



Draft Land Development Code Revision: Third Supplemental Staff Report

A Guide to Map & Text Revisions
Proposed for 2nd Reading

January 31, 2020

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INTRODUCTION

On December 11, 2019, the City Council voted to approve the Land Development Code (LDC) Revision on 1st Reading ([click here](#)), subject to approximately 200 amendments. This report summarizes the LDC Team’s proposed response to each amendment and addresses broader issues related to final adoption and implementation. It is intended as an aid to the revised zoning map and LDC text released on January 31, 2020 (hereafter “2nd Reading Draft”), which are available on the [project webpage](#).

Council’s amendments cover a wide variety of topics, including the application of new zoning districts, the character and scale of “missing middle” housing types, environmental protection and flood risk, affordability bonus programs, permit review procedures, and programmatic measures intended to help realize the benefits of a new LDC and produce equitable outcomes for those most immediately affected by development.

To make the information accessible, the report begins with a “Highlights & Overview” section addressing aspects of the 2nd Reading Draft known to be of most interest to Council and the community. This includes revised criteria for application of “missing middle zones” in areas vulnerable to gentrification and displacement and on residential corridors, as well as changes to the regulatory text that scales new development to ensure that the new LDC delivers more housing, rather than larger single-unit structures.

The report also addresses important next steps, including:

- Procedures for Council action on 2nd Reading
- The “mapbook” process, which will enable further refinements to zoning criteria in advance of 3rd Reading; and
- Implementation measures necessary for a successful transition to the new LDC.

We hope this report is useful to Council and the larger Austin community.

LDC REVISION TEAM
January 31, 2020

HIGHLIGHTS & OVERVIEW: KEY CHANGES AND GUIDING PRINCIPLES

About the Code & Zoning Map

A comprehensive code revision updates and modernizes existing zoning districts and applies the new zones throughout a city's full-purpose jurisdiction. Many of the LDC Revision's 41 proposed zones are "comparably equivalent" to existing zoning classifications, which means that they allow development of a similar nature and intensity as current code, but with limited enhancements.

The new LDC also includes several entirely new zoning districts intended to provide a more integrated mix of land uses and help further the City's housing, transportation, and affordability goals. Of these new zones, both Residential-4 (R4) and Residential Multiunit-1 (RM1) are proposed to be applied concurrent with LDC adoption within designated areas near corridors and at other locations that meet established criteria for "missing middle" zoning.

2nd Reading Map Revisions

Placing greater emphasis on equity and context, Council approved several amendments at 1st Reading that seek to refine the R4 and RM1 mapping criteria to better reflect public input received regarding gentrification and displacement, corridor context, and flood risk. In response to these amendments, staff proposes revised mapping criteria that:

- Reduce or eliminate application of missing middle zones in portions of transition areas where redevelopment is most likely to exacerbate displacement pressures. *See: Garza #1, at pp. 44, and MAP-1, at pp. 5.*
- Reduce application of missing middle zones along non-commercial corridors developed primarily with residential uses. *See: MAP-1 at pp. 5.*
- Reduce application of missing middle zones within areas prone to localized flooding. *See: LCF-1 at pp. 8.*
- Increase application of missing middle zones in "high-opportunity areas" in close proximity to schools, parks, and grocery stores. *See: MAP-2, at pp. 6, and T1, at pp. 9.*

The revised mapping criteria for R4 and RM1 will introduce options for new, transit-supportive housing types throughout the City, but in a more incremental and context-sensitive fashion. In particular, the proposed revisions seek to minimize redevelopment pressure in areas with existing market-rate affordable homes and communities most vulnerable to displacement. At the same time, the revisions will help increase housing supply citywide relative to the current LDC, which can help to stabilize property values over the long term.

2nd Reading Text Revisions

The LDC text gives meaning to the different zone classifications shown on the map and establishes regulations and procedures for all aspects of land development. The most significant text revisions in Council's 1st Reading Amendments are grounded in the same principles as revisions to the map criteria: equity and context.

An example is the "Preservation Incentive," which the LDC Team has revised substantially to better calibrate the bonus to the goals of preserving existing market-rate units and increasing housing supply, rather than larger single-unit structures.

In particular, the revisions propose:

- Limiting the incentive to development that adds at least one unit to a site.
- Counting new units against maximum floor area limits.
- More carefully limiting alterations to preserved structures and providing clearer authority for administration and enforcement.
- Significantly revising the incentive for multi-family structures to better achieve preservation goals.

See: RES-4, at pp. 16.

General limits on floor area across multiple zones have also been recalibrated, to ensure more context-sensitive development and limit increases in maximum floor area to development providing a greater number of units. For example, in the R2A and R2B zones, staff has proposed reduced FAR to minimize one-for-one replacement of existing units with larger units. *See:* R5, at pp. 23, and Casar RES-2, at pp. 15. Changes to the preservation bonus further the same basic objective by limiting increases in FAR to projects providing more units, rather than larger single-unit structures.

A similar approach to "graduating" increases in development potential informs staff's proposed approach to impervious cover. As with the proposed FAR limits, increases in impervious cover are reserved for development that provides more units, and impervious cover is reduced for construction of new single-unit structures. Additionally, the 2nd Reading Draft continues to emphasize scaled drainage regulations that are more closely tailored to the intensity of development, as opposed to an "all or nothing" standard of compliance. *See:* RES-6, at pp. 21.

Next Steps: Deliberation, Action, and Implementation

Council Action on 2nd Reading

In considering the 2nd Reading Draft, staff recommends that Council follow a process similar to the process used at 1st Reading. To this end, the LDC Revision Team will be available to help Council better understand the proposed revisions and evaluate potential amendments. Revisions to map criteria for particular zones should focus on policy direction that can be applied broadly. Likewise, in considering further revisions to the LDC text, Council is encouraged to focus on goals and objectives rather than specific text changes.

Mapbook Procedure & Zone Conversion Table

As stated during deliberations on 1st Reading, the LDC Team will establish a process by which council members may propose more detailed revisions to mapping criteria for particular zones following 2nd Reading in order to establish a record for Council to consider before final adoption. While remaining focused on broad criteria, the mapbook process will enable council members to provide examples that better illustrate specific concerns regarding proposed application of new zones in particular cases.

Using both Council's 2nd Reading amendments and refinements proposed through the mapbook process, staff will prepare a zone conversion table and revised map for review in advance of 3rd Reading. (A sample table is presented in Alter #5, at pp. 39.) The zone conversion table will crystalize criteria developed through the LDC Revision process and provide a foundation for the final zoning map. While all proposals submitted through the mapbook process will be available for Council to consider, those proposals that cannot be supported by applicable criteria should be deferred to subsequent rezoning processes following LDC adoption.

Adoption & Implementation

The LDC Team continues reviewing implementation measures previously posted to the project webpage, "[Land Development Code Revision Related Programmatic Elements](#)," in addition to other measures directed by Council at 1st Reading. Additional updates will be provided in advance of 3rd Reading.

