

## **Hyde Park Opposes Current CodeNEXT Draft And Maps If Neighborhood Conservation Combining Districts (NCCDs) Are Not Eliminated**

In one of the largest stakeholder processes in Hyde Park's history, Hyde Park residents voted overwhelmingly to support a new land development code to replace the existing land development code in Hyde Park as part of the CodeNEXT process. The neighborhood association Friends of Hyde Park held the vote, allowing anyone that lives in the neighborhood to participate. 91 Hyde Park residents out of our 403 members voted. [78% of the members that voted supported the resolution.](#)

### **We Oppose the Current CodeNEXT Draft and Associated Draft Maps**

Creating a new land development code happens only once every 30 to 50 years in Austin. This is our one opportunity in some of our lifetimes to make the changes that we need to be successful as a growing city. We will hopefully not look back 30 years from now and see that CodeNEXT was one of the biggest failures in Austin's history. While we appreciate the hard work and dedication of city staff, the first draft of CodeNEXT does not appear to be a serious attempt to tackle Austin's affordability crisis if Hyde Park and other neighborhoods are exempt.

Because of the overwhelming support for a new land development code to apply to Hyde Park (approximately 487 acres of Austin), we must strongly oppose the first draft of CodeNEXT and the associated new zoning maps. In the current draft of CodeNEXT, Hyde Park is exempt from the new land development code because city staff chose to keep the old zoning overlays in place for Hyde Park called Neighborhood Conservation Combining Districts (NCCDs). This forces Hyde Park to opt-out of the new land development code and current zoning would stay the same. This is contrary to what Hyde Park residents were told by city staff during the CodeNEXT Q&A with Paul DiGiuseppe and Jorge Rousselin (CodeNEXT Development Leads) at the CodeNEXT Q&A in Hyde Park on October 1, 2015 and throughout the process. City staff stated that CodeNEXT would allow missing middle throughout the entire neighborhood and more residential above businesses along major roads in Hyde Park such as 45th St and Guadalupe St.

Friends of Hyde Park and the residents of Hyde Park look forward to working with the City of Austin to make sure that 30 years from now this was the time when Austin made the decision to tackle the hard problems and ensure that Austin remains an affordable and diverse city for every person that lives here. We hope that the overwhelming support for a new land development code to apply to Hyde Park is strongly considered.

### **What Should Change in CodeNEXT**

To support CodeNEXT we ask for two things to change in the draft. First, the Hyde Park Neighborhood Conservation Combining Districts (NCCDs) should be removed. Second, the old neighborhood zoning classifications for properties in Hyde Park should be replaced with the new land development code zoning classifications called transects available in CodeNEXT within the interior of the neighborhood. We ask that our neighborhood be treated in a similar way to what is proposed for almost every other neighborhood in central Austin.

## **Resolution Calls for Allowing Missing Middle Housing Including ADUs, Townhouses, Bungalow Courts, Triplexes, Fourplexes**

Our resolution specifies that “a new land development code should allow property owners to choose to build more affordable “Missing Middle” housing options in the interior of the neighborhood that fits in with the historic character of our neighborhood while allowing more housing options for renters (Garage apartments, smaller homes on smaller lots, townhouses, bungalow courts, triplexes, fourplexes, etc. More information here: <http://missingmiddlehousing.com/>.” This language is consistent with what the new transects, specifically T4, allows under CodeNEXT and this is what Hyde Park should be zoned under CodeNEXT. Our neighborhoods should be allowed more housing on the interior of the neighborhood and more housing along major roads and corridors.

## **Overwhelming Support For New Walkable Restaurants And Reduced Parking**

Hyde Park residents, through Friends of Hyde Park, [overwhelmingly voted](#) (70% out of 136 total voters) that they were in favor of allowing new walkable amenities like restaurants along roads in our neighborhood like 45th St and also voted to reduce neighborhood business and restaurant parking requirements (90% out of 101 total voters). The walkable amenities that our residents love and enjoy, such as Quack’s, Antonelli’s Cheese Shop, ASTI, and Mother’s, would almost be impossible to establish today under the current land development code. These are the types of changes that CodeNEXT should allow along major roads within our neighborhood by right in which Hyde Park residents support.

