



# Formal Comments on CodeNEXT Draft 2

November 3<sup>rd</sup>, 2017

# About the HBAGA

As the largest trade association in central Texas, the Home Builders Association of Greater Austin (HBAGA) represents over 700 member companies. In 2015, our members built 2933 homes in the City of Austin alone. The mission of the HBAGA is to promote the practice and professionalism of the home building industry here in Greater Austin; with the vision that all people live in homes and communities that enable them to thrive. It is with this mission that the HBAGA works actively with elected officials, City Staff, our members, and the community at large, to advocate on housing issues that impact our community.

## Mission

*The mission of the Home Builders Association of Greater Austin is to advance the practice and professionalism of the home building industry in our community.*

## Vision

*All people in the Greater Austin area live in strong communities and homes that enable them to thrive.*

## Core Values

*Integrity  
Collaboration  
Professional Excellence  
Community-Minded  
Prosperity for All*

# Draft 2 Formal Comments Introduction

Throughout the CodeNEXT process, the HBAGA has participated in numerous internal and external policy task forces to review, digest, and analyze the first and second draft of the new land development code. In July of 2017, the HBAGA submitted formal comments to the City of Austin on the first draft of the code. Today, we take those same comments, and cross reference them with the second draft with two purposes:

1. To indicate parts of the code that were problematic in Draft 1, and continue to be problematic in Draft 2; and
2. To illustrate the fact that very few of the HBAGA's comments were reflected in the second draft of the code.

**Red, bold font is used to indicate whether or not the comment made on Draft 1 is reflected in Draft 2.**

The HBAGA has worked tirelessly to provide thoughtful and insightful feedback into the many issues in Draft 1 and although some of those issues were addressed in Draft 2, a vast majority of them were not.

In the Draft 2 comments, the HBAGA reviewed 82 separate comments from the Draft 1 formal comments submitted in July of 2017. **Of those 82 comments, seven were completely reflected, five were partially reflected, and 70 were not reflected in Draft 2.** It is important to note that much of the nomenclature was changed from Draft 1 to Draft 2, and some parts of the code were reorganized, which made it difficult to track some of our original comments from draft to draft. The ratio of comments that were adopted to those that were not illustrates the HBAGA's frustration as a stakeholder in the CodeNEXT process, where we believe that many of our comments are not incorporated into future drafts.

In addition to the comments outlined below, the HBAGA has submitted hundreds of comments on the code via the City of Austin's CodeNEXT Civic Concept website. It is our hope that all of these comments will be reviewed and taken into consideration during the drafting of the third version of CodeNEXT.

The HBAGA also supports any comments submitted by fellow coalition members of Evolve Austin, who have worked tirelessly to provide input on Draft 2 of CodeNEXT from their unique perspective and area of expertise.

It is our hope that the final version of CodeNEXT will improve the city in which we live and work, and that the HBAGA can be an ally and a resource to ensure that everyone can afford to live, grow, and play in our community.

# Draft 2 Overview

In 2012, the City of Austin adopted the Imagine Austin Plan to memorialize the vision for the future of our city. In this plan, the city outlined 6 core principles for action that the city should take to enact our shared vision:

1. Grow as a compact, connected city
2. Integrate nature into the city
3. Provide paths to prosperity for all
4. Develop as an affordable and healthy community
5. Sustainably manage water, energy and other environmental resources
6. Think creatively and work together

The HBAGA agrees with Imagine Austin’s vision for the city, and believes that a successful land development code will align with its 6 core principles. It is through this lens that we chose to evaluate the 2017 draft of CodeNEXT.

Before we delve into the line-by-line comments on Draft 2, we have outlined some overarching concerns that we have identified in Draft 2 of CodeNEXT.

## **1. Complexity and Conflicts Continues**

CodeNEXT was intended to simplify and consolidate the complexities of the current code, and that goal is partly achieved by a more commonsense system of naming the different zones. However, the code itself is not any shorter or simpler than the previous code, and there have been minimal efforts to address conflicting parts of the code. The HBAGA hopes that the City will dedicate staff time to reviewing and cross referencing the entire code to reconcile any conflicting language.

## **2. Restrictions Abound**

Restrictions do little to address affordability concerns or improve traffic, but they do limit housing options and increase the cost of construction. Our current affordability crisis is due, in part, to the limitations of our current code. These regulations have an impact on home prices. Nationally and locally, the regulatory costs associated with the building of a new home have increased nearly 30% (Source: NAHB, based on data from the U.S. Census Bureau and the NAHB/Wells Fargo HMI surveys). Here in Austin, that number is even higher. The impact is felt by the home buyers and renters across Central Texas. Economists at the National Association of Home Builders have estimated that for every \$1,000 increase in the median price of a single-family home, 1,222 households will be priced out of the housing market in Austin. Flexibility to accommodate the topography, character, and environment of a neighborhood and the impact of regulations on the cost of housing should be a top priority of CodeNEXT, but the second draft is full of restrictions.

## **3. Something’s Missing**

Additional housing types that resemble single family homes are commonly called “missing middle” housing. There is no better tool to meet the goals of Imagine Austin and alleviate the city’s transportation woes than compact and connected “missing middle” housing. While CodeNEXT is intended to provide these kind of housing options, our city will see no benefit unless the code decreases the regulations and restrictions currently in the draft. Without missing middle housing, Austin will continue to price out families and median wage-earners, exacerbating our well-documented suburban sprawl and creating more traffic as those people commute to the city. CodeNEXT must encourage more opportunities for people to live in a variety of housing types, not restrict them.

- The HBAGA’s modeling process has shown that the draft code’s combination of prescriptive regulations, parking, setbacks, impervious cover, and protection of the urban canopy reduced the size and number of units on sites much more significantly than expected, confirming the results of the AIA Charrette. Increased flexibility is necessary for “missing middle” to succeed.
- Even if the code provides for it, there is simply not enough “missing middle” housing on the map to make a difference in affordability or mobility. CodeNEXT should provide for better zoning across the city so the zones can function as they were intended to--as transitions from high density corridors to single family homes.

#### **4. Small Solutions**

More diverse and affordable housing options should be provided for residents, and efficiently utilizing our available land is one of the most effective ways to provide them. There is no better way to directly reduce housing costs than by reducing minimum lot sizes or increasing the number of housing options per lot.

#### **5. Innovation Required**

As builders, we believe that CodeNEXT, in its final form, can provide the tools to meet our city’s goals as outlined in Imagine Austin. This requires innovation, a shift from what was to what can be. By focusing on building a compact and connected city and simplifying the new code, our collaborative efforts can resolve many of the issues found in this first draft to create a new code that we can all be proud of--one that provides housing opportunities for everyone.