2nd READING MAP REVISIONS

The remainder of this report summarizes staff’s response to each of Council’s [1st Reading Amendments](#), which are organized by topic and categorized as “Council Amendments,” “Staff Amendments,” and “Planning Commission Amendments.” Where a topic is covered by multiple amendments, staff’s proposed response is described in one location and referenced throughout the report in discussing related amendments.

Topic Area: Missing Middle (RM1/R4 Zones)

Staff Amendments:

MAP-1 | Revised mapping criteria for transition areas

AMENDMENT TEXT

- *(a) Apply comparable equivalent R2 zoning in areas defined as “Susceptible” or “Early – Type 1” by the UT Uprooted Report. (b) Apply R3 in areas identified as “Dynamic” to support incremental increases in housing diversity. (c) Similar to the October 4 draft, apply R4 to areas identified as “Late” to support more missing middle housing.*
- *Consistent with proposal from Supplemental Staff Report No. 1, on predominantly residential corridors where transition zones are mapped, reduce the depth of the transition zone (i.e. R4, RM1) by adjusting the depth to include the residential properties fronting the corridor. In general, this would result in the citywide reduction of transition zone application by generally the depth of one lot on predominantly residential corridors.*
- *Where transition areas are reduced or eliminated, identify alternative options for increasing the supply of missing middle housing.*

STAFF RESPONSE

In response to this amendment, the 2nd Reading Draft revises applicable zone criteria to apply comparable equivalent Residential-2 (R2) zoning in portions of designated transition areas located in “Susceptible” or “Early Type 1” typologies identified by [Austin Uprooted: Residential Displacement in Austin’s Gentrifying Neighborhoods and What Can be Done About It](#) (hereafter “Uprooted”), a comprehensive 2018 report prepared by the University of Texas. In the “Dynamic Gentrification” typology, the revised criteria apply Residential-3 (R3) zoning. No map revisions are proposed for the “Late” or “Continued Loss Gentrification” typologies.

Additionally, the 2nd Reading draft revises the application of R4 and RM1 to reduce zone depth along predominantly residential corridors by generally one lot using the distance methodology established in the initial [LDC Revision Staff Report](#) (see pp. 11-13). As shown on the 2nd Reading Map, this methodology often results in reductions of more than one lot due to lot configurations in relation to adjacent streets. Residential corridors encompassed by these new criteria include Enfield, Duval, Oltorf, and 45th Street. In some cases, application of R4 and RM1 along residential corridors was reduced further to reflect more careful application of other established zone criteria.

Revised map criteria were also examined for applying the R4 and RM1 zones in “high opportunity” areas in close proximity to parks, schools, and other amenities. For an explanation of applicable criteria, see MAP-2, below.

MAP-2 | Revised mapping criteria for high opportunity areas

AMENDMENT TEXT

To increase the supply of missing middle housing in recognized high opportunity areas, consider map revisions that locate additional missing middle housing opportunities near:

- *Imagine Austin Centers*
- *Mobility bond-funded improvements*
- *Parks*
- *Schools*
- *Grocery stores*
- *Corner lots*

STAFF RESPONSE

The LDC Team evaluated additional options for the application of missing middle zones in high opportunity areas. As described below, several criteria were selected, while others were deemed too difficult to apply as part of the LDC process.

RECOMMENDED MAP CRITERIA

❖ Centers

Staff analyzed options for locating missing middle zones in areas accessible to Centers designated by the Imagine Austin Comprehensive Plan. Within Centers, R4 was applied to lots that met the following criteria:

- Falls within or abuts a 1/8 mile buffer encircling intersection points located within or immediately adjacent to a designated center; and
- Has access to the center.

❖ **2016 Mobility Bond**

To increase missing middle housing options near areas with mobility infrastructure investments planned, staff reviewed regional and corridor-level projects. R4 was applied to lots that met the following criteria:

- Located within a 1/16th-mile buffer of a corridor intersection, in a bond investment area; and
- Has access to the intersection.

RECOMMENDED FOR DIRECTION AT 2ND READING

❖ **Level 3 Streets**

At 2nd Reading, staff recommends that Council consider applying R3 or R4 to lots along Level 3 streets or a subset of Level 3 streets that meet the following criteria:

- Located within a 1/16th-mile buffer of a corridor intersection; and
- Have access to the intersection.

In staff's view, Level 3 streets are appropriate for mapping because they combine several policy objectives (i.e., 50-50 mode share, equitable distribution of missing middle housing) and provide a fixed reference point for comprehensive mapping.

RECOMMENDED FOR FUTURE CONSIDERATION

❖ **Parks, Schools, and Grocery Stores**

To increase housing options in high opportunity areas, the LDC Team considered the application of R4 in close proximity to parks, schools, and grocery stores. However, based on further review, staff concluded that the site-specific variability of these features complicates the application of new zones through comprehensive revision.

❖ **Corner Lots**

Based on further review, the LDC Team does not recommend using location on a corner lot as an independent criterion for applying missing middle zones as it depends on individual site characteristics rather than access.

MAP-3 | Map corrections

AMENDMENT TEXT

Continue updating the "[LDC Map Corrections](#)" spreadsheet as errors in applying established criteria are identified, with greater attention to typography and its relationship to watershed routes.

STAFF RESPONSE

The 2nd Reading Map incorporates all updates listed in the LDC Map Corrections spreadsheet. If errors in applying established zone criteria are identified in the 2nd Reading Map, they will be corrected in a revised map provided for consideration at 3rd Reading.

LCF-1 | Localized flooding

AMENDMENT TEXT

Pending outcome of ongoing analysis of impervious cover changes within local flood problem areas, consider reducing the application of missing middle zones, if warranted, to mitigate the risk of drainage problems.

STAFF RESPONSE

Watershed Protection staff analyzed 147 known local flood problem areas to determine whether reducing the application of missing middle zones would mitigate the potential risk of drainage problems. Using GIS, staff evaluated each problem area's topography and drainage infrastructure to delineate approximate stormwater flowpaths, and then identified the downstream half of those flowpaths. The properties that intersect or are adjacent to the downstream flowpaths are potentially at a higher risk of local flooding than other properties within the problem area. Staff therefore recommends minimizing the number of units that can be constructed on those properties in order to limit the number of people at risk of flooding.

To implement this recommendation, staff identified all properties proposed to be zoned R3, R4, or RM1 that intersect or are adjacent to the downstream flowpaths in each problem area and compared the proposed zoning to the existing zoning. Any R3, R4, or RM1 properties along the downstream flowpaths that are currently zoned to allow for one or two units were re-mapped from the missing middle zone to comparable R2 zoning in order to limit increased density in areas that may be at higher risk of localized flooding.

Not all parcels along a downstream flowpath have or will experience local flooding, nor is all potential local flooding limited to the low-lying areas identified with this methodology. However, staff does not have the detailed drainage models needed to identify all of the areas at risk of flooding within a problem area. This methodology therefore takes a systematic and conservative approach to mitigating potential flood risk by minimizing the number of units that could be constructed in low-lying areas. Staff removed the R3, R4, or RM1 zone from approximately 300 parcels within local flood problem areas.

In addition to these map changes within local flood problem areas, staff also recommend a new process to address potential lot-to-lot drainage concerns for larger one-unit, two-unit, and missing middle projects while still calibrating drainage requirements to the scale of the project. For more detail, see RES-6 at pp. 21.