## **What Are Neighborhood Conservation Combining Districts (NCCDs)?**

Neighborhood Conservation Combining Districts (NCCDs) are zoning overlays that override base zoning districts, meaning that any zoning regulation specified in an NCCD overrides the city land development code. This establishes a complicated opt-in/opt-out basis for zoning regulations, sometimes on a property by property basis. NCCDs were first implemented 31 years ago in Austin, pre-dating Imagine Austin, which was adopted in 2012.

## **What Neighborhoods Have NCCDs?**

Neighborhoods and approximate sizes with links to NCCD documents: [Hyde Park](#) (234 acres), [North Hyde Park](#) (253 acres), [North University](#) (235 acres), [Fairview Park](#) (119 acres), [East 11th Street](#) (40 acres), and [East 12th Street](#) (45 acres) are all neighborhoods that have NCCD overlays. These neighborhoods make up approximately 926 acres of central Austin. The list of NCCDs can be found [here](#).

## **Hyde Park NCCDs May Increase Development Pressure On Other Neighborhoods**

If Hyde Park is allowed to opt out of CodeNEXT, more development pressure may be felt on surrounding central Austin neighborhoods that have new transects (Rosedale, Hancock, Heritage, Allandale, Crestview, etc.). If development pressure is shared across the city and between neighborhoods, it will lessen the impact on each individual neighborhood and throughout the city

as our city core takes on new density. Every neighborhood should do its fair share to accommodate growth to be fair to all neighborhoods.

### **Hyde Park NCCDs May Increase Displacement and Gentrification in East Austin**

Allowing Hyde Park to opt out of CodeNEXT could also increase development pressure on neighborhoods throughout the city, including neighborhoods in East Austin. This could cause displacement of residents and gentrification in those East Austin neighborhoods. If new housing isn't allowed in Hyde Park, that new housing will move to the areas of the city that do allow that new housing, like East Austin, that would have otherwise been shared with Hyde Park.

According to the [Obama White House Housing Development Toolkit](#) on land use regulations, "when new housing development is limited region-wide, and particularly precluded in neighborhoods with political capital to implement even stricter local barriers, the new housing that does get built tends to be disproportionately concentrated in low-income communities of color, causing displacement and concerns of gentrification in those neighborhoods. Rising rents region-wide can exacerbate that displacement."

### **Our Neighborhood Character is Being Lost Under The Hyde Park NCCDs**

Hyde Park has historically been made up of a large stock of missing middle housing (garage apartments, historic homes split into multiple dwellings, cooperative housing, etc.), which the current land development code under the Hyde Park NCCD rules make illegal in almost all cases. Now when a property is redeveloped or new housing is built, the earlier allowed housing types that were more affordable are often replaced with expensive large single family homes on large lots because no other housing options are allowed. These factors are slowly changing the character of Hyde Park to be unaffordable for most people, changing who can live here, could be a reason the [density of Hyde Park is decreasing](#) as the overall population of the city increases, and changing what the neighborhood looks like. Imagine Austin says, "continued protection and preservation of existing neighborhoods and the natural environment must be considered top priorities of comprehensive revisions to the City Code." Legalizing missing middle housing types again would allow Hyde Park to start to regain back its historic natural environment and allow the people to continue to live here that make Hyde Park what it is.

