

# Zilker Neighborhood Association

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October 30, 2017

Re: ZNA response to CodeNext Version 2 text and mapping  
To: Mayor Adler, Council Member Kitchen, and Director Guernsey

The Zilker Neighborhood Association executive committee spent considerable time and effort in reviewing the first draft of CodeNext and assessing the impact on our neighborhood of both the text and mapping of version 1. We were hopeful that in this new version the City staff and consultants would respond constructively to our detailed comments on the first draft of the text and the initial mapping, but it has fallen far short of the mark. A major factor in our disappointment is the sloppy and incomplete condition of the second draft. Many of the most important dimensions of the proposed zoning districts are simply unavailable for review. Our many neighbors who have been engaged through the revision process confirm that information vital to Zilker's zoning and planning context, such as descriptions of the various commercial building forms and 3-D modeling that would illustrate their relationship to adjacent residences and to the new streetscape planned for the South Lamar Corridor, have not been presented. Overall, we believe that version 2, if adopted by City Council, would have even more adverse effects on our neighborhood than version 1.

Our analysis of the main areas of concern follows in our detailed response. Once again, we are hopeful that the City staff and consultants will appreciate our concerns and that we will see significant changes in version 3 due out in late November.

Thank you for the opportunity to provide these comments on CodeNext version 2.

*Jeff Jack*  
*ZNA President*

## Detailed Response

### 1. Inappropriate zoning for specific lots and parcels

In our response to CodeNext version 1 we noted about 40 individual zoning designations that were (a) inconsistent with current use or (b) failed to zone existing unzoned property correctly, (c) failed to unzone properties that are actually COA street or state highway ROW, (d) did not reflect larger development over numerous separate lots with different zoning, and (e) proposed zoning that was inappropriate due to proximity to residential uses. Version 2 addresses only about half of the identified issues, and some of the most egregious mismatches between proposed zoning and allowable uses have gone uncorrected. The updated list and map are attached.

### 2. Inappropriate "blanket" zoning

Version 2 has moved in the right direction by consolidating the transect and Euclidean base districts under a single nomenclature, using a simpler and more consistent format; however, the substance of the site development provisions and allowable uses in the new districts is substantially the same as the first version. As noted above, in the absence of useful descriptions and illustrations of the building forms, we have to rely on the text, which leads us to expect the worst. This criticism applies to Zilker's **residential areas, Waterfront Overlay area, and South Lamar commercial corridor** in the ways described in the following pages.

## **A. Residential Areas**

### *Density*

Although the new residential zoning districts are supposed to be labeled according to the number of units allowed on a site (R1 allows one dwelling unit, R2 allows two units, and so forth), the actual number of units that can be built is relative to the lot size, so that in the R3C district, six units (not three) may be built on a 10,000 sf lot. Also, the minimum lot size has been reduced to 2,500 sf. It is clear in the current code that larger existing legal lots cannot be “disaggregated” into smaller lots, but in CodeNext 2, it is not clear what can be done with existing platted smaller lots, of which there are hundreds within ZNA’s boundaries. The staff response to our questions about these “modular lots” has been inconsistent and ambiguous. The neglect of these outstanding issues does nothing to streamline the code and make it easier to enforce. Rather, it exacerbates the problems that the code revision process was supposed to correct.

### *Middle Housing*

Mayor Adler indicated to the Austin Neighborhoods Council that “missing middle” transition zones must be context sensitive and crafted with neighborhood input, so as to retain the residential character of the interior of affected neighborhoods. In Zilker’s case, a context-sensitive approach would acknowledge that close to half of the neighborhood already qualifies as “middle” housing and requires protection, not upzoning.

Mr. Guernsey, on the other hand, has indicated that the R3C zoning is in staff’s opinion where “missing middle housing” can be accommodated. Therefore, the almost complete blanket coverage of our Zilker neighborhood with R3C zoning means that essentially none of our neighborhood remains that would be consistent with the existing character, and our entire neighborhood then becomes the “transition zone” for the adjacent Barton Hills neighborhood, which is totally unacceptable to ZNA.