Planning Commission Amendments:

T1 | Reduction of transition areas in *Uprooted* study area

AMENDMENT TEXT

Overriding any other instruction, mapping of any additional transition zones should not be placed in any areas identified in the uprooted study found as being susceptible, early or dynamic gentrification stages but instead place in other high opportunity areas in locations identified by Council direction or Planning Commission suggestion prioritizing areas with higher levels of transit service.

STAFF RESPONSE

Consistent with this amendment, the criteria described in response to MAP-2 do not apply missing middle zones (i.e., R3, R4, or RM1) in the “Susceptible,” “Early Type 1,” or “Dynamic” housing typologies. Even if a lot meets other applicable criteria, the LDC Team recommends comparable equivalent zoning for sites within these designations.

T5 | Context-sensitive criteria for transition area mapping

AMENDMENT TEXT

Increase depth and zone density for transition areas when conditions exist for maximizing density where corridors, centers and high capacity transit co-exist. There are areas where IA and TPN corridors also serve as high capacity transit service routes and intersect IA centers with high density RM, MS, and MU zones.

STAFF RESPONSE

The revised zone criteria proposed in response to MAP-1, at pp. 5, and MAP-2, at pp. 6, are consistent with the intent of this amendment. These revisions apply missing middle zones in a context sensitive to areas adjacent to Centers, Corridors, TPNs, and high opportunity areas.

To further support context-sensitive application of the R4 zone, staff is studying contextual setbacks where more intensive zones with 0' setbacks (such as MS3) share side and/or rear property lines with R4 house-scale transition zones, with an intent to recommend a revision.

T9 | Missing middle zones near parkland

AMENDMENT TEXT

Map additional missing middle near dedicated parkland of substantial size or programming with consideration for safety.

STAFF RESPONSE

See MAP – 2, at pp. 6.

T12 | Missing middle zones in high opportunity areas and centers

AMENDMENT TEXT

Map transition zones, high opportunity areas and IA centers with missing middle zones to achieve the goal of 30% missing middle housing.

STAFF RESPONSE

See MAP – 2, at pp. 6.

I19 | Transition areas adjacent to rail lines

AMENDMENT TEXT

Keeping with Council and PC comments regarding gentrifying areas, floodplains, etc., map our existing and planned rail line stop walk-sheds as corridors with transition zones with transit supportive densities.

STAFF RESPONSE

In reviewing areas adjacent to all existing and proposed rail stops, staff determined that only areas adjacent to MLK JR. Station met the revised criteria required for application of R4 zoning. In all other instances, separate zoning criteria were found to be controlling, such as location within Imagine Austin Center overlay, a gentrification typology, or are currently undergoing a district-level planning process.

Topic Area: Corridors & Centers

Council Amendments:

Casar CC5 | Downtown mapping and bonus calibration

AMENDMENT TEXT:

Amend [STAFF2] DT-1 Commercial Core (CC) Subzone Bonuses, [PC] DT2 Substitute Amendment, and [PC] A9 Unlimited CC Bonus to Increase Community Benefits

- *Allow an unlimited CC bonus across Downtown, except do not map this unlimited bonus in the small area of Downtown where there currently is no bonus, on first reading. Council intends to add a bonus with new height and density in this northwest area on second reading, while maintaining a transition in height to areas that are primarily Residential House-Scale within the Downtown area. This transition in heights is to be considered the transition zone for house-scale areas in the Downtown. Staff and stakeholders should explore options for achieving this goal.*
- *Within the boundaries of the Downtown Plan Overlay, if staff demonstrates that greater participation in the affordable housing bonus program would be achieved, DC zones may be mapped where CC zones are currently proposed, while maintaining a reasonable transition in height to areas that are primarily Residential House-Scale within the Northwest District of the Downtown Austin Plan Overlay.*
- *Late night cocktail lounge uses that are being newly permitted in Downtown areas (where they were previously unpermitted) should be allowed, but only by conditional use permit.*

STAFF RESPONSE

For staff's response regarding increased bonus entitlements in CC zoning, see DT-1 at pp. 41.

The 2nd Reading zoning map carries forward base zoning entitlements from the 1st Reading zoning map, with the goal of potentially extending DC zoning to new areas in the future when sufficient community engagement and district-level planning can occur. Subject to proper bonus calibration, staff finds that currently proposed CC zoning is more likely to result in affordable units than applying DC zones to these sites. Under the Downtown Density Bonus Program, the amount of the fee in-lieu for providing onsite affordable units is tied to base zoning.

On February 25, following Council's planned vote on 2nd Reading, staff anticipates requesting Planning Commission approval of an amendment to the Downtown Austin Plan (DAP) that would support the current approach to mapping CC and DC zones. Should Council vote at 2nd Reading to extend DC zoning further into the northwest portion of downtown, staff would revise the proposed DAP amendment accordingly.

Planning Commission Amendments:

17 | Zoning for Highland tracts and activity centers & corridors

AMENDMENT TEXT

Consider rezoning some Highland tracts and other Activity Centers to UC and apply transition zones from the Activity Centers.

STAFF RESPONSE

The UC zone is designed for Regional Centers and currently proposed only for the Highland, Lakeline, and South Central Waterfront centers. Applicable zone criteria do not support applying the UC zone to Activity Centers or other Regional Centers, which are generally located in special regulating districts or Planned Unit Development (PUD) zones.

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2nd READING TEXT AMENDMENTS

For a more detailed description and redlined version of the text amendments summarized below, please see the [“LDC Text Revisions and Relevant Documents”](#) spreadsheet.

Topic Area: Residential (R1-R3 Zones)

Council Amendments:

Harper-Madison #3 | Walkable access in neighborhoods

AMENDMENT TEXT

Consider opportunities for interior neighborhood commercial spaces to offer walkable access to basic amenities such as but not limited to daycares, pharmacies, neighborhood groceries, restaurants, and civic spaces.

STAFF RESPONSE

The 1st and 2nd Reading Draft established new neighborhood commercial zones (MU1 and MU2); however, staff does not recommend applying those zones outside of existing neighborhood commercial nodes until a subsequent district-level planning or rezoning occurs following code adoption.

Harper-Madison #6 | NCCD amendments

AMENDMENT TEXT

Preserve and amend NCCDs to ensure changes related to ADUs, Parking, Preservation Bonuses, Affordability Bonuses and Transition Area mapping apply within the NCCDs.

STAFF RESPONSE

As discussed in the initial LDC Staff Report, it is difficult to make uniform changes to NCCDs because the regulations within an NCCD are site or area-specific. In the 1st Reading Draft, staff proposed to permit accessory dwelling units, parking exemptions, and use of the Affordability Unlocked density bonus, in addition to applying missing middle zoning (R4 and RM1) to portions of the NCCDs that meet applicable criteria.

The additional changes proposed by this amendment, specifically the preservation bonus and affordability bonuses, cannot easily be applied to NCCDs because they depend on a uniform limit on maximum floor-area ratio. Since NCCDs regulate FAR at a site-specific level, it would require multiple, individualized amendments to uncodified NCCD ordinances to incorporate the preservation or affordable housing density bonuses. For this reason, the LDC Team recommends deferring further changes to the NCCDs until after adoption.

