Land Development Code Rewrite Suggestions
December 6, 2013

1. Administrative procedures (how zoning is handled)

   a. Code structure:
      1) Require a Statement of intent on special zoning issues and rules (For example: The intent of requiring large setbacks in the Waterfront Overlay for streets approaching the waterfront is to prevent a "canyon" effect". Such intent statements should be included in the code so that any ambiguity in the code details does not open the door for the intent to be ignored.)
      2) Cross referencing so you can find all things pertinent to the zoning for a particular site. As an example parkland compatibility issues noted in the code that impact adjacent commercial property such as the restrictions of garage entry facing parkland should be cross referenced so that if you look up DMU zoning regulations, it will also indicated that if your property faces city parkland your site has a prohibition on garage entries facing the park.
      3) Better graphics to better understand intent of the code. The city should Have graphic examples to explain what is meant by the code. As an example the code allows a fence to be no higher than 6 feet but if the topography changes by more than two feet then there is an exception for fence height averaging. But it is not clear how the two feet is measured, is it perpendicular to the fence line or does it mean a two foot change in the line of the fence? Graphic illustrations would clarify this.
      4) Better cross referencing to the design criteria manuals. Many details of what is prohibited and what is allowed are not even in the code itself but in the associated design criteria manuals. If the zoning code says a "driveway" can only be located in a certain part of the lot, but the design criteria for that driveway is not understood then you may have a conflict in granting the zoning change.

   b. Make the process more transparent and accountable:
      1) Notify neighborhoods as soon as developer first engages staff before submitting applications. This will allow the opportunity for the design of the proposed project to be informed by neighborhood concerns and could assist in eliminating conflicts by having the neighborhood involved earlier in the process
      2) Realize neighborhood time frames for acting, monthly or quarterly meetings. As part of the code assessment process determine how to encourage developers to engage neighborhood associations (NA's) in a timely manner so that there can be reasonable opportunity for collaboration.
      3) Make staff reports available to public earlier in process. Often, staff reports come out in piecemeal fashion. There needs to be better management of the staff review and comments coming out in a timely manner so that NA's have the opportunity to review and respond to these comments.

4) The staff report should include as assessment of the potential property tax implications for the property and the adjacent properties so that the community can understand the potential direct tax implication of any zoning change to the impacted surrounding properties

c. The process for zoning changes:

1) Require neighborhood engagement early in the zoning processes.
2) Consider "District Zoning Commissions" (DCZ) to put decisions closer to home. DZC's recommendations to Council can be overridden only by supermajority vote.
3) Create process for minor exceptions to be approved by neighborhoods rather than the Board of Adjustment. Similar to "special exceptions" and Residential Design and Compatibility Commission (RDCC), but with fewer limitations under strict regulations. This would allow for some "design" discretion that results in a better project and does not create a health or hazard and is in keeping with the neighborhood character.
4) Require, as part of the staff report and recommendations, the fiscal direct and indirect impact of zoning changes on the existing infrastructure (roadways, schools, water, wastewater, drainage, etc.). This will ensure that if an upzoning is being considered that has a major impact on our infrastructure, the cost of which will impact city capital improvement projects or other services, this be acknowledged in the staff report. As an example, if upzoning from SF3 to CS VMU will require rebuilding a significant part of the sewer system in the area to accommodate the added density, the cost of that upgrade has to be assessed and part of the consideration for approving the zoning change. We have to have a process that ensures that growth pays for itself by appropriate impact fees.
5) Consideration of other community values in evaluation process such as tree cover, heat island, scenic vistas, affordable housing, and privacy.
6) Improve staff education and review process to reduce permitting errors. Track review and permitting mistakes and respond by appropriate code clarifications or staff training.
7) Computerize all development regulations by street address and provide sketch up level 3D modeling of all zoning entitlements parcel-by-parcel. This will reduce staff time and prevent staff review errors.
8) If the Land Development Code (LDC) is tied to accommodating the Imagine Austin Comprehensive Plan (IACP) and gives sufficient zoning capacity to provide for projected growth, then any change to the new zoning code should require a supermajority vote by the City Council including the Council Member whose district the zoning case is located in.
9) Include the neighborhood contact team evaluation of proposed zoning change in staff recommendations.
10. In situations concerning heritage trees, the determination of "reasonable use" should be determined by a design professional, not the arborist.

c. Appeal processes:
   1) Clarify and make it easier to determine who has standing.
   2) Make appeal process the same for all permitting issues. This would include filing deadlines and required documentation for the appeal.
   3) Provide earlier and better information to neighborhood associations on when an appeal is filed and when the date of the hearing will be held.
   4) Expand the Neighborhood Assistance program to be an advocate for neighborhood associations in the appeal process.

d. Clarify the function of conditional overlays (CO), what can and cannot be included in a conditional overlay, what the process is for removing a CO, and increased notification of the process to neighborhood associations and contact teams

e. Role of public restrictive covenants (RCs) and private RCs. Require that staff note any public or private RCs if applicable to new zoning cases. Identify exactly what the RC covers in the zoning case as a separate line item in the staff comments. Train staff to look for private and public RCs when reviewing building permits to ensure that the plan approved for construction conforms to the RC.