### *Accessory Dwellings and Structures*

Other neglected issues are accessory dwelling units (ADUs) and exemptions for parking structures. Current City code does a poor job of addressing the simple desire of existing homeowners to rent out a spare room with a separate entrance (attached or interior ADU), but the City Council last year approved an ordinance that allows second houses of 1100 sf to be permitted as detached ADUs. In other cities considered to have progressive and successful ADU regulations, the maximum size of detached ADUs is 800 sf. Again, CodeNext 2 only exacerbates the confusion surrounding the definition of accessory dwellings and the use of accessory structures.

### *Infrastructure*

All of those factors work to increase the density of housing, based on the assumption that the neighborhood and its infrastructure are sufficiently urbanized to serve the additional population. It is not. The reduction of parking requirements in R3C will create significant on-street parking problems on narrow neighborhood streets, especially for streets without sidewalks (which includes most of Zilker). Since the beginning of the Imagine Austin Comprehensive Plan process, we have been asking staff to provide information on the capacity of our existing sewer, water, roadway, and drainage systems to handle the increase in density that would be allowed by the proposed new land development code. This is especially important with regard to drainage issues, which are resulting in more localized flooding. Unfortunately, *no* data have been provided to date on our current infrastructure capacity or the cost to improve the infrastructure. No community should be asked to support such a massive zoning change without knowing what it will cost and how it will affect our property taxes. This is doubly important in Austin, because we cannot continue to support our public schools under the current property tax system. If asked to choose between funding our schools or funding massive redevelopment, most residents will choose to leave Zilker and perhaps Austin.

*Summary*

To summarize, the new zoning designation of R3C is still not consistent with the existing SF-3 zoning commonly found in our neighborhood. It will encourage denser development that will be detrimental to the character of our neighborhood and to maintaining affordable housing. Taken together, the reduction in lot size and increase in structures per lot and units per structure represent a significant increase in entitlements and allowable density, which will foster more demolition of existing affordable units (including several blocks of duplexes and four-plexes) to be replaced with larger, more expensive housing.

For these reasons and other considerations, such as impact on infrastructure, property taxes, and city services, the ZNA Zoning Committee continues to object to the residential designations proposed throughout the Zilker area and recommends that they be revised to include an equivalent of SF-3 that maintains the current .4 FAR, heights, setbacks, building and impervious cover limits, and parking requirement (minimum of 2 onsite spaces per main structure and 1 per ADU). We further suggest that the current McMansion rules be simplified by eliminating most of the exceptions from the .4 FAR limit.

We propose such a district here, called R2Z. It mixes elements of the proposed R2C and R3A, removes the ambiguity regarding minimum lot size, simplifies FAR and impervious cover calculations, addresses accessory dwellings by treating attached accessory apartments separately from detached accessory structures, removes the distinction between detached parking structures and detached accessory dwellings (eliminating the issue of FAR exemptions), and links parking requirements to the existence of sidewalks. This zoning district would apply to all existing SF-3 properties in Zilker.

**Proposal for R2Z, a new SF3 residential zone, combining R2C and R3A from CodeNext 2**

This would be applied to all SF3 within ZNA boundaries.

**A. General Intent**

The R2Z zone is a residential zone that provides detached housing with interior accessory apartments and detached accessory buildings and duplexes. This zone is meant for areas with access to mixed-use and main street zones within walking or biking distance.

