in helping to craft policies that strengthen the stability of our housing market in a manner that serves all Austinites.