#### **6. Affordability Must Be Considered**

Austin is facing an affordability crisis, as the price of homes continue to rise as an unsustainable rate. As Draft 3 of CodeNEXT is being written, the drafters must consider the impact of the code on affordability. In order to make Austin a more affordable place for low- and middle-income families, it must allow for a variety of housing options in areas of Austin that can support additional density.

# Comments

## Chapter 23-1: Introduction

### 23-1A-5020: Rules of Interpretation

#### *(B) Internal Consistency*

*(1) Wherever possible, the Director shall interpret this Title in a manner that gives effect to all provisions and shall avoid interpretations that render a provision of this Title in conflict with one or more provisions.*

Comment: The existence of “wherever possible” and “shall” in the same sentence will cause confusion and conflict when the Director is required to interpret.

**This change was made in Draft 2.**

### 23-1B-4010: Neighborhood Plan Contact Team

Comment: The HBAGA believes this section should be rewritten and that the city should examine and apply many of the recommendations in the November 2016 City of Austin Audit of Neighborhood Planning. This report’s findings include:

- Current neighborhood planning results in inequitable land-use treatment
- As of 2016, neighborhood plans only cover 26% of the City of Austin
- Neighborhood plans lack robust and representative participation: only 13 of 30 existing neighborhood plans were approved by more than 1% of the neighborhood’s population

In addition, the neighborhood plan overlays cause inconsistent application of the Land Development Code and create a complex and confusing opt-in/opt-out system. This limits predictability in the land development process and, in some instances, increases costs significantly.

**The comment above on Draft 1 was not reflected in Draft 2.**

## Chapter 23-2: Administration and Procedures

### 23-2A-1030: Overview of Legislative and Administrative Approvals

*(2) Levels of Discretion. Administrative decisions are categorized according to “level of discretion” for informational purposes only, in order to generally indicate the potential complexity of the review process and the range of actions available to the responsible director tasked with making the decision. Within each category, there may be particular*

*applications that more closely resemble decisions that fall within a higher or lower level of discretion.*

Comment: This section should be amended to allow for administrative adjustments not to exceed 10% of a variance. Within the code, the Director has the ability to grant administrative adjustments, and the HBAGA believes that allowing all levels of staff the ability to make adjustments will greatly improve the overall process.

**The comment above on Draft 1 was not reflected in Draft 2.**

23-2B-1030: Application Completeness

*(2) If an application is rejected as incomplete, the responsible director shall provide the applicant a written explanation identifying the deficiencies and the information required to complete the application within 14 days after receipt of the application.*

Comment: The use of electronic plan submittal should improve this process and the City of Austin should examine applying some form of “instant completeness check” as part of the electronic submittal. There are many other cities and counties that perform instant completeness checks through their internal systems; for example, Williamson County.

**Although the timeline was reduced from 14 days to 10, we still believe that “instant completeness checks” via electronic plan submittals should be the goal of this section.**

23-2B-2020: Sequence of Review

*(B) If approval of an application requires a public hearing before the Council or a board or commission, the responsible director may not place the application on the agenda for hearing unless staff review is complete and a recommendation, if required, will be available for consideration prior to the hearing.*

Comment: The HBAGA recommends that any review deadlines adopted under this section should be posted to the City’s website at least 30 days before the change goes into effect.

**The comment above on Draft 1 was not reflected in Draft 2.**

23-2C-2020: Interested Parties

*(B) An interested party is:*

*(1) An applicant for a development approval that is the subject of a public hearing or administrative decision under this Title;*

*(2) A record owner of property included in an application for a development approval that is the subject of a public hearing or administrative decision under this Title; or*

(3) A person who:

(a) Occupies a primary residence that is within 500 feet of the site of the proposed development;

(b) Is the record owner of property within 500 feet of the site of the proposed development;

(c) Is an officer of an environmental or neighborhood organization that has an interest in the site of a proposed development or whose declared boundaries are within 500 feet of the site of the proposed development;  
or

(d) Has a utility account address located within 500 feet of the site of the proposed development, as shown in the City utility records on the date of the filing of the application.

Comment: State law only requires a 200-foot radius notification, and Austin's requirements cause unnecessary procedures and conflict.

**The comment above on Draft 1 was not reflected in Draft 2.**

#### 23-2C-5020: Notice of Administrative Decision

Comment: The HBAGA believes this is an unnecessary requirement that adds complexity and time to the development process.

**The comment above on Draft 1 was not reflected in Draft 2.**

#### 23-2E-2020: Initiation of Text Amendments

*(A) Before a public hearing may be held on a proposed text amendment to this Title, the amendment must be initiated by Council, the Planning Commission, or for an amendment to Chapter 23-11 (Technical Codes), the Building Official. This Section establishes the process required for initiating a text amendment.*

Comment: The HBAGA believes that director-initiated text amendment should be allowed.

**The comment above on Draft 1 was not reflected in Draft 2.**

#### 23-2E-2030: Neighborhood Plan Amendment

Comment: Neighborhood plans cause inconsistent application of the Land Development Code and create a complex and confusing opt-in/opt-out system. This limits predictability in the land development process and, in some instances, increases costs significantly.

**The comment above on Draft 1 was not reflected in Draft 2.**

## 23-2F-2040: Alternative Equivalent Compliance

### *(A) Purpose and Applicability*

*(1) Alternative Equivalent Compliance encourages creative and original design and accommodates developments where particular site conditions or the nature of a proposed use prevent strict compliance with this Title. This Section authorizes the Development Services Director to approve minor changes to certain design standards relating to building placement and site configuration in order to facilitate development that meets the intent of this Title through alternative design that does not strictly adhere to particular standards or requirements.*

Comment: The HBAGA is extremely supportive of the Development Services Director being authorized to approve minor changes, and would support plan reviewers also having this authority. This would speed up the development process and increase efficiency.

**The comment above on Draft 1 was not reflected in Draft 2.**

### *(C) Modification Thresholds*

*(1) If the Development Services Director finds that a request for Alternative Equivalent Compliance request meets the criteria in Subsection (D), the numeric standard for the design feature listed in Table 23-2F-2040.A (Types of Alternative Equivalent Compliance Allowed) may be modified by:*

- (a) Up to 10 percent, for any design purpose;*
- (b) Up to 20 percent, if necessary to protect an existing natural site feature; or*
- (c) Any amount, if necessary to preserve a Heritage Tree.*

Comment: The HBAGA recommends including a provision to allow alternative equivalent compliance changes in order to add more affordable housing on-site.

**The comment above on Draft 1 was not reflected in Draft 2.**

## 23-2L-2020: Agreement Initiation and Framework

*(B) Framework for Agreement. In initiating negotiation of a Development Agreement, the Council may specify goals or objectives to be considered in negotiations regarding any of the following elements:*

- (1) Annexation Status. Continuation of the extraterritorial status of the land and immunity from annexation.*

Comment: The HBAGA recommends that a clause including the existing land use and immunity from annexation should be added to (1) above.