Harper-Madison #7 | Co-housing in 'R' zones

AMENDMENT TEXT

Allow co-housing in all R-zones.

STAFF RESPONSE

The 2nd Reading Draft permits co-housing in all R-zones.

Garza #3 | Small neighborhood grocers

AMENDMENT TEXT

A. *Allow small neighborhood grocers as CUP in all zones*

DIRECTION: Work with Economic Department to identify the square footage of a small neighborhood grocer and where this type of use can benefit areas that have difficulties accessing healthy food options.

STAFF RESPONSE

Following consultation with the Economic Development Department, staff revised the draft LDC to allow Food Sales in all Residential House-Scale and Residential Multi-Unit zones with a conditional use permit. This provision is included in the 2nd Reading Draft.

Casar RES-1 | Compliant properties

AMENDMENT TEXT

If changes to the code cause properties in RM1 zones and below to be non-conforming, allow existing residential uses to be compliant and allow such residential uses to expand to current code site development standards. New site development standards from R1 to RM1 should only apply to new builds. However, properties in RM1 zones and below should not be allowed to expand their impervious cover to levels higher than 40% for single unit development/expansion, as listed in the staff-supported planning commission recommendation, while allowing for 45% impervious cover for two-unit development, as listed in the staff-supported planning commission recommendation.

STAFF RESPONSE

Consistent with RES-6 (pp. 21) and Casar TA1 (pp. 26), the 2nd Reading Draft limits impervious cover to 40% for new one-unit construction and 45% for two-unit construction in all Residential House-Scale zones and in RM1. Exceptions are included for the R1 and R2C zones, which are designed to accommodate modest-sized structures on very small lots and would retain their current 65% impervious cover level.

To ensure flexibility for homes built before adoption of the new LDC, existing single-family homes could be maintained or expanded to the current impervious cover limit of 45%. This policy would: (a) incentivize new construction of two units over a single unit; (b) address the community desire for preservation of existing homes, which could be expanded to 45% while demolition-and-rebuilds would be limited to 40%; and (c) provide decreases in allowable maximum impervious cover, both citywide and by watershed, as new one-unit projects reduce their coverage to 40%, thereby helping offset the marginal increases represented by 3+ unit missing middle construction elsewhere.

Casar RES-2 | Graduated floor-to-area ratio

AMENDMENT TEXT

To incentivize smaller housing types, R-zones should allow for increased allowable size of structures only as the number of units increases. This would mean a fourplex would be allowed to be a bigger size than a triplex, a triplex would be allowed to be a bigger size than a duplex, and a duplex would be allowed to be a bigger size than a single-family house. Also, staff should continue to explore having a different graduated FAR for large lots compared to small lots to keep with the goal of incentivizing moderate size, family friendly housing. Here is an illustration of FAR requirements that would incentivize family friendly, but modest size, homes without prescription:

- 1) 0.35 FAR for one unit*
- 2) 0.5 FAR or for two units*
- 3) 0.65 FAR for three units*
- 4) 0.8 FAR for four units*

STAFF RESPONSE

Consistent with this amendment, the 2nd Reading Draft further refines allowable FAR in relation to number of units. Staff has calibrated FAR maximums to allow for two- and three-bedroom units on commonly sized lots. See R5, at pp. 23, and MM-4, at pp. 30.

Casar RES-3 | FAR Exemptions

AMENDMENT TEXT

In calculating FAR (Floor Area Ratio), allow a partial attic and partial garage / carport exemption.

STAFF RESPONSE

The 2nd Reading Draft includes garages and attics in the FAR calculations for Residential House-Scale zones, with exemptions for one parking facilities of 200 square feet or less per dwelling unit and 400 square feet of attic space per dwelling unit.

Casar RES-4 | Preservation bonus

AMENDMENT TEXT

Consider the preservation bonus as follows (without specific numbers or methods being prescribed):

- 1) Allow the preserved unit(s) to be expanded and remodeled up to the allowable FAR for the unit(s).*
- 2) Limit the size of a single preservation unit ADU to be larger than the current allowable size (e.g., 1,600 sq. ft) and two-unit preservation bonus to 0.5 FAR (or whichever graduated FARs are adopted).*
- 3) Consider allowing lots utilizing the preservation bonus to utilize a simple subdivision process and allow them to waive minimum lot sizes upon subdivision.*
- 4) Clarify that preserving only the existing ADU does not qualify as preservation.*
- 5) Reduce the required age of a qualifying home to be preserved from 30 to 15 years.*
- 6) If possible, increase impervious cover if preservation bonus is used. Reduce impervious cover in R2 zones for developments of only one unit (as recommended by the Planning Commission) or an amount that negates the increase in impervious cover, and potentially reduce the impervious cover for R2 zones generally to negate any increase in impervious cover.*
- 7) Waive parking requirements for preservation bonus units.*
- 8) To utilize the preservation bonus, there must be an increase in units.*

STAFF RESPONSE

The 2nd Reading Draft substantially revises the Preservation Incentive for both house-scale residential and multi-family projects and does so in a manner consistent with this amendment and additional Council direction in RES-4 (pp. 16). In developing these revisions, the LDC Team considered input from the Historic Preservation Office as well as recommendations from the Historic Landmark Commission, while balancing the need for a simple and straightforward review process.

Additionally, the House-Scale and Multi-Unit Preservation Incentives include stronger enforcement provisions than the 1st Reading Draft. See Sections 23-3C-3060 (Residential House-Scale Preservation Incentive); Section 23-3C-4060 (Multi-Unit Preservation Incentive). Other key changes are summarized below.

❖ **House-Scale Preservation Incentive**

- **Bonus Amount.** If the incentive is utilized, the preserved structure does not count against the maximum floor-to-area ratio and one additional unit may be built on the site above the base entitlement. The bonus unit may be any use permitted in the zone, such as three single family homes in an R2 zone.
- **Eligibility Requirements.**
 - To be eligible for preservation, a structure must be at least 30 years old and must be the principal use on a site. Staff does not recommend lowering the age limit for participating structures because available data indicates that 30 years is the point at which properties become market-rate affordable, which is consistent with one of the Incentive's main objectives.
 - Additionally, in order to utilize the Preservation Incentive, proposed development must add at least one additional unit to the site.
- **Preservation Requirements.** Alterations to a preserved structure are restricted through limits on wall removal, alterations to exterior walls, modifications to the roofline, and expansions to the original structure.
- **Impervious Cover.** Impervious cover limits follow the same overall approach to graduated impervious cover described in staff's response to RES-6, at pp. 21.
- **Parking Requirements.** Parking is waived for Residential House-Scale units; for Residential Multi-Unit and Mixed-Use, parking waivers are consistent with those allowed under Section 23-3D-2050 (Off-Street Parking Motor Vehicle Reductions).