**B. Sub-Zone**

Barton Springs Contributing Zone limited to 25% impervious cover

**C. Lot Size and Intensity**

Allowed Building Types	Lot			Building	
	Units per building (max)	Width (min)	Area (min)	Size (max)	Additional standards
Primary Building		50' <sup>1</sup>		0.4 FAR	?
House					
with interior accessory	2		5750sf <sup>1</sup>		
with detached accessory	1		7000 sf		
Duplex	2 <sup>2</sup>		7000 sf		
Accessory Building living space and parking structures	1 <sup>2</sup>			850 sf, included in 0.4 FAR	

## Notes

<sup>1</sup> 40' lot width (min) and 4000 sf area (min) for lots existing as a single building site (not aggregated) before August 6, 2007. [This may apply to 122 SF3 lots in ZNA's boundaries. Size and date based on current LDC § 25-2-943 - **SUBSTANDARD LOT (D)** A substandard lot that is aggregated with other property to form a site may not be disaggregated after August 6, 2007 to form a site that is smaller than the minimum lot area requirement.]

<sup>2</sup> Accessory buildings and apartments not allowed with duplex

**D. Building Placement and Form** [same as R2C]

**E. Height** [same as R2C]

**F. Encroachments** [same as R2C]

**G. Frontages** [same as R2C (none), or add pedestrian access from R3A?]

**H. Parking** [minimum 2 per house, possibly adjusted for size if accessible route (sidewalks) to bus stop is available]

**I. Impervious Cover** [same as R2C, but add note about 25% contributing zone]

**J. Open Space** [R2C has requirements for Common and Civic open space, but R3A has none. Is that an error in R2C?]

**L. Additional Standards** [same as R2C, plus these new standards for interior apartment (attached ADU) and detached accessory structure:]

### **Attached accessory dwelling**

*Maximum size* 500 sf

*Impervious cover limit* 45%

*Parking* No space required for units within a quarter mile of adequate public transit (definition of "adequate" TBD); accessible route (sidewalks) to bus stop required. Otherwise, 1 space required.

*Other requirements:* Owner occupancy, No short-term rentals, Current home business rules, Allowed in all current SF3 areas; Fee waivers, interest-free or low-interest loans for remodeling and Green Building upgrades, or other breaks given for units made available to low or very low-income residents

### **Detached accessory structure**

Note that this category is not confined to dwelling units. The intent is to simplify the processing of all detached structures so that they can be included in FAR and other dimensional calculations regardless of the use at the time of construction. In other words, whether it's built as a garage or an art studio or an ADU, the same dimensions apply, and the structure can be converted to a different use without triggering a code violation. This gives the homeowner flexibility to change the use of the structures as needed.

*Maximum size* 850 sf

*Impervious cover limit* 45%

*Setbacks:* Current SF3 code, 10 feet separation between buildings, or other fire code requirements

*Parking* No space required for units within a quarter mile of adequate public transit (definition of "adequate" TBD); accessible route (sidewalks) to bus stop required. Otherwise, 1 space required if structure is used as a separate dwelling.

*Other requirements:* Owner occupancy, No short-term rentals, Current home business rules, Allowed in all current SF3 areas; Fee waivers, interest-free or low-interest loans for remodeling and Green Building upgrades, or other breaks given for units made available to low or very low-income residents

## B. Waterfront Overlay (WO)

The provisions of the current Waterfront Overlay ordinance are intended to maintain the scenic vistas along Lady Bird Lake and, as the ZNA executive committee stated in our response to version 1, these provisions should be incorporated into version 2 without any changes that would allow more intrusive development on the waterfront or further restrict public access and enjoyment of it. Unfortunately, the blanket application of Main Street zoning in CodeNext 2 actually weakens the WO protections by allowing the density bonus program to exceed the current maximum height limits.

None of the proposed Main Street zoning districts are appropriate here, because the area along Barton Springs Road is not a regional business or shopping center. It is, rather, a citywide attraction for outdoor and cultural recreation, as the gateway to Zilker Park and Barton Springs Pool, the hike and bike trail and greenbelt on the lake, plus the Little League fields and cultural venues like the Zach Scott theater and Umlauf Sculpture Garden. Big draws are the lake vistas and outdoor seating provided by established restaurants under the magnificent pecan trees.