**The comment above on Draft 1 was not reflected in Draft 2.**

## Chapter 23-3: General Planning Standards for All

### 23-3C: Urban Forest Protection and Replenishment

Comment: Much of this section will generate very similar results as the existing code, and the proposed version does little to remove or address the inherent complexities and conflicts with other portions of the code, especially in regard to items such as setbacks and visitability. In addition, after examination of the various Transect Zones, we have learned that while some building types are permitted by code, they become impossible to enact in reality, due to the conflict with any existing trees onsite. This prevents the addition of “missing middle” and affordable housing in many parts of the city, and makes certain lots entirely unbuildable. The HBAGA recommends that this section be rewritten to address the conflicts with other sections of the code. In addition, the City of Austin should examine and determine how HB 2052 will apply to existing policies. HB 2052 was passed during the 85<sup>th</sup> Legislative Session and provides for the crediting of mitigation fees in exchange for the planting of trees.

**The comment above on Draft 1 was not reflected in Draft 2.**

### 23-3D-3050: Impervious Cover Assumptions

*(E) The applicant shall demonstrate that all proposed duplex or single-family lots have usable lot area that can reasonably accommodate the assumed square footage of impervious cover established by Subsection (B). The usable lot area must account for all applicable waterway setbacks, floodplains, steep slopes, critical environmental features, protected trees, on-site sewage facilities, and other relevant code restrictions.*

Comment: The HBAGA recommends that this section be deleted because this requirement adds an unnecessary step to the development process. The concerns it addresses are already covered by the individual zoning categories and line (C) under this section. Every added step to the process decreases housing affordability.

**The comment above on Draft 1 was not reflected in Draft 2.**

### 23-3D-7050: Temporary Storage Areas; Topsoil Protection

*(C) For areas on the site that are to remain pervious post-development, any soils that are compacted during site grading and construction operations must be decompacted in compliance with the Environmental Criteria Manual and the Standard Specifications Manual.*

Comment: This requirement is complicated and costly, adding expense to the home buyer. It is the understanding of the HBAGA that the City is rewriting all Criteria manuals as part of CodeNEXT. There is concern that standards will be either obscurely defined or too stringent. For example, the City may require contractors to perform soil density tests in all areas that will

remain pervious. We also request further clarification of the degree to which soil must be decompacted.

**Further clarification in regards to soil decompaction was not given. The comment above on Draft 1 was not reflected in Draft 2.**

## **Chapter 23-4: Zoning Code**

### 23-4B-3010: Zoning Map Designation

#### *(B) Annexed Property*

*From the date of annexation until a property is zoned, annexed property will be designated as an interim Rural Residential (RR) Zone, except as described below:*

Comment: Annexed properties should be annexed to be consistent with the FLUM. Otherwise, the land much go through a rezoning for the development to match the long-term goals of our city.

**The comment above on Draft 1 was not reflected in Draft 2.**

### 23-4C-1060: Lots

#### *(C) Alleys*

*(1) Alleys or rear-lanes are required on lots narrower than 50 feet in developments over two acres.*

*(2) Interior lots served by alleys shall access garages and/or off-street parking areas from the alley.*

Comment: This requirement could be difficult to achieve, especially on infill lots and many other lots that currently exist in east Austin. This limits density and could make it more difficult to provide “missing middle” or affordable housing in the urban core.

**Although 23-4C-1060(C)(2) was omitted from V2, there is still concern that the alley requirement will be difficult to achieve, especially on smaller lots. Therefore, the comment above on Draft 1 was not reflected in Draft 2.**

### 23-4D-2: Transect Zones

General Observations: Many existing SF-3 homes would become non-conforming under these new regulations, restraining remodeling, redevelopment, and stunting basic improvement in Austin.

Heritage trees will frequently limit design and density on T3, especially in the rear of the lot where parking and ADU would be located. The transects should be written to allow more flexibility in developing around trees.

**The comment above on Draft 1 was not reflected in Draft 2.**

23-4D-2040: Transect Nomenclature

*(B) Form Descriptor*

*(2) Neighborhood: Contains detached residential building types. This form descriptor is often adjacent to other Neighborhoods and/or a Main Street.*

Comment: This is a very limiting definition of a neighborhood. Since neighborhoods across the city and the country contain a variety of attached or detached housing and building types, using the word “neighborhood” to designate this form solely as detached residential is inappropriate and short-sighted, and will lead to misunderstandings.

**This descriptor was not found in Draft 2, so this comment was reflected in Draft 2.**

23-4D-2060: Building Types Overview

*(C) Primary Building Type*

*(1) Each lot shall have one and only one primary building type, except as follows:  
(a) More than one building type is allowed on a parcel if a submitted building permit application includes a site plan with proposed design site lines that meet all the requirements of this Division.*

Comment: This section appears to allow for an imaginary “design site line” via building permit that acts like a resubdivision. This policy still requires aggregation and large lots, but it is an innovative approach. The HBAGA recommends that the code continue to include this policy.

**This comment was reflected in Draft 2.**

T-3

General Observations: On a typical urban lot, T3 will not add density, but will only serve to increase floor-to-area ratio, essentially creating big box houses (3376 square feet on any T3 lot plus a 1344 square foot accessory dwelling unit). This exacerbates the affordability problem in central Austin, rather than alleviating it.

The ADU as the third unit is the only density increase available under T3 vs current SF-3. Without an ADU, T3 is simply more prescriptive zoning than LMDR with more floor-to-area ratio.

**ADUs are now allowed under this zoning type. This comment was reflected in Draft 2.**

23-4D-2080 through 2110: Building Types; Lot

Comment: The HBAGA suggests that the City not prescribe minimum lot dimensions, and instead regulate by lot area and the building envelope. This would allow architects and engineers to design based on real lots in Austin instead of going through a complicated and costly rezoning or resubdivision process, which decreases affordability for the end consumer and hinders “missing middle” development.

**The comment above on Draft 1 was not reflected in Draft 2.**

23-4D-2080 through 2110: Building Types; Lot

Comment: 25’ lots that were legally platted at the time of adoption of CodeNEXT are technically allowed, but the 15’ combined side setback would make these lots unbuildable.

**The comment above on Draft 1 was not reflected in Draft 2.**

23-4D-2180 through 2110: Building Types

Comment: The HBAGA suggests that row homes should be an option in all residential zones as another tool for “missing middle” and affordable housing. They are successful in the Mueller development and would be successful throughout the rest of Austin.