❖ **Multi-Unit Preservation Incentive**

The Multi-Unit Preservation Incentive would allow older apartment buildings and other multi-unit structures increased density in exchange for preserving a portion of their existing structure. It is similar to the House-Scale Preservation Incentive, except that a total of 75% of the existing residential units are required to be preserved and new development is required to provide an increase in overall units of at least 10%.

Except for these differences, the Multi-Unit Preservation Incentive closely matches the House-Scale Preservation Incentive. The LDC Team are continuing to review the Multi-Unit Preservation Incentive to identify potential improvements that will help to ensure proper use of the incentive program.

Casar RES-5 | ADUs

AMENDMENT TEXT

Allow mobile homes, RVs, tiny homes, and airstreams to be utilized as dwelling units and staff should include requirements for health and safety.

STAFF RESPONSE

While staff understands that the intent of this provision is to facilitate more affordable infill options, the LDC Team cannot recommend the proposed changes at this time due to health and safety concerns. Other jurisdictions that allow use of tiny homes as an infill tool require the structures to be installed on a permanent concrete or concrete block foundation with cable tie downs, which is consistent with requirements for manufactured housing approved under the State of Texas (TDLR) Industrialized Housing and Building program. The draft LDC would require tiny homes to meet these requirements.

Alter #4 | FAR Calibration

AMENDMENT TEXT

Staff should come back with code language and modeling demonstrating the impacts on housing and affordability capacity to eliminate attic, garage, and balcony exemptions from FAR calculations in residential-house scale and transition zones. Staff should prepare information to demonstrate what if any impact eliminating those exemptions would have on housing unit capacity. The new code should include an updated and clear definition of "Residential Unit" so that only spaces truly meant for separate habitation are allowed to access increased FAR and impervious cover entitlements, (including artist studio and other work/live spaces within the additional unit).

STAFF RESPONSE

Staff recommends calculating floor-area ratio (FAR) in the Residential House-Scale zones similar to how it is calculated under current "Subchapter F" (McMansion) regulations, but with simplified standards. Similar to current Subchapter F standards, the 2nd Reading Draft proposes to include garages, attics, and porches with habitable space in FAR calculations, with some exemptions, and any ceiling heights above 15 feet will be counted twice.

Staff Amendments (Supplemental Report Nos. 1-2):

STAFF RES-1 | Density

AMENDMENT TEXT

Revise Division 23-3C-3 (Residential House-Scale Zones) to clarify the minimum and maximum number of units allowed per lot in each Residential House-Scale zone.

STAFF RESPONSE

The 2nd Reading Draft includes a table for the Residential House-Scale zone to clarify the maximum number of units allowed per lot. Consistent with Council's goals for the missing middle zones, the density table establishes a minimum number of units for R4 (four units) and RM1 (six units).

STAFF RES-2 | Preservation Incentive

AMENDMENT TEXT

- *Change the limitation on improvements to habitable space from value of structure cost to a percentage increase or absolute amount of square footage.*
- *Clarify that additional dwelling units added to the lot are through uses permitted in the zone.*

STAFF RESPONSE

As discussed in Casar RES-4, at pp. 16, the preservation incentive has been updated to limit the extent to which the floor-to-area ratio (FAR) of the preserved unit can be expanded. The type of housing that can be added when utilizing the preservation incentive has been clarified to include any residential uses allowed in the base zone, which may include accessory dwelling units, duplexes and other housing types.

STAFF RES-3 | Private frontages

AMENDMENT TEXT

Where private frontage is required in a residential zone, specify that at least one residential unit must face the public right-of-way and provide private frontage demolition.

STAFF RESPONSE

The requirements for private frontages in Division 23-3D-5 (Private Frontages) have been clarified for all residential zones.

STAFF RES-4 | Additional changes to Preservation Incentive

AMENDMENT TEXT

To better achieve the goals of the preservation incentive, revise proposed regulations to:

- 1. Require that a portion of the front façade of the preserved unit be retained and that any modifications include the addition of a private frontage, if one does not exist;*
- 2. Limit the floor area that can be added when utilizing the preservation incentive, potentially by requiring the bonus unit to count towards maximum FAR and exempting or partially exempting the preserved unit;*
- 3. Clarify the extent to which a preserved structure may be modified, using the requirements applicable to nonconforming structures as a baseline, and include appropriate administrative/enforcement provisions;*
- 4. Clarify that a bonus unit added through the preservation incentive may be for any residential use allowed in the base zone, which may result in more than one ADU; and*
- 5. Clarify that for a multifamily use that utilizes the preservation incentive, the number of new units that can be added is equal to the number of preserved units plus one additional unit.*

STAFF RESPONSE

For discussion of proposed changes to the preservation incentive in response to this and other amendments, see Casar RES-4, at pp. 16.

RES-5 | Fences

AMENDMENT TEXT

- 1. Clarify that the 4-foot height limit within the front setback is limited to Residential House-Scale Zones and Residential Multi-Unit Zones; all other zones are permitted to have fences up to 8-feet in height in the front setback.*
- 2. Clarify the applicable distance restrictions for fences near the intersections of streets and driveways*

STAFF RESPONSE

The 2nd Reading Draft clarifies that the Residential House-Scale and Multi-Unit have separate fence height restrictions than other zones. Staff agrees that the provision regulating the distance of fences near driveway intersections is unnecessary, so has proposed deleting it.

RES-6 | Graduated impervious cover

AMENDMENT TEXT

Consistent with Planning Commission’s recommendation, reduce allowed impervious cover to 40% for Residential House-Scale Zones with one unit.

STAFF RESPONSE

At 1st Reading, Council approved several amendments emphasizing the need to better calibrate impervious cover to unit yield and provide context-appropriate drainage requirements: RES-6 (*Graduated impervious cover* - pp. 21), MM-2 (*Impervious cover for two-unit residential* - pp. 29), Casar RES-1 (*Compliant properties* - pp. 14), Casar RES-4 (*Preservation bonus* - pp. 16), Casar TA1 (*Site development standards in R4 zone* - pp. 26), and Casar NZ1 (*Drainage management and mitigation* - pp. 58).

In response to these amendments, the 2nd Reading Draft includes the following revisions:

❖ Graduated Impervious Cover

<i>Impervious Cover Maximum by Units and Zone</i>						
No. Units	R1	R2C	R2A & R2B	R3	R4	RM1
1	65%	65%	40%	40%	40%**	40%**
2		65%	45%	45%	45%	45%
3			50%*	50%	50%	50%
4				55%*	55%	55%
5					55%	55%
6+					55%	60%

* Achievable only with the Preservation Incentive.

** Achievable only with Compliant Residential Use.

❖ Drainage

To compliment the graduated impervious cover thresholds, the 2nd Reading Draft includes several improvements to drainage regulations and review procedures for one- and two-unit and missing middle housing types. These changes are consistent with the new LDC’s emphasis on scaled requirements and procedures, as opposed to “all or nothing” requirements that fail to account for the costs of compliance.

First, staff recommend maintaining the scaled process and streamlined regulations for qualifying projects with up to 50% or 5,000 square feet of impervious cover, whichever is more restrictive. Such projects would comply with watershed protections (e.g., floodplains, erosion hazard zone, and creek buffers), and would be subject to Plumbing Code provisions that prohibit creation of lot-to-lot drainage problems for neighboring properties.