2. Zoning district locations and boundaries (where zoning applies):
   a. McMansions. Expand the McMansion ordinance to all single-family zoned areas. Include a new "neighborhood" scale and massing element to the code so that in areas with smaller scaled buildings have a way to ensure compatibility with the new construction.
   b. Special districts like Transit Oriented Developments (TOD's), Neighborhood Conservation Combining Districts (NCCD's), Waterfront Overlay, etc. need to be clearly mapped and included in the GIS data for each property.
   c. Extra-territorial jurisdiction, special environmental areas, like Lake Austin, Barton Springs Zone, and others also need to be clarified and mapped.
   d. Planned unit developments (PUDs) are a major problem with any enforcement of the code. Require a supermajority vote by City Council to approve a PUD or any zoning district change that essentially results in spot zoning or the granting of variances outside the Board of Adjustment.
   e. More precise zoning maps to show neighborhood associations, watersheds, and 10-1 city council seat district lines.

3. Uses (what can be done in the zoning districts):
   a. Tie to other ordinances such as Outdoor Music Venue and Noise ordinances. Again this is a matter of cross referencing. As an example if a property were up zoned from GO to CS-1 to allow a restaurant, then it should be noted in the staff review comments that the restaurant would have to conform to the Outdoor Music Venue ordinance as well.
   b. Special uses like front yard parking, front yard averaging, etc. Need maps showing where these apply.
   c. Uses tied to other standards. (Such as school on streets with certain widths). Permitted and conditional use permits.
   e. Secondary residential units:

* Alley flats, granny flats and garage apartments.
* Secondary residential unit separations.
* How duplexes are defined to consider lot shape (zipper wall).

f. Accessory uses:
* Bed and Breakfast.
* Home occupation.
* Market Gardens.

g. Stealth Dorms and other loopholes to reasonable compatibility.

h. Commercial short-term rental (STR) regulations: Ban new Type 2 STRs in single-family zoned areas and grandfather existing Type 2 STRs for one year.

i. Commercial urban farms and urban gardens. Don't allow commercial urban farms and commercial urban gardens in single-family zoned areas. Grandfather existing urban farms and gardens for two years.

j. Off-site parking. Require a supermajority vote by respective boards, commissions, and City Council to approve off-site parking.

k. Don't allow non-emergency helistops within 5,000 feet of single or multi family-zoned areas.

m. Don't allow aerial advertising in the City limits and over lakes, waterways, and environmentally sensitive areas.

n. Need a map showing where taxing entities that have separate jurisdiction from the City of Austin (COA), which ones have interlocal agreements such as what Austin Independent School District (AISD) has with COA and map where it applies.

4. Land Development Standards

a. Precise definitions (first floor, ground level, finished grade, etc.).

b. Total impervious cover. Require supermajority vote by commission, board, and City Council to increase impervious cover in area with drainage problems

c. Building coverage.

d. Floor Area Ratio (FAR).

e. Setbacks (front, side, rear, street side, environmental features) clarify the accessibility standards

f. Height (better definition of roof heights).

g. McMansion Tent and its' relationship to steeply sloping sites.

h. Environmental regulations (percentage slopes not buildable, cut-and-fill, trees, etc.).

i. Compatibility standards.

j. Minimum lot sizes. This could be done neighborhood by neighborhood to see the context for any zoning change.

K. Related Building Code requirements that impact development standards.

l. Parking requirements.

m. Dwelling units per acres.

n. Special regulations in different neighborhoods (front-facing garages, front yard parking, etc.).

5. Subdivision and Site Plan considerations:

a. Re-subdivision of interior neighborhood lots and flag lots. This should be noted to prospective buyers by the seller's agent of any opportunity to sub-divide adjacent sub division lots.
b. Implications of deed restrictions.

6. Annexation and origination of first zoning designation.
7. Down-zoning process to make development pattern consistent with the IACP.
8. Tracking of zoning capacity with regard to population growth by planning area.
9. Assessment of the current city-wide and neighborhood planning area balance between residential zoning and commercial zoning.
10. Better building permit plan review and coordination with inspections. Respect for private restrictive covenants as part of neighborhood association's support of zoning change.
11. Processes related to Board of Adjustment variance requests.
12. Responsibility of full disclosure in real estate transaction with regard to exist zoning capacity with regard to increasing building footprint, impervious cover, height, setbacks.
13 Clear definition of just how far a building roof overhang can extent into any set back area.
14 Clarify the code provision that allow for the extension of a non conforming encroachment into a setback to be extended for a maximum of 25 feet but that does not grant such an entitlement to a second floor encroachment.
15. Clarify if the height of a fence is measure from level land on the applicant's side of the fence on the adjacent neighbor's side of the fence. This is particularly important where one neighbor has built a small retaining wall and then the other neighbor builds a 6-foot fence on top of that wall.
16. General:
    a. Require a supermajority vote by the City Council on variances, waivers, and amendments to the LDC, Save Our Springs (SOS) ordinance, and watershed protection ordinance.
    b. Eliminate administrative approvals for all permits, waivers, and variances. At minimum, allow affected neighborhoods the right to object to permits, waivers, or variances to the LDC. An objection would require the permit, waiver, or variance to be approved by a supermajority vote of the commission, board, or City Council.
    c. Repeal the parking requirements reduction program for businesses until alternative mass transit infrastructure (urban rail, rapid bus, etc..) has been implemented in the City.
    d. Require approval by the Austin Neighborhoods Council (ANC) and affected neighborhood(s) for all for-profit special events that require more than $100,000 in City services, resources, fees, rentals, or public property.
    e. Require a detailed cost for all City services and assets used for each special event.
    f. Require City staff to calculate the value of each public entitlement and amenity proposed for each development project.
    h. Create an online website that tracks each permit through the application, administrative, hearings, and approval processes. The website should show the current status of the permit and the remaining steps. It should also show the

backup materials, staff recommendations, and decisions made by boards and commissions.