**The comment above on Draft 1 was not reflected in Draft 2.**

23-4D-2080 through 2110: Building Types- Duplexes

Comment: Side-by-side duplexes are only allowed on lots 60’ or wider, but they should be allowed on smaller lots as well. Most urban lots are 50’. This rule would make hundreds or thousands of existing duplexes non-conforming, and prohibit missing middle density on most urban lots, especially in less expensive neighborhoods with smaller lots. 50’ lots were the basis for the McMansion ordinance. If the City only allows side-by-side duplexes on 60’ lots, those who wish to build them would have to go buy multiple 50’ lots and aggregate and subdivide them. For example, you would need three 50’ lots to build two 75’ side-by-side duplex lots in T3. This means there’s a drop from a max of 9 units/lot to a max of 6 on the same area of land, along with a significant increase in cost and time to resubdivide and submit a site plan with a pond, as required by the draft code. This creates a disincentive to build missing middle type density in T3.

Stacked duplex units inside the prescribed building envelope are small even within the maximum envelope footprint, and they will pose problems for access, parking, stairs, etc. Visitability is unachievable. Small stacked units are not a viable “missing middle” option, and

work better for singles than families. Side-by-side duplexes are a much better “missing middle” house form.

**Draft 2 allows for duplexes in R2A on corner lots only, and R2B, which are both 50’ lots. This is an improvement from Draft 1, but the code should still find ways to remove barriers to allow for duplexes in more zoning types.**

#### 23-4D-2080 through 2110: Building Envelope

Comment: Building footprints are very limited under the draft code. As well as leading to the construction of very boxy forms, this over-regulation may lead to an ADA issue.

In addition, the HBAGA is concerned that while the draft code’s prescribed building envelopes are rectilinear, Austin lots are often not. These prescriptions do not allow flexibility around Heritage Trees, off square lot lines, etc. The “use it or lose it” policy of ADUs does not consider the difficulty of building around heritage trees here in Austin. Austin needs to allow more flexibility for building design so that homes can accommodate their lots.

**The comment above on Draft 1 was not reflected in Draft 2.**

#### 23-4D-2080 through 2110: Building Envelope Rear and Side

Comment: The strict measurement of side and rear wings severely limits design and density. With these restrictions, an architect commented that they’d be out of a job because there are only so many ways to design a box. Prescribed footprints do not allow for designing around site constraints. This level of prescription limits creativity and functionality. For example, the rear addition isn’t big enough for an attached garage. A form-based code should focus more on a building’s façade: interior dimensions do not affect the goals of our community beyond basic health and safety considerations.

**The comment above on Draft 1 was not reflected in Draft 2.**

#### 23-4D-2080 through 2110: Lots

Comment: While the code permits duplexes and ADUs to be built on the same lot, this opportunity is effectively dependent on the lot being 50’ or 60’ because of impervious cover restrictions, presence of trees, setback requirements, and building envelope restrictions. Under T-3, this is especially a concern in T3-Intermediate Setback. How many lots will this vital tool be excluded from?

**This restriction still applies to lots under 50’ / 60’. Therefore, the comment above on Draft 1 was not reflected in Draft 2.**

#### 23-4D-2080 through 2110: Accessory Dwelling Unit

Comment: The increased prescription for ADUs means they will be effectively reduced in size and configuration across the board. This is due to increased restrictions on building envelopes, increased setbacks, impervious cover limits, etc. When you consider that an ADU must almost inevitably contain parking space on the bottom floor to meet parking requirements without exceeding the impervious cover allowance, it becomes apparent that ADUs must decrease in size from the current code. Lower ADU size = housing for singles, but not families. This is not a strategy for increasing “missing middle” housing in Austin.

**Some of the regulations that make it difficult for ADUs to be built were relaxed, and they are now allowed in more zoning types. The code should continue to find ways to allow for more ADUs to be built, and be built in a manner that will allow for housing for families.**

#### 23-4D-2080 through 2110: Building Placement

Comment: T3 appears to be a collection of different zoning subdistricts based solely on setback dimensions. This adds unnecessary complexity to the code.

*Side Setback:* A combined minimum 15’ side yard setback means each lot loses an extra 5’ strip of buildable area compared to current standards.

**The comment above on Draft 1 was not reflected in Draft 2.**

*Rear Setback:* The draft requires 20’ rear setbacks while the current code only requires 10’ setbacks. This is backwards: since CodeNEXT is meant to promote compact and connected development patterns, setbacks should decrease. Requiring a 20’ rear setback in transects is a severe waste of land, especially on corner lots and where garages are located behind a primary building. With required rear parking, this requirement wastes 20’ behind the garage of every lot it applies to, even if the density never changes. This is a loss of about 5% of buildable area on a typical lot. If this requirement stems from the city’s concern for privacy, there are better ways to achieve this goal. The HBAGA suggests that the City allow a 5’ rear setback for garages and ADUs only.

**Draft 2 now allows for 10’ rear setbacks, which is consistent with current code. This comment was reflected in Draft 2.**

#### 23-4D-2080 through 2110: Height

Comment: Why the one and a half story limit on cottages? This rule is an absurd hindrance to density and affordability. Cottages should be allowed to be two stories.

**The comment above on Draft 1 was not reflected in Draft 2.**

#### 23-4D-2080 through 2110: Height; Building Height

Comment: Losing a third story is too restrictive, especially considering those who want their homes to take advantage of Austin's exceptional views. Most height maximums in T4 are more stringent than the McMansion ordinance which allows 32' average height. Since CodeNEXT calculates overall height rather than average, this regulation will create a more limited roof-scape and effectively prohibit flat or modern-style roofs in favor of gabled roofs throughout the entire city.

**The comment above on Draft 1 was not reflected in Draft 2.**

23-4D-2080 through 2110: Height; Primary Building

Comment: Regulating building height from the curb and setting minimum ceiling and eave/parapet heights is unnecessary and overly restrictive. It does not allow architects enough freedom or allow adequate flexibility on lots with grade or drainage constraints. The HBAGA requests clarification of the 6" height above curb in relation to floor-to-ceiling heights: for lots that slope down and away, are there cases in which floor-to-ceiling height could be modified since height is measured from curb?

**The comment above on Draft 1 was not reflected in Draft 2.**

23-4D-2080 through 2110: Parking

*Parking Setback:* Minimum parking setbacks trade buildable area for parking access. Although cars will be less visible from the street, the area dedicated to them (whether inside the building envelope or land dedicated to driveways and parking space) will increase under the draft code. If the amount of impervious cover and area dedicated to dwellings does not increase as well, this car-oriented policy devalues the homeowner.

**The comment above on Draft 1 was not reflected in Draft 2.**

*Impervious Cover:* Because of the myriad of restrictive parking requirements and the prescribed building envelopes, parking is being forced to the rear of the lot. Extending the driveway all the way back and providing turn-around space will increase impervious cover, regardless of unit count. This is a poor strategy for density, replacing living space with car space.