Projects exceeding 50% or 5,000 square feet of impervious cover would be subject to the previous requirements for smaller, less impervious projects and would also be required to submit a drainage plan that shows positive drainage to a public right-of-way (ROW) or drainage easement. Unlike the more streamlined Plumbing Code restrictions, compliance would require drainage plans submitted by a licensed professional, with City review and inspection. This provision would help ensure that runoff from such properties would proceed to an approved location and reduce the incidence of lot-to-lot drainage concerns. Projects that could not demonstrate that they can drain to a ROW or drainage easement would be required to limit their developed footprint to 50% impervious cover. Projects at or below the 50% threshold but that exceed 5,000 square feet of impervious cover would need to demonstrate that runoff from the new impervious cover will not negatively impact adjacent property.

In order to calibrate requirements to the scale and drainage impacts of one- and two-unit and missing middle projects, the proposed drainage requirements incrementally add drainage review and oversight as projects become larger and more intense. This strategy balances the policy direction to strengthen mitigation for lot-to-lot flood risks with the directions to increase impervious cover maximums for the R4 zone and create requirements that reduce uncertainty and allow for swift review.

Note: the requirement for a drainage plan and drainage to a public right-of-way (ROW) or drainage easement would not apply to R1 and R2C zones, which are designed to accommodate modest-sized structures on very small lots and would retain their current 65% impervious cover level.

Planning Commission Amendments:

R21 | Height of conditioned space in calculating FAR

AMENDMENT TEXT

In calculating FAR (Floor Area Ratio), all conditioned space 15' tall and taller count twice toward FAR.

STAFF RESPONSE

In the 2nd Reading Draft, spaces of 15 feet or more are counted twice for purposes of the maximum FAR allowed in Residential House-Scale zones.

R2 | SF-attached FAR calculation

AMENDMENT TEXT

Sync SF-attached FAR equal to FAR for duplex (and duplex/multi-family FAR in bonuses). Ensure we do not allow gaming of FAR with subsequent subdividing.

STAFF RESPONSE

In the 2nd Reading Draft, the maximum FAR allowed for single-family attached and duplexes is the same within each zone.

R5 | FAR adjustment in R4 zone

AMENDMENT TEXT

Revise R4 FAR to be graduated by unit count, increasing to incentivize more missing-middle units and re-evaluate bonus FAR in consideration of bonus viability.

STAFF RESPONSE

The 1st Reading Draft graduates FAR by unit count by allowing 0.4 FAR for 2 units and 0.6 FAR for 3 and 4 units. More units and FAR, up to 0.8, are allowed in the bonus. Staff has modeled these standards and found that they allow for two to three bedroom units on commonly sized lots.

R22 | Garage FAR exemption

AMENDMENT TEXT

In calculating FAR (Floor Area Ratio), allow a garage / carport exemption of 200 sq. ft per unit

STAFF RESPONSE

In Residential House-Scale zones, garages are counted towards FAR with a 200 square foot exemption allowed.

R30 | Floor area calibration for small lots in R1 zone

AMENDMENT TEXT

Calibrate R1 single-family (small lot) floor area allotment to keep existing small lot amnesty homes compliant.

STAFF RESPONSE

The LDC Team continues to review potential options for addressing this issue and will provide a proposed solution at 3rd Reading.

R10 | Entitlements on lots with multiple building forms

AMENDMENT TEXT

Clarify code when a mix of forms are utilized, such as a duplex and an ADU

STAFF RESPONSE

The 2nd Reading Draft clarifies the mix of uses allowed in each of the Residential House-Scale zones.

R31 | Correct R1 map to match existing small-lot amnesty lots

AMENDMENT TEXT

Make R1 (replacement zone for small-lot amnesty) match current zoning by mapping it everywhere current small-lot amnesty SF zoning is mapped.

STAFF RESPONSE

In the 2nd Reading Draft, all residential properties between 2,500 to 3,500 square feet in area received an R1 zoning designation. The only exception is for transition area lots, where application of R1 would reinstate compatibility on the corridor.

Topic Area: Transition Areas (RM1/R4 Zones)

Council Amendments:

Harper-Madison #5 | Minimum lot sizes reductions

AMENDMENT TEXT

Reduce minimum lot size requirements in missing middle zones to better facilitate fee-simple ownership of missing middle units on current standard lot sizes.

STAFF RESPONSE

The LDC Team carefully evaluated options for reducing minimum lot sizes in the transition areas but concluded that doing so may have unintended consequences and would be difficult to implement within the existing structure of the R4 and RM1 zones. Because these challenges were not identified at 1st Reading and would take considerable time to resolve, staff is not recommending reductions in R4 or RM1 lot sizes at this time.

A primary concern is that, per Council direction, both R4 and RM1 require a minimum number of units per lot. Reducing lot sizes below 5,000 square feet would also make it difficult to develop the minimum number of units or to achieve the increased units available through Affordable Housing Bonus Program. For units at the back of a property, a common configuration for ADUs, a lack of adequate frontage and access would in many cases make subdivision problematic.

Additionally, while existing single-family homes are allowed to remain in perpetuity, the R4 and RM1 regulations prohibit returning to a single-family use once a property is built-out to the minimum number of units. Allowing subdivision of R4 and RM1-compliant development into smaller lots would in many cases create nonconforming uses, as well as nonconformity with floor-area ratio, setbacks, and impervious cover regulations.

Finally, while there are advantages to fee-simple ownership, part of the reason that missing middle structures are generally more affordable is that they share a site and/or walls. Thus, the immediate benefits that existing homeowners may enjoy from having the option to subdivide may have a negative impact on affordability over the long term.

Harper-Madison #10 | GSI standards and impervious cover

AMENDMENT TEXT

Study and model potential code revisions to all impervious cover in missing middle zones and the utilization of green stormwater infrastructure on site to improve water quality, stormwater management, and ensure project feasibility. Consider ways GSI can be used to unlock affordability.

- 1) GSI alternatives to impervious limitations should be drafted in a prescriptive manner to eliminate uncertainty and provide swift review.*
- 2) Performance based GSI standards should also be provided to maintain design flexibility and context sensibility.*

STAFF RESPONSE

The City of Austin strongly supports and incentivizes the use of green stormwater infrastructure (GSI) to beneficially use stormwater wherever possible through drainage charge discounts and rainwater harvesting system rebates to property owners who install GSI.

In considering how to apply GSI to missing middle housing types, the LDC Team recommends that passive impervious cover limits--not active GSI systems--be used to ensure regulatory compliance. Staff support increasing the impervious cover limit to 55% for the R4 zone and maintaining the previously proposed limit of 60% for the RM1 zone. GSI and other engineered structural controls require ongoing operation, maintenance, and inspection. Without these actions, these controls can fail and not provide the intended benefits, resulting in the drainage and water quality problems they were designed to address. Experience by Watershed Protection Department pond inspection staff indicates that ensuring functionality is most difficult for smaller, residential applications where owner expertise and resources are limited.