This area has been recently built out with a wide variety of multifamily projects, for a total of 1,250 residential units (not including the trailer park or the PUD). It should not be expected to absorb any more residential density. The Main Street zoning allowing buildings 85 feet tall (25 feet higher than the current limit) would destroy the features that make Barton Springs Road a citywide treasure. The prospect of 85-foot buildings on top of the cliff face is particularly offensive. It not only conflicts with the established policy of setting buildings back from the ROW but it also would essentially wall off our neighborhood from the waterfront.

Without understanding the different building forms proposed in CodeNext 2, we cannot evaluate how they might relate to the existing, excellent streetscapes on Barton Springs Road and this part of South Lamar, and so we cannot make specific recommendations. But we can make some general suggestions for options to Main Street zoning, roughly based on the criteria we set up for the VMU mapping process in 2007:

1. the highest intensity VMU areas are roughly equivalent to MU3A (60 foot height limit)
2. the highest intensity multifamily projects, to RM (unspecified except for the 60 foot height limit)
3. the non-VMU commercial areas, to MU (mostly unspecified except for a 40 foot height limit)
4. the lower intensity multifamily or multifamily areas not suitable for commercial uses, to RM (mostly unspecified except for a 40 foot height limit)

### *Application to Specific Properties*

*Option 1, MU3A (60 feet)*, could apply to the 200 and 300 blocks of South Lamar, including Bridges on the Park (104 residential units), Schlotzky's, and the Cole apartments (298 units), and to 1900 Barton Springs Road (Zilker on the Park, 213 units). It might also apply to 1600 Barton Springs (Barton Place condos), but a better reflection of the agreement negotiated with ZNA would be RM4 with a 70-foot height limit on the main residential part of the project (273 units) and a mixed use (MU) designation for the two restaurants on Barton Springs Road, with a 40-foot height limit.

*Option 2, RM with a 60-foot height limit*, should apply to 1717 Toomey (227 apartment units).

*Option 4, RM with a 40-foot height limit*, should apply to 1725 Toomey (40 apartments), 1529 Barton Springs (Lost Canyon, 32 residential units), and 1501 Barton Springs (Talisman, 63 residential units). A lower intensity RM district might be applied to the bulk of the Pecan Grove RV park, to preserve the remnant of an affordable housing type dear to the heart of South Austin.

There should be no commercial zoning on the unbuildable slopes south of Barton Springs Road, nor on the top of the bluff.

*Option 3, MU with a 40-foot height limit*, would apply to everything else within the WO.

That said, the recommendation made in our July response still stands:

The provisions of the current Waterfront Overlay should be maintained along with the height limits in the original 1986 WO ordinance. We can find nothing in the text or the mapping that replicates the setbacks and step backs that limit the height and require buildings along Barton Springs Road to step back at 40 feet to allow for a more expansive vista as one approaches Zilker Park.

The provisions of the WO should be adhered to fully, and any increase in entitlement that would result from the proposed zoning should be eliminated, including any added height due to a future density bonus provision.

### **C. Commercial Zoning (South Lamar)**

Generally, the blanket application of Main Street zoning to the South Lamar Corridor violates the intent of the Vertical Mixed Use (VMU) overlay, which ZNA considers to be the centerpiece of our neighborhood planning effort. Ten years ago, as part of the VMU opt in process, the ZNA zoning committee meticulously evaluated Zilker’s stretch of South Lamar lot by lot, with a view to permitting the most appropriate multifamily development on the largest available tracts while discouraging inappropriate redevelopment of small tracts adjacent to existing residences. The resulting plan was unanimously approved by the City Council and has guided the boom in multifamily development currently seen on South Lamar.