**The comment above on Draft 1 was not reflected in Draft 2.**

*Driveway Width:* A 10' parking driveway width is not justified. Why is a one-car curb cut so important? A two-car curb cut is only 14', and it is unreasonable to prohibit 4' more curb cut across all transects. You can't share a single car curb cut with multiple units, even though shared driveways are explicitly encouraged. Additionally, this will upset T3 single family homeowners who won't be able to build a driveway wide enough for two cars or a two-car garage. This is a real issue that would have a material impact on transect lots and density,

making it impractical to build more than one unit on the same lot or to share a driveway between lots.

**The comment above on Draft 1 was not reflected in Draft 2.**

*Alley Access Only:* Parking accessed only from alley (when there is an alley) is another highly prescriptive restriction that prohibits separation between ADU units and main houses. The main house resident would always have to park under or next to the ADU because you can't separate the parking between units easily and might even need to decrease ADU size to park your cars for the main house. Not allowing a front curb cut if you have an alley in back is another obstacle to density.

**The comment above on Draft 1 was not reflected in Draft 2.**

*Carport or Garage Parking:* Are garages and carports allowed outside of a dwelling unit envelope?

23-4D-2080 through 2110: Impervious Cover

Comment: In T3, impervious cover limits are the same as the current SF-3 limits. SF-3 calculates based on two units per lot, but T3 adds a third possible unit if you build a duplex and an ADU. The third unit is good for "missing middle" density and affordable housing, but it requires more impervious cover. Parking requirements, trees, and impervious cover limit size and number of units on site affect construction much more significantly than expected. As a tool of density, impervious cover absolutely must be increased. In addition, or if the City will not increase impervious cover allowances, the HBAGA suggests an extra impervious cover allowance for each unit over 2 units per lot. This will allow Austin to gently add density. 45% IC is an adequate amount for 2 units, but certainly not for 3. As drafted, density is disincentivized. With an extra impervious cover allowance for more than 2 units, "missing middle" and affordable units would be more feasible. This policy would also mean that across the city, we would use less impervious cover per unit—housing more families with more efficient use of the land.

**The comment above on Draft 1 was not reflected in Draft 2.**

Furthermore, the HBAGA suggests that the City explore other sustainable ways to address concern about impervious cover, i.e. pervious concrete. Allowing architects and engineers to be creative would go a long way towards achieving Austin's environmental goals.

23-4D-2100-2120: T3 Neighborhood Deep Setback-Intermediate Setback

Comment: Requiring private open space is an absurd addition that is unnecessary for a resident's quality of life. Common space is adequate and desirable. When you consider that requiring private open space will shrink private living space and add to the cost of each unit, this mandate obviously detracts from affordability and should be removed.

**The comment above on Draft 1 was not reflected in Draft 2.**

T4

23-4D-2120 through 2140: Building Types; Lot

Comment: The HBAGA suggests that the City not prescribe minimum lot dimensions, and instead regulate by lot area and the building envelope. This would allow architects and engineers to design based on real lots in Austin instead of going through a complicated and costly rezoning or resubdivision process, which decreases affordability for the end consumer and hinders “missing middle” development.

**The comment above on Draft 1 was not reflected in Draft 2.**

23-4D-2120 through 2140: Building Types; Lot

Comment: 25’ lots that were legally platted at the time of adoption of CodeNEXT are technically allowed, but the 15’ combined side setback would make these lots unbuildable.

**The comment above on Draft 1 was not reflected in Draft 2.**

23-4D-2120 through 2140: Building Types

Comment: The HBAGA suggests that row homes should be an option in all residential zones as another tool for “missing middle” and affordable housing. They are successful in the Mueller development and would be successful throughout the rest of Austin.

**The comment above on Draft 1 was not reflected in Draft 2.**

23-4D-2120 through 2140: Building Types

Comment: T4 forms are very boxy and prescribed. They are more limited than T3, especially on smaller lots, because of the addition of the “façade zone”.

**The comment above on Draft 1 was not reflected in Draft 2.**

23-4D-2120 through 2140: Building Types

Comment: The HBAGA believes it is an error that duplexes are allowed on 40’ lots in T4-IS but only on 50’ lots in T4-SS. If SS is meant to be a denser version of IS, this disparity doesn’t make sense.

**The comment above on Draft 1 was not reflected in Draft 2.**

23-4D-2120 through 2140: Building Envelope

Comment: Building footprints are very limited under the draft code. Therefore, to make efficient and cost-effective use of the land, clients and builders will build up instead of out, effectively removing one-story homes from transect zones and removing one-story Accessory Dwelling Units. As well as leading to the construction of very boxy forms, this over-regulation may lead to an ADA issue.

In addition, the HBAGA is concerned that while the draft code's prescribed building envelopes are rectilinear, Austin lots are often not. These prescriptions do not allow flexibility around Heritage Trees, off square lot lines, etc. The "use it or lose it" policy of ADUs does not consider the difficulty of building around heritage trees here in Austin. Austin needs to allow more flexibility for building design so that homes can accommodate their lots.

**The comment above on Draft 1 was not reflected in Draft 2.**

23-4D-2120 through 2140: Building Envelope Rear and Side

Comment: The strict measurement of side and rear wings severely limits design and density. With these restrictions, an architect commented that they'd be out of a job because there are only so many ways to design a box. Prescribed footprints do not allow for designing around site constraints. This level of prescription limits creativity and functionality. For example, the rear addition isn't big enough for an attached garage. A form-based code should focus more on a building's façade: interior dimensions do not affect the goals of our community beyond basic health and safety considerations.

**The comment above on Draft 1 was not reflected in Draft 2.**

23-4D-2120 through 2140: Lots

Comment: While the code permits duplexes and ADUs to be built on the same lot, this opportunity is effectively dependent on the lot being 50' or 60' because of impervious cover restrictions, presence of trees, setback requirements, and building envelope restrictions. How many lots will this vital tool be excluded from?

Even on a 50' lot, the regulations surrounding development make it very difficult to fit "missing middle" type housing. For example, on a 50' x 125' lot, the HBAGA found that using a stacked duplex and an ADU, one can fit 3 units to fit on the small lot, but they have to be very small (more suitable for young professionals than families) and come with significant quality of life tradeoffs, such as putting the ADU above a garage that is shared with someone else regularly.

50' lots are the most common in Austin. However, even if a developer manages to acquire a 60' lot, it is still impossible to fit more than 3 units due to regulations.

**The comment above on Draft 1 was not reflected in Draft 2.**

#### 23-4D-2120 through 2140: Accessory Dwelling Unit

Comment: The increased prescription for ADUs means they will be effectively reduced in size and configuration across the board. This is due to increased restrictions on building envelopes, increased setbacks, impervious cover limits, etc. When you consider that an ADU must almost inevitably contain parking space on the bottom floor to meet parking requirements without exceeding the impervious cover allowance, it becomes apparent that ADUs must decrease in size from the current code. Lower ADU size = housing for singles, but not families. This is not a strategy for increasing "missing middle" housing in Austin.