Garza #2 | Childcare in missing middle zones

AMENDMENT TEXT

1. *Increase the number of children allowed in the Childcare Large use from a maximum of 24 kids to 36 kids*
2. *Allow as a permitted use childcare large under R3, R4*
3. *Allow a MUP for Childcare commercial use under RM1*

STAFF RESPONSE

In response to this amendment, the 2nd Reading Draft proposes to:

- Increase the number of children allowed in Childcare Large from 24 to 36 children
 - Allow “Childcare Large” as Permitted in R3 and R4
 - Allow Childcare Commercial as a MUP in RM1.
-

Casar TA1 | Site development standards in R4 zone

AMENDMENT TEXT

A small increase in impervious cover in R4 with reduced impervious cover in R2 zones to mitigate, in the same watershed, the increase in impervious cover.

STAFF RESPONSE

As discussed in the Staff Response to RES-6, at pp. 21, the proposed graduated limits would increase the maximum impervious cover in R4 to 55% for four units or more. To offset this increase, impervious cover would be limited to 40% for new one-unit construction and 45% for two-unit construction in all Residential House Scale zones and RM1.

Exceptions would be made for the R1 and R2C zones, which are designed to accommodate modest-sized structures on very small lots and would retain their current 65% impervious cover level. Additionally, existing single-family homes that predate the effective date of the LDC Revision could be maintained or expanded to the current impervious cover limit of 45%.

This proposal is consistent with staff’s response to Casar RES-1, at pp. 14, and RES-6, at pp. 21.

Casar TA2 | Site development standards in RM1 zone

AMENDMENT TEXT

- 1) *Allow an affordable housing height bonus to reach 45’, the bonus height in R4.*
- 2) *More easily allow stacked row homes and create a new RM1 zone that focuses on row homes*

STAFF RESPONSE

In response to this amendment, the 2nd Reading Draft proposes changing the bonus height for RM1 to 45 feet. After careful review, however, the LDC Team concluded that further changes to the regulations, including a new zone for row houses, are unnecessary and would add unnecessary complexity.

In the 1st Reading Draft, both row houses and townhome uses are permitted in every zone that allows three or more units. The current provisions, including FAR, impervious cover, and height allowances, allow row homes and townhomes to be constructed fairly easily, especially with the additional height added in response to Council’s 1st Reading amendments. However, staff has proposed changing regulations for townhomes so that a townhouse site may be considered as a single lot for the purposes of calculating impervious cover and height.

Staff specifically modeled these uses to ensure that the provisions allow enough flexibility for these uses to be effective. The typical 8,000 square foot lot allows for subdivision into three townhomes, which would each have 2,100 square feet of floor area. Increasing the FAR would potentially result in more expensive units, which may undermine the goal of providing a more affordable housing type.

Kitchen #2 | Dumpster location

AMENDMENT TEXT

Minimize disruptions and conflicts with residential and commercial service needs.

STAFF RESPONSE

- 1) *Consider incorporation of East Riverside Corridor Regulating Plan, Affordability Unlocked, or other design standards as they relate to dumpster location and requirements to minimize disruptions for dumpster services. This should consider appropriate distances from residences, screening requirements, as well as frequency and allowable hours of service*

STAFF RESPONSE

Dumpster screening requirements similar to the regulating plans were included in the landscape regulations of the 1st Reading Draft. To better emphasize the importance of these regulations as an element of project design, the 2nd Reading Draft incorporates dumpster screening requirements in the regulations for building design. Additionally, dumpster screening requirements are expanded to include R4 and more intensive zones and to add a required distance from R3 or less restrictive.

Kitchen #4 | Parking requirements in transition areas

AMENDMENT TEXT

Modify and/or clarify the code to create options to reserve on-street, accessible parking to ensure that caregivers, meal delivery drivers, and volunteer or ride-share drivers have access to seniors' housing, and in other cases on an as-needed basis, in a way that is legal and/or that staff recommends.

STAFF RESPONSE

The request for preservation of on-street parking and the application of other curb management tools are programmatic and assessed on an on-going basis through requests to the Transportation Department. There are use-specific parking requirements for uses such as Senior Housing; however, staff does not recommend codifying curb management for residential uses.

Additionally, staff is not recommending reducing the parking related to Senior Housing, see: Kitchen #5. Attempting to codify right-of-way management procedure is problematic because it conflicts with authority delegated to the City Traffic Engineer.

Kitchen #5 | Parking requirements for eldercare facilities

AMENDMENT TEXT

To ensure enough parking to enhance visitability. (PC A 13)

- 1) Encourage accessible elder care by reducing restrictions, including parking, on elder care facilities, including occupancy limits, in all zoning categories, except industrial and airport zones.*

STAFF RESPONSE

The LDC Team proposed simplifying the standards for Senior Housing in the 1st Reading Draft, and the parking was calibrated with comparable municipalities. Staff does not recommend further changes. In particular, reducing the parking further would not be advisable due to the level of care required for this use.

Kitchen #6 | Transition areas greater than five lots

AMENDMENT TEXT

To review Council's direction to map depth 2-5 lots.

- 1) Review Activity Centers and apply the same criteria for mapping areas adjacent to Activity Centers as was applied for those adjacent to corridors and Transit Priority Networks*

STAFF RESPONSE

Staff's response to this amendment is captured in discussion of MAP-2, at pp. 6. While the revised criteria provide for a nodal approach to applying R4 near activity centers, the LDC Team has continued using Council's May 2nd policy direction as a guide for contextual considerations such as lot orientation, block configuration, and access.

Staff Amendments (Supplemental Report Nos. 1-2):

MM-1 | Type 3 short-term rentals

AMENDMENT TEXT

Revise Sections 23-3C-3030 and -4030 (Allowed Uses and Permit Requirements) to prohibit Type 3 STRs in the two transition area zones: R4 and RM1. Consider allowing them for projects providing on-site affordability to help off-set the cost associated with those on-site affordable units.

STAFF RESPONSE

The 2nd Reading Draft clarifies that short-term rental units may not be used to satisfy requirements of an affordable housing density bonus program. Type 3 STRs would be prohibited in the R4 and RM1 zones.

MM-2 | Impervious cover for two-unit residential

AMENDMENT TEXT

Revise Section 23-3C-3130 (Residential House-Scale 4 Zone) and Section 23-3C-4060 (Residential Multi-Unit 1 Zone) to limit impervious cover to 45%, rather than 50% or 60%, respectively, for projects with two units or less.

STAFF RESPONSE

The 2nd Reading Draft incorporates this amendment. Based on development history in zones that currently allow two units, 50% to 60% impervious cover is higher than necessary to accommodate the construction of two units in the R4 or RM1 zones. 45% impervious cover has proven to be sufficient for two units on comparably sized lots. For additional discussion of how the 2nd Reading Draft treats impervious cover, see Casar RES-1, at pp. 14, and RES-6, at pp. 21.

MM-3 | Unified development agreements

AMENDMENT TEXT

Revise applicable provisions to clarify that no more than two lots may be joined for purposes of applying site development standards under a unified development agreement.

STAFF RESPONSE

Unified development agreements (UDAs) are a tool by which lots can be joined together into a single site for purposes of applying development regulations. Consistent with the intended character of missing middle housing, the 2nd Reading Draft limits the use of UDAs in R4 and RM1 to two lots.

