

# CODENEXT

## A. Issue: Hard fought development protections now removed in CodeNext draft

(1) Neighborhood Plan rezoning. Neighborhood plans are part of the comprehensive plan and cannot legally be changed without plan amendments. It appears that proposed rezoning in Neighborhood Plan areas may be illegal absent the NP amendment process. This disregard for twenty years of community investment in quality of life is unconscionable.

2) Expanded staff discretion. The draft code increases discretionary latitude given to staff, while reducing notification times for affected residents. Public input is being seriously eroded.

3) Compatibility Standards. Compatibility standards have been drastically changed in some areas to allow 100' tall buildings (8 stories) at 100' from single-family homes. Currently compatibility standards provide a gradual height increase from a 40' height at the 100' point, with an additional foot for every 10' in distance from Single Family use. It is also not clear what has happened to compatibility standards regulating screening, dumpster placement, noise of mechanical equipment at the lot line and other key provisions. This will likely be an issue when density bonus is used and increases the size of those buildings.

(4) ADUs in SF2 Zoning. The addition of Accessory Dwelling Units to areas currently zoned SF-2 (limited to one dwelling per lot) was pushed by city staff during recent ADU revisions, but City Council voted not to extend this use to SF-2 zoning. The draft maps now rezone many of these SF-2 sites to new zoning categories that allow ADUs. As many S-F2 districts have deed restrictions allowing only one dwelling, this change puts the responsibility on homeowners to sue to enforce deed restrictions when the city issues permits in violation of deed restrictions.

(5) McMansion. McMansion provisions were theoretically "baked into" Transect zones and retained in non-Transect zones. While the eave height at the 5' setback has been retained, there is no McMansion "tent" beyond that point. Further, the FAR definition exempts all parking structures (this reflects the standard commercial FAR definition, not McMansion), and the height measurement has changed so significantly as to eliminate many of the protections MCM afforded. (see email sent to CodeNext staff today regarding McMansion briefing to the City Council).

(5) NCCDs. City staff has stated that NCCDs will never be permitted again because staff "cannot administer them." In fact, NCCDs provide an excellent tool to maintain

neighborhood character, which could be translated into Transects and would work beautifully. The NCCD tool was added to the LDC in the 1985 rewrite and there are currently six. This disregard for large areas of central Austin leaves open the concern for the potential to remove these protections at a later date. The idea that no other neighborhoods may ever use this tool is unfortunate. Staff needs to embrace Austin zoning, neighborhood plans and NCCDs as the work of our citizens that informs our future and should be maintained.

(6) Front setbacks reduced. Since 1931, the single family minimum front setback in Austin has been 25'. The draft code proposes to reduce this from 25' to 15' for all SF-3 or less restrictive zoning categories, which will undermine neighborhood character and will result in pushing new buildings well in front of existing homes. Additionally, it also will likely result in front garages and carports being added so that the backs of lots can be chopped off to create flag lots. The significant time and resources spent assessing neighborhood character and creating the Community Character Manual are not reflected in this change. I hear that this will be changed.

7) Flag Lot variance process removed. The draft tracking chart says the flag lot variance was deleted to "Remove Barriers to Missing Middle Housing." Others have said it was removed because the minimum lot width is changing and being reduced. Whatever the intent, there is no way to ensure compatibility without the variance process; currently, staff states a flag lot is compatible if there are other flag lots nearby. This is a particular concern now that the minimum lot depth requirement is reduced so dramatically. The purpose of the variance process is determine compatibility of the flag lot regime with the local character. This process should not be removed.

(8) Remodel provisions in substandard Non-Conforming provisions now only apply in low-medium density non-transect districts and not to transect districts.

(9) Reduced lot sizes. The draft's proposed greatly reduced lot sizes are likely to incentivize tear downs of existing market affordable homes, exacerbate crowding and strain infrastructure. This measure alone incentivizes removal of existing homes and disruption of communities. When lots are cut that face side streets they may undermine the alley access for corner lots moving parking, trash and utilities to the front street. This has not been considered but is disruptive and damaging to neighborhood character and function.

(10) Increasing Non-conformance. Overly prescriptive building forms will create many non-conforming structures in Transect areas, making remodels more difficult and incentivizing teardowns. The McMansion regulations are far more flexible.

## **B. Strategy: How to improve CodeNext and move it forward to adoption.**

(1) It is clear that densification and redevelopment of central neighborhoods, especially in east Austin, is resulting in displacement and gentrification affecting both homes and businesses. The city must begin efforts to enact protections for residents of these areas prior to any enactment of CodeNext, which, as currently drafted, will almost certainly make this situation dramatically worse. Increased fees for demolition and extending the demolition recycling to homes may be one way to slow this process. Another may be to slow the approval process. The city could consider fostering historic districts in neighborhoods where residents cannot afford to hire consultants to create such districts. This should have been happening for decades but Austin is greatly behind on these practices.

(2) The Planning Commission is forming work groups for Text, Mapping and Process, which will bring forth recommendations.

- **Process.** Unfortunately, there was no initial plan to have the draft code reviewed by the relevant city Boards and Commissions for study and comment. At the request of the CAG, PC & ZAP, that effort is now somewhat underway. It will be important to continue to receive board and commission input to inform PC/ZAP recommendations for subsequent drafts. HLC finally got a briefing on 6/5 with the instruction to turn in input on 6/6! This unacceptable and a good reason to stall this process. Their responses need to inform the next draft.
- **Text.** The text work group should revisit the draft's structure with an eye toward unification and should review every aspect of the text. The new code should include zoning districts that properly reflect existing neighborhood and commercial patterns, along with new districts to be used as tools in remapping and rezoning. Text review should move forward with all work, changes, or recommendations tracked and noted. It should be possible to do this while staying on the current schedule.
- **Mapping.** The mapping process was clearly flawed, primarily by leaving the community out of the initial drafting process. Draft maps, including small area plans, should be revisited after the text is reworked in a new effort with the community to determine appropriate zoning and use of new tools. This effort can proceed after the code text is approved.

### **C. Overall Structure: The CodeNext structure complicates the code and leaves out much of the city.**

The draft code consolidates all procedures, subdivision, environmental regulations, etc., in Chapter 23. However, it then proposes two completely different code structures (Transect and Non-Transect), each with different development standards, nomenclature, formatting, methods of measuring, etc. At the very least, these should be uniformly formatted, but ideally they should also use the same terminology, measuring methods, compatibility standards, etc.. The unification of nomenclature effort should now be under way by staff/consultant as requested by PC and ZAP.

Additionally, the draft leaves much of the city under existing plans (PUDs, TODs, NCCDs, etc.) that will rely on the zoning of the current Chapter 25, but will now apparently revert to the procedures of the draft Chapter 23. Carrying these complex negotiated plans forward may make sense in the short term, but it adds to the confusion and effectively results in three different code structures and languages.

The new code should have one set of development standards with as many sub-districts as needed within each transect to describe all of Austin's districts, including all sub-districts in these "carried forward" areas. Overall, the new code needs a consistent format and logical nomenclature.

As for the NCCDs, the sub-districts could be structured as districts. Currently there are no districts that in any way match up with NCCD work so bringing those codes into the main code is unworkable until that is achieved. Again, as I started with this document, Austin's zoning work should inform CodeNext, not be its victim.