**Some of the regulations that make it difficult for ADUs to be built were relaxed, and they are now allowed in more zoning types. The code should continue to find ways to allow for more ADUs to be built, and be built in a manner that will allow for housing for families.**

#### 23-4D-2120 through 2140: Building Placement

*Side Setback:* A combined minimum 15' side yard setback means each lot loses an extra 5' strip of buildable area compared to current standards.

*Side Street Setback:* These increased to 20' which means an extra 5' of lost width. This is a 5-10% reduction in buildable area per lot.

*Rear Setback:* Requiring a 20' rear setback in transects is a severe waste of land, especially on corner lots and where garages are located behind a primary building. With required rear parking, this requirement wastes 20' behind the garage of every lot it applies to, even if the density never changes. This is a loss of about 5% of buildable area on a typical lot. If this requirement stems from the city's concern for privacy, there are better ways to achieve this goal. The HBAGA suggests that the City allow a 5' rear setback for garages and ADUs only.

**Many of these setbacks were reduced in size, allowing for more flexibility when constructing homes on Austin's unique topography. Some of these recommendations were reflected in Draft 2.**

#### 23-4D-2120 through 2140: Building Placement

Comment: Mandating a façade zone limits design too much, especially when trees are present. Additionally, many lots with deed restrictions will likely conflict with this requirement.

**The comment above on Draft 1 was not reflected in Draft 2.**

### 23-4D-2120 through 2140: Height

Comment: Why the one and a half story limit on cottages? This rule is an absurd hindrance to density and affordability. Cottages should be allowed to be two stories. To achieve “missing middle”, we need at least a 28’ height allowance.

**The comment above on Draft 1 was not reflected in Draft 2.**

### 23-4D-2120 through 2140: Height; Building Height

Comment: Losing a third story is too restrictive, especially considering those who want their homes to take advantage of Austin’s exceptional views. Most height maximums in T4 are more stringent than the McMansion ordinance which allows 32’ average height. Since CodeNEXT calculates overall height rather than average, this regulation will create a more limited roof-scape and effectively prohibit flat or modern-style roofs in favor of gabled roofs throughout the entire city.

**The comment above on Draft 1 was not reflected in Draft 2.**

### 23-4D-2120 through 2140: Height; Primary Building

Comment: Regulating building height from the curb and setting minimum ceiling and eave/parapet heights is unnecessary and overly restrictive. It does not allow architects enough freedom or allow adequate flexibility on lots with grade or drainage constraints. The HBAGA requests clarification of the 6” height above curb in relation to floor-to-ceiling heights: for lots that slope down and away, are there cases in which floor-to-ceiling height could be modified since height is measured from curb?

### 23-4D-2120 through 2140: Parking

*Parking Setback:* Minimum parking setbacks trade buildable area for parking access. Although cars will be less visible from the street, the area dedicated to them (whether inside the building envelope or land dedicated to driveways and parking space) will increase under the draft code. If the amount of impervious cover and area dedicated to dwellings does not increase as well, this car-oriented policy devalues the homeowner.

**The comment above on Draft 1 was not reflected in Draft 2.**

*Impervious Cover:* Because of the myriad of restrictive parking requirements and the prescribed building envelopes, parking is being forced to the rear of the lot. Extending the driveway all the way back and providing turn-around space will increase impervious cover, regardless of unit count. This is a poor strategy for density, replacing living space with car space.

**The comment above on Draft 1 was not reflected in Draft 2.**

*Driveway Width:* A 10' parking driveway width is not justified. Why is a one-car curb cut so important? A two-car curb cut is only 14', and it is unreasonable to prohibit 4' more curb cut across all transects. You can't share a single car curb cut with multiple units, even though shared driveways are explicitly encouraged. Additionally, this will upset T3 single family homeowners who won't be able to build a driveway wide enough for two cars or a two-car garage. This is a real issue that would have a material impact on transect lots and density, making it impractical to build more than one unit on the same lot or to share a driveway between lots.

**The comment above on Draft 1 was not reflected in Draft 2.**

*Alley Access Only:* Parking accessed only from alley (when there is an alley) is another highly prescriptive restriction that prohibits separation between ADU units and main houses. The main house resident would always have to park under or next to the ADU because you can't separate the parking between units easily and might even need to decrease ADU size to park your cars for the main house. Not allowing a front curb cut if you have an alley in back is another obstacle to density.

**The comment above on Draft 1 was not reflected in Draft 2.**

*Carport or Garage Parking:* Are garages and carports allowed outside of a dwelling unit envelope?

#### 23-4D-2120 through 2140: Impervious Cover

Comment: As a tool of density, impervious cover absolutely must be increased. The current allowance is 45% IC for 2 possible units per lot. Under the draft code, 3 units are allowed, but IC stays the same except for the increase in T4-SS (which is not currently present on the map). 55% impervious cover in T4-SS is an excellent tool, and should apply to the entire T4 transect if the city expects to see an improvement in density or affordability. In addition, or if the City will not apply a blanket 55% IC to the transect, the HBAGA suggests an extra impervious cover allowance for each unit over 2 units per lot. This will allow Austin to gently add density. 45% IC is an adequate amount for 2 units, but certainly not for 3. As drafted, density is disincentivized. With an extra impervious cover allowance for more than 2 units, "missing middle" and affordable units would be more feasible. This policy would also mean that across the city, we would use less impervious cover per unit—housing more families with more efficient use of the land.

Furthermore, the HBAGA suggests that the City explore other sustainable ways to address concern about impervious cover, i.e. pervious concrete. Allowing architects and engineers to be creative would go a long way towards achieving Austin's environmental goals.

**The comment above on Draft 1 was not reflected in Draft 2.**

23-4D-2120 through 2140: T3 Neighborhood Deep Setback-Intermediate Setback and T4

Comment: Requiring private open space is an absurd addition that is unnecessary for a resident's quality of life. Common space is adequate and desirable. When you consider that requiring private open space will shrink private living space and add to the cost of each unit, this mandate obviously detracts from affordability and should be removed.

**The comment above on Draft 1 was not reflected in Draft 2.**

23-4D-2130: T4 Neighborhood Shallow Setback; Lot Size

Comment: The 3500-square foot lot minimum is deceptive because the small lot size only applies to cottages and small homes, which are so small (1152 square feet and one story) as to never be economically viable on a single lot. Based on the 1152-square foot cottage envelope, that's a 0.33 floor-to-area ratio, which is less dense than any SF-3 lot now. That's simply a waste of land. An ADU is bigger, with no entitlements required, for comparison. Resubdivisions are expensive, and if a developer chose to resubdivide, 50-foot lots would be the most logical option due to a much wider range of options with higher floor-to-area ratios.