More pointedly, the criteria that ZNA used in that context-sensitive VMU evaluation addressed the underlying issues of “captured” parking garages, road improvements, and traffic management as well as residential compatibility along the South Lamar Corridor, anticipating a transformation of the Boulevard into a multi-modal streetscape similar to the successful transformation of Barton Springs Road. It also generated the maximum affordable housing available under the current code. VMU offers increased dimensional standards (additional bulk without added height) and reduced parking requirements in return for affordable units within the project. The desired result is to reduce the cost of the parking garage so that more can be invested in the housing units. The Main Street zoning proposed in CodeNext 2 ignores those criteria, providing no alternative solutions to the underlying issues, and the affordable housing that can be gained from the height bonus is almost nonexistent. We are left with zoning that nonsensically proposes to reduce car traffic and increase affordability by encouraging the construction of massive parking garages, at enormous environmental and economic cost.

Other problems are:

- The height increase (from 60 feet to 75 feet, with an “affordable” housing bonus up to 85 feet) is bound to create an ugly canyon effect along this core transit corridor.
- Upzoning will force many local businesses that serve nearby residents to be dislocated and replaced with upscale development, which will require a larger patronage from outside the area, resulting in more car traffic.
- Decreased parking requirements in inappropriate locations will result in larger commercial development with more parking demand and more off-site parking, resulting in more traffic congestion.
- Reduced compatibility standards and expanded commercial uses near residential uses will result in much more intrusive commercial projects, a reduced quality of life for residents, and environmental degradation.
- The proposed added density and intensity of use does not come with any analysis of the infrastructure cost.

#### *Alternatives to Main Street Zoning*

None of the proposed Main Street zoning districts are appropriate along the ZNA stretch of South Lamar, because, from Barton Springs Road south to Barton Skyway, there are no regional business or

shopping centers that would justify 85-foot-tall buildings. As noted earlier, CodeNext 2 does not describe the commercial building forms (house-scale, block, rowhouse) in the detail needed to make specific recommendations, but we have tried to make general suggestions, roughly based on our criteria for the VMU mapping process in 2007. (See options 1-4 under “Waterfront Overlay.”)

*Compatibility:* ZNA’s number one concern here is the effect of new development on existing residents, in single family and multifamily housing. Most issues arise on the west side of South Lamar, where shallow commercial lots back up to a wide variety of houses and relatively small multifamily residences. This is why so few properties on the west side of South Lamar are included in the VMU overlay, but almost all of the east side is included in the most intense level of VMU. These issues are addressed in the LDC mainly through compatibility standards regulating the scale and proximity of buildings, but compatibility involves much more.

*Streetscape:* Our second priority is the relationship of new development to the environment and the streetscape. This is addressed in the LDC through various environmental sections and the commercial design standards, Great Streets program, and corridor standards. Over the last fifteen years South Lamar has been transformed from a dysfunctional urban highway lined with used car lots to . . . a dysfunctional urban highway lined with high-intensity apartment buildings and restaurants. ZNA was instrumental in proposing the South Lamar Corridor Plan, and we remain heavily invested in seeing it through to a successful implementation, just as we were committed to the Barton Springs Road streetscape. That is why we need much more information on how the proposed commercial zoning districts will support or detract from the South Lamar Corridor and our current commercial design standards.

*Local businesses:* Another major concern is the increased economic pressure that threatens to displace established, small, local businesses wherever commercial property entitlements are boosted and massive redevelopment is encouraged. The existing VMU overlay has sparked all the massive redevelopment that South Lamar and our neighborhood can handle for many years to come.

#### *Application to Specific Properties*

*Option 1, MU3A (60 feet)* could apply to the east side of South Lamar, from the McDonald’s (but not Peter Pan miniature golf) at Barton Springs Road to Evergreen, excluding the blocks from Townhollow apartments (77 units) at 1200 Treadwell south to Gibson Flats (200 units) at 1219 S. Lamar, and to the 2000 block of S. Lamar (from West Mary to Oltorf).

On the west side of South Lamar, MU3A (60 feet) could apply to Lamar Union (448 residential units) at 1100 S. Lamar, to the Post apartments (648 units) at 1414 and 1500 S. Lamar, the 1600 and 1700 blocks of S. Lamar (including Sage condos, 32 units), and the blocks from Dickson to Barton Skyway.