### **Worsening Affordability in Hyde Park Linked To Current Land Development Code**

The current land development code, specifically the Hyde Park NCCDs that have some of the most restrictive zoning rules in Austin, may be one of the primary causes for why we are losing our more affordable housing stock in Hyde Park, property taxes are increasing for homeowners, and rents increasing for renters. The [Obama White House Housing Development Toolkit](#) on land use regulations states that "over the past three decades, local barriers to housing development have intensified, particularly in the high-growth metropolitan areas increasingly fueling the national economy. The accumulation of such barriers – including zoning, other land use regulations, and lengthy development approval processes – has reduced the ability of many housing markets to respond to growing demand. The growing severity of undersupplied housing markets is jeopardizing housing affordability for working families, increasing income inequality by reducing less-skilled workers' access to high-wage labor markets, and stifling GDP growth by

driving labor migration away from the most productive regions. By modernizing their approaches to housing development regulation, states and localities can restrain unchecked housing cost growth, protect homeowners, and strengthen their economies.”

### **Specific Impacts Of NCCDs in Hyde Park**

The Hyde Park NCCDs currently ban homeowners with less than 7,000 sqft lots from building ADUs or duplexes, bans missing middle housing that makes up a large part of the character of our neighborhood, restricts height along much of Guadalupe St (an activity corridor) to only 3 to 4 stories which prevents new housing above businesses on the corridor, makes new walkable restaurants and businesses illegal by right, and requires burdensome parking requirements for all new housing and businesses, among other onerous zoning rules that can change per property. When the NCCD was put in place it downzoned large sections of streets such as Duval St and Speedway from multifamily to single family, which removed a large amount of potential housing from the neighborhood. Hyde Park is currently one of the only neighborhoods in Austin that the city wide rules on ADUs (garage apartments, granny flats) that passed in 2015 does not apply to. ADUs allow property owners to make extra income to help offset their increasing property taxes or gives them the ability to age in place and live on the same lot with family that can care for them as they get older. Garage apartments and other more affordable housing types like triplexes and fourplexes also provide more needed housing for renters within the neighborhood. A greater supply of housing can also eventually help bring down the cost curve for renters and make owning homes more affordable for homeowners. Hyde Park residents would like to see more of these housing options available to help them so they can continue to afford to live in the neighborhood.

### **NCCDs Complicate the Land Development Code**

The City of Austin would have to carry over and maintain the old land development code in order to keep NCCDs after the passage of CodeNEXT, meaning the City of Austin would be maintaining and operating under two completely different land development codes at the same time. Property owners in NCCD neighborhoods would have complex NCCDs to navigate when making additions onto their homes as well as trying to determine what layers of city code that would apply. Zoning regulations can change from property to property within NCCD neighborhoods. This makes it difficult for city staff and for homeowners to know what is allowed. A goal of CodeNEXT was to simplify the land development code. Maintaining NCCDs adds layers of unnecessary complications that harm affordability.

### **NCCDs May Be Inconsistent with Imagine Austin**

“Imagine Austin includes a growth concept map that identifies activity centers and corridors where growth is either anticipated or desired” like the Guadalupe activity corridor and that planning “ensures complete communities as the city grows.” Imagine Austin also calls for more housing “within 1/2 mile of retail and activity centers” and “units within 1/2 mile of transit and high capacity transit.” Imagine Austin also calls for new development and redevelopment to be “compact and connected” and a “process of creating a more efficient, predictable, and

understandable Land Development Code.” The Hyde Park NCCDs would prevent these Imagine Austin goals.

### **NCCDs May Be Illegal Because of Disparate Impact Under the Federal Fair Housing Act**

A recent audit by the Office of the City Auditor, the [Audit of Neighborhood Planning](#), states that some of Austin’s previous neighborhood planning efforts “are not consistent with some elements of Imagine Austin,” and that “fair housing choice has not been specifically considered in most neighborhood planning efforts.”

“The *Analysis of Impediments to Fair Housing Choice* report, completed for the City in 2015 and submitted to the federal government, identifies several barriers to housing choice related to neighborhood planning and its associated zoning. The report recommends that the City work through the CodeNEXT process to modify land use and regulatory barriers.”

“The *Code Diagnosis* report completed for the City as a part of the CodeNEXT process identified elements of the Code as being complex, causing delays directly connected to affordability. The diagnosis notes that the lack of transparency around neighborhoods opting in or out of some regulations in neighborhood plans contributes to this complexity.”