**The comment above on Draft 1 was not reflected in Draft 2.**

23-4D-2130: T4 Neighborhood Shallow Setback; Building Types

Comment: The same economics from above apply to the Cottage Court. A Cottage Court requires a 100' lot with only 4 or 5 cottages feasible due to site plan, parking, impervious cover, etc. There is no economic justification for a Cottage Court vs two 50' lots with "small houses" at 2000-square feet each plus two ADUs at 1344-square feet each with no resubdivision and no site plan required. Basically, these sets of cottages are only viable on paper, and look like they are almost there for show, probably because everyone likes the handful of old ones in Travis Heights. The HBAGA and Austin's area builders would be glad to try and find a way to build them as a promising "missing middle" and affordable house form, but as drafted, they are not feasible because of cost and regulations relative to unit size.

23-4D-2130: T4 Neighborhood Shallow Setback; Building Types

Comment: The HBAGA suggests that a "Cottage Corner" form be allowed here. T3-DS has this, and it should certainly be allowed in T4-SS. We need more corner exceptions and designations like cottage corner across the board to be able to achieve the density necessary for affordability and "missing middle and make the most of the extra street frontage offered by a corner lot.

**The comment above on Draft 1 was not reflected in Draft 2.**

23-4D-2130: T4 Neighborhood Shallow Setback; Building Types

Comment: Why is maximum building width different for cottage house vs cottage court?

23-4D-2130: T4 Neighborhood Shallow Setback; Building Types

Comment: Side by side duplexes are allowed on 50' lots here but not anywhere else. Given that T4-SS barely exists on the map, and given that 50' lots are the most common here in Austin, side by side duplexes are essentially being written out of the Transect zones in the city. This directly conflicts with density, "missing middle", and affordability goals. On the majority of central Austin lots, transect zoning provides nothing more than an increase in single family home size.

23-4D-2130: T4 Neighborhood Shallow Setback; Primary Building

Comment: 18" finish floor level is a typo, copied from the Flagstaff, Colorado or Cincinnati code. This measurement is meant for an area with snow. It should be 6", like other chapters.

**The comment above on Draft 1 was not reflected in Draft 2.**

Division 23-4D-3: Residential Non-Transect Zones

LMDR

General Observations: Overall, the HBAGA recognizes that the LMDR zone allows for more flexible site planning than the transect zones. This is good for LMDR, but does not reflect well on transect zones.

The HBAGA is concerned that while LMDR contains a certain amount of flexibility, many existing SF-3 homes would become non-conforming under the new regulations.

In addition, the presence of heritage trees will severely limit density options unless the code is written to allow more flexibility in developing around them.

23-4D-3090: Impervious Cover

Comment: In LMDR, impervious cover limits are the same as the current SF-3 limits. SF-3 calculates based on two units per lot, but T3 adds a third possible unit if you build a duplex and an ADU. The third unit is good for "missing middle" density and affordable housing, but it requires more impervious cover. Parking requirements, trees, and impervious cover limit size and number of units on site much more significantly than expected. As a tool of density, impervious cover absolutely must be increased. In addition, or if the City will not increase impervious cover allowances, the HBAGA suggests an extra impervious cover allowance for each unit over 2 units per lot. This will allow Austin to gently add density. 45% IC is an adequate amount for 2 units, but certainly not for 3. As drafted, density is disincentivized. With an extra impervious cover allowance for more than 2 units, "missing middle" and affordable units would be more feasible. This policy would also mean that across the city, we would use less impervious cover per unit—housing more families with more efficient use of the land.

**The comment above on Draft 1 was not reflected in Draft 2.**

Furthermore, the HBAGA suggests that the City explore other sustainable ways to address concern about impervious cover, i.e. pervious concrete. Allowing architects and engineers to be creative would go a long way towards achieving Austin's environmental goals.

**The comment above on Draft 1 was not reflected in Draft 2.**

Additionally, LMDR has deleted parking and attic exemptions but the floor-to-area ratio remains at 0.4. The HBAGA recommends that the City should increase the FAR to fix this disparity.

**The comment above on Draft 1 was not reflected in Draft 2.**

23-4D-3090: Building Placement

Comment: A mandated 15' front setback will be difficult to comply with because after decades of 25' setbacks, many lots contain large trees in the front yard that will interfere with building placement. The HBAGA suggests that the code contain more built-in flexibility around trees.

**The comment above on Draft 1 was not reflected in Draft 2.**

23-4D-3090: Building Form Within Urban Core Boundary

Comment: Requiring that buildings be only one story beyond 80' of Front Property Line is too limiting to the design, especially when trees are present. This requirement will prevent apartments over rear garages and make many existing homes non-conforming. Irregular lot size, sloping topography, and the presence of trees or easements will make certain existing homes non-conforming and make future design nearly impossible.

**The comment above on Draft 1 was not reflected in Draft 2.**

23-4D-3090: Building Size

Comment: If limiting homes in the LMDR zone to 2300 square feet is not a typo, the HBAGA believes that it is overly restrictive and limiting to property owners.

**The comment above on Draft 1 was not reflected in Draft 2.**

LMDR-SL

23-4D-3100: Impervious Cover

Comment: 65% impervious cover is absolutely appropriate and necessary for a small lot. This percentage carries over from current code and proves that the City recognizes that small lots require more impervious cover to develop. This policy of increasing impervious cover for smaller lots should be used in other zones as well.

#### Division 23-4D-7: Overlay Zones

Comment: The special districts and overlays add complexity to zoning districts. This adds unpredictability to the development process. The HBAGA recommends that the City of Austin find a way to convert special districts and overlays into the base zoning districts.

**The comment above on Draft 1 was not reflected in Draft 2.**

#### 23-4D-7030: Barton Springs Overlay Zone

Comment: The intent of the zone is to protect the environment. The uses should not be regulated in such depth.

**The comment above on Draft 1 was not reflected in Draft 2.**

#### 23-4D-7110: University Neighborhood Overlay Zone

Comment: The layered levels of regulations make it difficult to fully understand the implications of this zone. This zone should be converted to transect and be removed. FAR should be removed; maximum height and lot parameters should determine maximum build-out.

**The comment above on Draft 1 was not reflected in Draft 2.**

#### 23-4E-6030: Accessory Dwelling Units

##### *(B) Restrictive Covenant*

*(1) The property owner shall sign a restrictive covenant before a notary public that runs with the land on a form prepared by the City affirming that the property owner shall:*

*(a) Occupy either the primary residence or the ADU; or*

*(b) If the property owner rents or leases a property with both a primary residence and an ADU to a third party, then neither the primary residence nor the ADU shall be sub-leased.*

Comment: This requirement is detrimental to affordability.