*Option 2, RM with a 60-foot height limit,* applies only to Gibson Flats at 1219 S. Lamar.

*Option 4, RM with a 40-foot height limit,* should apply to Austin Heights (26 units) at 900 S. Lamar, Townhollow apartments at 1200 Treadwell, all the affordable housing at the Mary Lee Foundation (1339 Lamar Square, 190 units), the historic mill (5 units) at 1709 Evergreen, Bouldin Creek apartments (43 units) on West Mary, 2110 Kinney (12 units), 2115-19 Oxford (6 units), Goodrich Place (currently 40 deeply affordable units, but planning to add about 100 units) at 2205 Bluebonnet, and Chimney Park apartments (32 units) at 2406 Bluebonnet.

*Option 3, MU with a 40-foot height limit,* would apply to the remaining commercial properties along South Lamar and in the 1400 block of Oltorf.

In considering a more specific recommendation in Option 3, for South Lamar’s non-VMU properties, we reached these conclusions:

- Looking at just the “General Intent” statements, the obvious choice for these properties is MU2B. “The MU2B zone is a mixed-use zone that allows residential, medium-intensity office, service, and retail uses. This zone is meant to provide convenient access to employment, shopping and daily services and neighborhood amenities for nearby residents.”

- MU2A has a height limit of 35 feet (vs 40 feet for MU2B) and an FAR max of 0.5 (vs 1.0 for MU2B), which seems too restrictive in the current commercial context.
- MU3A is for “city-wide access” and too accommodating of higher-intensity, car-dependent design.
- MU4A is for “high-intensity multi-unit” development, with a base height of 60 feet and an affordability bonus of 15 feet. That’s even more intense than our current VMU overlay, so it’s out of the question for our non-VMU areas.
- MU4B is for “auto-related businesses . . . inappropriate in zones with retail or office uses, and which are not compatible with residential environments.” That is the opposite of what we want on shallow lots that back up to single-family or even small multifamily housing.

### **3. Bars and Restaurants**

We appreciate that CodeNext attempts to address some of the quality-of-life and nuisance issues associated with bars and restaurants located near residences. Our long experience with these issues, however, suggests that the proposal to regulate the actual hours of operation for all bars and restaurants will be a logistical nightmare (rather than leaving it to the TABC to enforce restrictions on the hours during which alcohol is sold).

The proposal to prohibit outdoor seating in certain circumstances does have the potential to solve many ongoing problems, but we suspect that the language and placement in CodeNext 2 is not the best approach. We hope we can discuss the late-hours and outdoor seating proposals in some detail with staff.

This section of CodeNext 2 goes off the rails in the Permitted Uses tables. The blanket inclusion of CS-1 uses (the most intense alcohol sales, such as cocktail lounges and liquor stores) in commercial and even some residential zoning districts has been abundantly criticized. We agree that it is a major mistake, but our concern is mainly economic. Serving alcohol without being required to invest in a restaurant is extremely profitable (perhaps as profitable as the self-storage business, but that’s a discussion for another time). Even the appearance that a bar is a permitted use creates an unhealthy economic pressure to maximize commercial rents and displace established, small, local businesses that would otherwise serve the day-to-day needs of nearby residents and provide more jobs.

These highest intensity alcohol sales should remain confined to a special zoning district, so that no new bars can be opened without a thorough public rezoning and conditional use permit process. We also recommend that new bars be prohibited within 1000 feet of an existing bar zoning district.

### **4. Administration and Process**

We agree with the League of Women Voters that “several elements of the draft significantly erode the ability of the public to participate in the land development processes. These elements must be adjusted to ensure that the public has adequate opportunity to weigh in on decisions and that decision makers have adequate public input to carefully weigh the issues before them.” We strongly support all of the changes recommended in the LWV-AA comments titled “Public Process in CodeNext: Assessments and Recommendations.”

Thank you for the opportunity to provide these comments on CodeNext version 2.

The ZNA Zoning Committee