The audit states that “current land use policies and practices that do not incorporate fair housing concepts, if unaddressed, **could create a risk of litigation against the City or a risk of losing federal grants.**”

### **NCCDs May Be Illegal Under Texas Local Government Code and the Austin City Charter**

The Texas local government code states, “a municipality may define, in its charter or by ordinance, the relationship between a comprehensive plan and development regulations and may provide standards for determining the consistency required between a plan and development regulations.” The Austin City Charter states that “all city regulatory actions relating to land use, subdivision and development approval shall be consistent with the comprehensive plan,” which is Imagine Austin – meaning zoning regulations must adhere to Imagine Austin. NCCDs are small area combining districts like neighborhood plans or conditional overlays. The Audit of Neighborhood Planning found that these types of plans are inconsistent with Imagine Austin. The audit states that “a 2006 audit of the City of Austin’s long-term planning efforts found that neighborhood plans were neither consistent nor guided by a unified vision for the City.” These types of plans have not been “updated to reflect Imagine Austin,” may not reflect the “Imagine Austin comprehensive plan regarding the inclusion of goals,” and as a result “may not reflect the present-day needs and vision that stakeholders have for their neighborhoods or their city.”

### **Council Directed Opt-in and Opt-Out Processes Like NCCDs Be Eliminated in CodeNEXT**

According to the Audit of Neighborhood Planning, “via a resolution, the City Council directed the CodeNEXT process to address this issue as part of the revision process. The *Household Affordability Code Prescription* agreed with and referenced the findings of the *Impediments to Fair Housing Choice* report. To address the impediments created by the optin/opt-out zoning

practices allowed by the Neighborhood Plan Combining District sections of the Code, the prescription recommended that code provisions regarding the choosing of which infill options would be allowed in a planning areas be eliminated through the CodeNEXT process.” NCCDs allow for those areas to opt-out of much of CodeNEXT.

### **Full Resolution Language**

For more information on our membership’s vote, a full list of registered voters, and who voted, please visit <http://friendsofhydepark.com/record-of-votes/> or view the full resolution below.

“Friends of Hyde Park supports a new modernized land development code applying to Hyde Park that helps housing affordability for renters and homeowners, reduces economic and racial segregation and income inequality, improves transportation across our neighborhood, and is based on current research for smart land use regulations. A new land development code should allow property owners to choose to build more affordable “Missing Middle” housing options in the interior of the neighborhood that fits in with the historic character of our neighborhood while allowing more housing options for renters (Garage apartments, smaller homes on smaller lots, townhouses, bungalow courts, triplexes, fourplexes, etc. More information here: <http://missingmiddlehousing.com/>). The land development code should streamline and shorten the permitting process, which would make it easier for homeowners when doing remodels or adding additions. The new code should allow a more walkable and bikeable neighborhood, amenities and restaurants located near neighborhoods, allow more housing to be built near corridors and major roads, help reduce car dependence throughout the city in order to reduce traffic and commute times, provide open spaces and parks, and help provide more opportunities for families with children and people of all income levels to live in our central Austin neighborhoods.”

### **Information About Friends of Hyde Park**

Our neighborhood association, Friends of Hyde Park ([friendsofhydepark.com](http://friendsofhydepark.com)), is the largest neighborhood association in Hyde Park with 403 current members, has more participation of residents in our votes and stakeholder processes out of any other neighborhood association in the area, and strives to represent how the majority of the neighborhood residents feel about neighborhood issues. We allow free, secure, online voting over a 7 day period in order to allow maximum participation from anyone in the neighborhood who wants to participate. The makeup of our members is approximately 50% renters and approximately 50% homeowners.

### **Board of Directors of Friends of Hyde Park**

Pete Gilcrease  
Teresa Griffin  
Tommy Ates  
Matt Desloge  
Ricky Hennessy  
Adam Luikart  
Robert Prentiss

To view the information online, please use the link below.

<http://friendsofhydepark.atxfriends.org/codenext/friends-of-hyde-park-opposes-current-codenext-draft/>