#### **Chapter 23-5: Subdivision**

#### 23-5B-2030: Concurrent Applications

Comment: While the HBAGA hopes this process will expedite the development process, we are concerned with the current state of communication between city departments. Unless staff can better communicate across department lines, this section will not achieve its desired goal.

**We do not see any improvements in the way that city departments communicate with each other. Therefore, the comment above on Draft 1 was not reflected in Draft 2.**

#### 23-5C-2040: Lot Size

*(B) In the extraterritorial jurisdiction, residential lot requirements are as follows:*

*(1) Minimum lot area is:*

*(a) In a subdivision served by a public wastewater system or central wastewater disposal unit:*

*(i) 5750 square feet; or*

*(ii) 6900 square feet for a corner lot; or*

*(b) In a subdivision with private on-site sewage facilities, as determined by Texas Administrative Code Title 30, Chapter 285 (On-Site Sewage Facilities);*

*(2) Minimum lot width is:*

*(a) 50 feet for an interior lot;*

*(b) 60 feet for a corner lot; or*

*(c) 33 feet for a lot on a cul-de-sac or curved street; and*

*(3) Minimum lot frontage is:*

*(a) 20 feet; or*

*(b) 30 feet, if a culvert is required for a driveway approach.*

Comment: Why are we using these minimum standards for lots; and how will the City enforce them when the lots are in the ETJ?

**The comment above on Draft 1 was not reflected in Draft 2.**

#### 23-5C-2070: Small Lots

*(C) A small lot subdivision shall comply with the following requirements:*

*(4) A lot that is less than 50 feet wide and that fronts on a collector street shall have a paved alley or private access easement along the rear property line.*

Comment: The lots described in this section are the size of lots in many of Austin's most cherished neighborhoods. Not all are served by alleys. Developers or clients may wish to divide a parcel of land that fronts a collector street into <50' lots, but the requirement to construct an alley will discourage them. When there is not currently an alley present, a developer would have no incentive to create small lots because of the extra cost and impervious cover generated

by the construction of an alley. This damages affordability and does not encourage the construction of the kinds of neighborhoods Austin's residents love.

**Requiring the paving of an alley will severely negatively impact affordability in Austin. The comment above on Draft 1 was not reflected in Draft 2.**

## **Chapter 23-6: Site Plan**

### 23-6B-1040; Phasing Authorization

Comment: The HBAGA supports the inclusion of phasing authorization as an instrument of greater flexibility in the development process.

**This comment was reflected in Draft 2.**

### 23-6B-1050; Advanced Site Preparation Plan

Comment: The HBAGA supports this policy as a time-saving tool.

**This comment was reflected in Draft 2.**

## **Chapter 23-9: Transportation**

### 23-9B-1040: Proportionality of Required Infrastructure

*(D) To aid in making a proportionality determination and identifying required infrastructure improvements, the applicable director may:*

*(2) Require an applicant to provide:*

*(a) A transportation impact analysis or study, regardless of whether one is required under Section 23-9C-2020;*

*(b) A neighborhood transportation analysis, regardless of whether one is required under Section 23-9C-2040*

*(c) An active mode analysis, regardless of whether one is required under Section 23-9C-2060*

Comment: The HBAGA recommends that such a decision not be left solely to the discretion of the director. This policy adds risk and uncertainty to the development process.

**The comment above on Draft 1 was not reflected in Draft 2.**

### Division 23-9C-3: Approval Process

*(A) The council or applicable director shall deny an application if the results of an analysis demonstrate that a proposed development may overburden the City’s roadway system or create safety concerns within the City’s transportation network.*

Comment: This policy allows for too much subjectivity and without the proper definition of “overburden”, it could lead to confusion and added delays.

**The comment above on Draft 1 was not reflected in Draft 2.**

23-9E-4030: Alleyways

*(B) The applicable director may require an existing, unpaved alley to be paved for all or a portion of its length if access from an alley is proposed in an application for zoning, rezoning, site plan, or building permit approval.*

Comment: Do not allow director to require pavement of any portion of the alleyway beyond the portion that directly accesses the property in question. Requiring pavement of the alley beyond this standard puts an undue burden on a developer and increases cost for the end consumer.

**The comment above on Draft 1 was not reflected in Draft 2.**

23-9F-1040: Joint-Use Driveways

Comment: Joint-use driveways will make it possible to provide new housing products that are more affordable. However, the requirement that residential driveways be no wider than 10’ will make it nearly impossible to share a driveway between multiple residences. The HBAGA recommends that the City increase the minimum driveway width to allow development to take advantage of joint-use driveways.

**Chapter 23-10: Infrastructure**

23-10A-3030: Request for Cost Participation

Comment: The HBAGA recommends that the City create a process whereby this is determined prior to the technical review of a project. Without that determination prior to technical review, the costs of development could escalate drastically and potentially render a project infeasible.

**The comment above on Draft 1 was not reflected in Draft 2.**

23-10E-3010: Standards for Approval

*(A) A development application may not be approved unless:  
(5) the proposed development:*

*(c) except as provided by Subsection (C), includes on-site control of the two-year peak flow, as determined in compliance with the Drainage Criteria Manual and the Environmental Criteria Manual;*

Comment: Do not require the site plan submittal process for more than 3 units, or for smaller lots, especially for lots less than 10 acres. Requiring on-site detention on lots of 3+ units leads to severe loss of buildable area. A detention pond consumes about 15% of a lot, accounting for the surface area of the pond, the berms, the slope downward from the top of the berms, the maintenance drive requirements, the land that must separate a pond from a house, the overall size of the drainage easement, the splitter box, etc. It also increases the cost. This decreases affordability for the end consumer.

The combination of this on-site detention requirement and the restrictions added in the January 2017 draft code such as increased setbacks, building areas, and impervious cover calculations, result in a net loss of about 10% of buildable area on typical transect lot vs SF-3. This would likely prohibit construction of a third unit or ADU due to site constraints and/or increased cost.

#### 23-10E-3010: Standards for Approval

*(A) A development application may not be approved unless:*

*(5) the proposed development:*

*(f) reduces the post-development peak flow rate of discharge to match the peak flow rate of discharge for undeveloped conditions as prescribed in the Drainage Criteria Manual.*

Comment: Requiring detention on every site that triggers a site plan without giving credit for existing impervious cover is immensely problematic, especially if site plan submittal continues to be required for sites over 3 units. It will increase the pond size from its current average of 15% of lot area to 20-30%. Do not require detention to be analyzed for every site based on pre-development conditions regardless of the amount of existing impervious cover. This will work against redevelopment of sites, reduce density, produce more sprawl, and ultimately play into the inability to increase transit options. Every time more land or more money is required for a project, the more sprawl and the less density we get.

**The comment above on Draft 1 was not reflected in Draft 2.**