

Dear Greg,

Given the difficulties with the CodeNext comment tool, please accept this email as a substitute method of commenting on some of the provisions of CodeNext which have relevance to the Bryker Woods Neighborhood. It is not intended by any means to be an exhaustive list of problems and concerns about CodeNext in general or its application to Bryker Woods in particular and, in fact, it is not.

Objection is made to following CodeNext provisions that threaten the character, safety and livability of the Bryker Woods Neighborhood:

1. As you know, although generally the minimum lot size for a single family home today is 5,750 sq. ft., in Transect zone T3N.DS, three residential units would be permitted on a 5,000 sq. ft. lot. This is a 50% increase in the density over what is permitted today, the increase is permitted on a smaller lot, and it is accompanied by a 50% reduction in residential parking. On top of that there is the potential for further increases in density through bonuses the parameters of which have not been disclosed.

2. CodeNext largely eliminates the important distinctions in the current code between office and retail uses and between medical and other professional offices. A Transect Open zone is open for both uses. Office and retail have different traffic generation potentials, different parking loads and different operating hours. They are not fungible. There is currently office zoning in close proximity to Bryker Woods Elementary School. CodeNext would automatically rezone those properties to allow retail uses and would increase the potential for medical services on the Neighborhood Office (NO) lots. Retail and medical service uses would dramatically increase the traffic on the streets surrounding the elementary school. This is unsafe, unwise and unacceptable. This is bad policy and in direct opposition to what is proposed in our Neighborhood Plan which was adopted unanimously by the Planning Commission and City Council.

3. As you know, Transect zoning inexplicably reduces or eliminates altogether parking requirements for several non-residential (commercial) uses, effectively transferring commercial parking to the neighborhood streets. For example, a 2,500 sq. ft. medical office is required to provide zero parking for staff and patients. A 3,000 sq. ft. retail store, general office or bank is required to provide only a single parking space. And, Director of Planning, whose decision is unreviewable, may further reduce or eliminate the on-site parking requirement for a variety of reasons such as mere proximity to a corridor, or the inconsequential installation of bike racks or off-site parking 1,000 feet away. The off-site parking provision has been wildly abused in the past and there is no reason to believe it will not be abused in the future. Commercial parking on neighborhood streets damages the character of the neighborhood. More importantly, it makes the neighborhood less walk-able and less safe for families and school children.

4. As you know, to open a bar outside the Central Business District today typically requires a zoning change. Transect zoning has dramatically increased the ability to open bars outside the CBD. In some Transect zones (e.g. T4MS – which Staff has mapped for 35th Street) bars require only a Minor Use Permit which is administrative and does not require a hearing or Council approval though some as yet undetermined administrative appeal to non-elected officials will be

allowed. In other Transect zones (T3N.IS, T4N.IS, T4N.SS) bars require only a conditional use permit which eliminates petition rights. There is no justification for the dramatic change in treatment of bars in and adjoining residential neighborhoods.

5. The draft code initially provided that Neighborhood Plans will constitute an overlay zone the purpose of which is to require property to be “developed in a manner consistent with the goals, policies and objectives” of the Neighborhood Plans. This provision was understood to be the City’s attempt to keep its promise regarding Neighborhood Plans. Now, before the effectiveness of this provision to implement neighborhood plans could even be assessed, City Staff posted a note that “Section 23-4D-7090, Neighborhood Plan Overlay, is being deleted from the draft Land Development Code”, claiming that this provision, which covers a page and one-half, had been “included in error.” Apart from the implausibility of the explanation, elimination of the Neighborhood Overlay evidences an intention to ignore Neighborhood Plans. Indeed, as noted above, the Open zone is proof of that fact. This is unacceptable.

6. Although this will ultimately be driven by the Mapping, which has not been finalized, there is concern that the Transect zones on 35th Street provide sufficient setbacks for homes that back up to them. As you know, there is widespread opinion that setbacks for buildings in some Transect zones that adjoin homes are inadequate. We will address this further in future mapping comments.

7. Minor Use Permits should be eliminated. As noted by the League of Women Voters: “This section allows the Director to approve certain uses according to the same criteria that the Land Use Commission approves Conditional Use Permits. This removes accountability of elected officials from important quality of life decisions.”

It would be appreciated if you would resolve these problems in the draft Code.

Thank you,

Michael Curry,
On behalf of Board of Directors of the
The Bryker Woods Neighborhood Association