

From: Philip Wiley
Sent: Thursday, July 06, 2017 1:04 PM
To: Guernsey, Greg
Cc: Rusthoven, Jerry; Rousselin, Jorge
Subject: Judges Hill District: Downtown Austin Plan - another interpretation and mapping implementation

Planning and Zoning Director Guernsey,

The "proposed" V1.1 mapping of the Judges Hill District places a priority on exempting properties from the "Density Bonus Program", which as a primary guiding force, favors T3 & T4MS mapping. That has been met with much concern locally, in part because many favor residential, in part because a significant majority of the buildings already existing will become non conforming.

With great respect for the complexity of the task you, and your extended team, are taking on, and acknowledgement that the underlying guiding factors are often conflicted and contradictory, I offer you another interpretation of the DAP for Judges Hill. This is based on a holistic review of the 203 page DAP document, with respect for, but not unilateral deference to, the few specific statements made related to an individual district. This is based on over a decade of experience negotiating (writing, editing, interpreting) similarly complex unique terms and conditions documents. The good news is that this alternative interpretation likely will be more attractive for both sides of the divide, and better aligns with Imagine Austin goals. I have reserved time on the CodeNEXT teams open office hours for tomorrow at 4:00 to discuss in more detail.

An important part of this interpretation lies in the word "should", which is generally understood to mean obligation, duty, or correctness. Sentences which have that word, without other caveats, "should" be viewed as having more weight than sentences where "should" is absent.

SHOULD #1, #2, #3, #4 (DAP page 90)

"The City SHOULD establish two new downtown mixed-use zoning districts, "DMU-40" and "DMU-60", to replace these single-purpose zoning districts and provide for a broader mix of residential and commercial uses.. DMU-40 SHOULD replace existing zoning districts that have a 40-foot height limit (e.g. LO and MF-4), and DMU-60 SHOULD replace those with a 60-foot height limit (CS, GO, MF-5, MF-6). The intent of these new zoning districts is to promote a mixture of uses at a scale that is appropriate

to their context, providing a transition from "DMU-120" (currently "DMU") to surrounding single family neighborhoods and lower intensity districts. The specific provisions of these new zoning districts, including the list of permitted and conditional uses, SHOULD be established as part of detailed District Plans within Downtown.25"

CC is designed to allow residential uses in areas where commercial only was allowed earlier. Judges Hill, and across us on MLK, is full of examples where we have non-conforming GO used as residential. It is part of the community character, and a preference for residential over commercial has historically been supported by a majority of the residents, where "commercial" has historically been even less desired than "density" => which is norm / pattern / form / character in the 18th to MLK transition block to UNO.

CC by design will drive market rate affordable housing as the number of units allowed is only limited by form limitations on height, so the density "bonus" is built into the underlying zoning, but additional height is not part of the equation. The same can be said for T4NC where height and even FAR does not change as the number of units increases, in that case below market rates become a possibility in the mix as an added bonus. Clearly "CC" has been applied in "Areas Exempted from Density Bonus Program" in DAP districts, and I think that's right, and the same should be done for T4NC. What we should not do, is apply the interpretation for this term one way in one district, another in the one next door - unless it is a defined term where that is made clear - which it is not in the DAP.

SHOULD #5 (DAP Page 103)

"The City SHOULD increase the baseline height and density on certain properties where existing zoning is not consistent with surrounding development"

Page 33 of DAP states that for districts (8) Judges Hill and (9) UT/Northeast District that there are "no proposed changes", and the reason for that, per page 31, is "both of which will be the subject of future planning processes". Some have suggested "no proposed changes" translates into "the proposal is to have no changes", that is not the case or it would have been a very simple district plan to document. Further it clearly is not the case when looking at all the properties where the City is increasing the baseline height and density in the proposed zoning map for UT/Northeast district, as the exact same language was used to describe the plan status for that area and Judges Hill. The City has rezoned several properties which were not proposed for specific changes on page 79 at the time of DAP adoption.

In Judges Hill, as one example, the existing zoning is not consistent with existing development (use / form) at two corners of San Gabriel and MLK, where one GO property will likely become CC40, and a large section of "SF3" will likely become "RM". Zoning on the entire block between 18th and MLK, east of Vance Circle should be harmonized for consistency south of MLK, and harmonized with UNO north to allow for a more cohesive boulevard. Per pages 40 and 68, this is a high opportunity area as it was not considered part of "Existing and Potential Historic Districts". To be clear, to follow the DAP, the City should rezone properties where appropriate. Mapping current zoning to a proposed map is inconsistent with following the adopted neighborhood plan on those properties.

Another example where the proposed zoning map is inconsistent with existing use is for other multi family housing, which by translating to T4NC instead of T4MS on 3 MF-3 properties, or T4NC instead of [T3N.IS](#) at the Royal Co-op will alleviate some concerns regarding non conformity and introducing "commercial" into the neighborhood interior.

Yet another example of non conformance is related to area form being one of large buildings with >2 stories being common. Currently the only tool to address this is T4NC, which could be proposed on <50% of properties in the "single family residential neighborhood" section of the district and still respect the spirit of page 103.

Related to page 103, this is another area ripe for confusion, without focusing on the caveat of "substantially", and what is included and excluded. Substantially has largely as a synonym, to a great extent, mostly. Technically above 50% meets the "substantially" criteria. Equally important there are no "should" statements in the introductory paragraph, but there are in the two paragraphs that follow. The community concern here is that something like T5MS can go from an understood 4 floor form, up to 7 floors with the density program. The intent of DAP for the Northwest District and Judges Hill district is to cap the number of floors by right to create a compatible environment. There is no suggestion that Judges Hill be capped at 1:1 FAR, nor 35 foot height. It is suggested allowable building height SHOULD be reduced in the Warehouse district, nowhere else; and the City SHOULD increase the baseline height and density to be consistent with surrounding development.

Related to page 109, Proposed Downtown Compatibility Zones and Standards, it states "it is proposed that all SF used properties within the DAP planning area no longer trigger Compatibility Standards". Implementation of that thought through CodeNEXT, with T3/LMDR compatibility standards built into CC zoned properties for example, would appear to trump whatever aspirations some might have had for carrying forward existing compatibility standards of the existing land use code.

Thanks for your consideration and everyone's hard work on this. It's important.

Philip Wiley