MM-4 | Reductions in maximum FAR

AMENDMENT TEXT

- *Revise RM1 regulations to reduce maximum FAR from 0.8 to 0.6 for residential development of three units or less. Consider additional FAR reductions as needed to incentivize housing capacity and discourage larger size units in missing middle zones.*
- *Revise R2 regulations to reduce maximum FAR for two-unit projects on larger lots, with current code as a point of reference, while ensuring that FAR limits are sufficient to allow construction of ADUs on lots less than 7,000 square feet.*

STAFF RESPONSE

The 2nd Reading Draft proposes limiting maximum floor-area ratio (FAR) to the number of units provided, with 0.4 FAR for 2 units, 0.6 FAR for three and four units, and 0.8 FAR for 4 or more units. Additional FAR is also allowed through the bonus.

In response to this amendment, the LDC Team recommends lowering maximum FAR allowed for duplexes in the R2A and R2B zones under the 1st Reading Draft. The proposed change would allow .4 FAR or 1,300 square feet in floor area per unit, whichever is greater, and would have the effect of allowing slightly larger units (up to 300 square feet) on lots of less than 6,500 square feet. This furthers the goal of disincentivizing one-for-one replacement of single-family homes and promoting more units, rather than larger single-unit structures.

MM-5 | Floor area calculations

AMENDMENT TEXT

Revise calculation of gross floor area to better account for usable space, such as garages and attics, which contribute to size and mass. Use current McMansion ordinance as a point of reference, but ensure that proposed rules are simple and open to less interpretation

STAFF RESPONSE

For discussion of this amendment, see Alter #4, at pp. 18.

Topic Area: Centers & Corridors (RM, MU, MS, CC, DC and UC Zones)

Council Amendments

Harper-Madison #1 | Waller Creek setback

AMENDMENT TEXT

Incorporate specific requirements for Waller Creek into the Downtown Civic Spaces Overlay that establishes metes and bounds for a common Waller Creek centerline for consistent planning and regulatory purposes within the LGC, establishes a 60' minimum building setback for new development from the newly-defined creek centerline and provides a variance process for encroaching into the 60' setback.

STAFF RESPONSE

The 2nd Reading Draft includes a 60-foot setback from Waller Creek as a requirement of the Downtown Civic Spaces Overlay. The setback applies to Waller Creek within the boundary of the Waller Creek Local Government Corporation. A conditional use permit (CUP) is required to construct a building, parking area, parking structure, or vehicular access drive within the setback, and the CUP must protect the unique character, aesthetic value, pedestrian accessibility, and public use of Waller Creek as established by the Waller Creek Corridor Framework. Accessory structures, hardscape, and utilities are allowed in the setback if they are consistent with the Waller Creek Corridor Framework.

Casar CC1 | University Neighborhood Overlay

AMENDMENT TEXT

Increase affordable housing bonus capacity in Inner and Outer West Campus without increasing the base.

STAFF RESPONSE

Staff does not recommend this change, as City Council recently approved amendments to the University Neighborhood Overlay. The recently adopted UNO amendments are included in the 2nd Reading Draft; additional changes would benefit from a more involved stakeholder process or further discussion

Casar CC2 | Capitol Dominance Overlay and downtown streets

AMENDMENT TEXT

- 1) *Prohibit new curb cuts onto pedestrian streets and expand pedestrian streets in the downtown plan to include the remainder of 2nd street from the Central Library to I-35, the length of the protected bike lane on 3rd street, and the bike lane on 5th street to the downtown station.*

- 2) *Consider eliminating the capitol dominance overlay while maintaining capitol view corridors in the area around the most frequent transit service.*

STAFF RESPONSE

The 2nd Reading Draft proposes expansion of pedestrian streets as outlined above; curbs cuts on these streets are prohibited. Additionally, the draft LDC proposes eliminating the Capitol Dominance Overlay, which exceeds the requirements of state law.

Casar CC4 | Uses

AMENDMENT TEXT w/ STAFF RESPONSE

- 1) *Allow temporary uses to serve or sell alcohol if they receive appropriate permitting.*

STAFF RESPONSE: This use is governed by the Texas Alcoholic Beverages Code, not the LDC, and is allowed today.

- 2) *Allow the Director to permit evidence of the temporary use to stay (such as art, landscaping etc.)*

STAFF RESPONSE: Art installations and landscaping are regulated separately, not a part of regulations for temporary uses. An applicant may request a regular permitting for uses begun as temporary, subject to applicable requirements.

- 3) *Allow temporary uses to have portable toilets.*

STAFF RESPONSE: Portable toilets are permitted for temporary uses.

- 4) *Allow indoor crop production to be allowed anywhere commercial warehouses are allowed, not just on AG land.*

STAFF RESPONSE: The 2nd Reading Draft allows indoor crop product in MU-5A through a minor use permit and in MU-5B as a permitted use.

- 5) *Eliminate commercial blood plasma as a discrete use and combine it with medical office.*

STAFF RESPONSE: Because this use is more commercial in nature than medical office, collocation the uses may create conflicts. Staff does not recommend combining the uses.

- 6) *Add meditation, philosophy, and theology to definitions of religious assembly, instead of just religious services.*

STAFF RESPONSE: Changing the definition of “religious assembly” would require legal review, and staff does not recommend including any such change in the LDC Revision. Any non-profit, including those falling into the above categories, can qualify as a religion for purposes of the land use definition.

7) *Remove Transitional and Supportive Housing as a use and allow them to be treated just as other residential uses.*

STAFF RESPONSE: In the 2nd Reading Draft, this use applies only to situations where the structure is secured, and its occupants are being supervised or detained prior to incarceration or after incarceration. As a result, the use would not capture individuals exiting homelessness or individuals who reside in residential structures that are not considered a “secured facility.”

8) *For any corridor, change personal storage to a CUP if it is a P or MUP. Create a new minimum distance requirement from other personal storage uses. Create findings for Council to incorporate into the LDC related to the impact of Personal Storage on transit service.*

STAFF RESPONSE: Corridor use has been addressed through the application of MU5A on corridors, which does not permit Personal Storage. Staff has included a minimum distance requirement in the 2nd Reading Draft and will provide findings, as appropriate, in advance of 3rd Reading.

9) *For MU zones, change alcohol sales from unpermitted to CUP.*

STAFF RESPONSE: Staff does not recommend allowing Alcohol Sales as a CUP in all MU zones because doing so would eliminate options for graduated increases in intensity and remove distinct options. Alcohol sales are allowed by CUP in MU2, which is the more intense neighborhood scale Mixed-Use, and through a MUP and as a permitted use in MU5, which are the most intense MU zones.

10) *Allow government uses as a MUP in all zones where it is not permitted.*

STAFF RESPONSE: Government uses includes industrial scale uses including fleet maintenance, mail processing, etc. Staff will work to expand the zones permitted, but do not recommend allowing it in all zones.

11) *Permit RVs and manufactured homes on AG zoning as the primary dwelling unit.*

STAFF RESPONSE: Only housing on a permanent foundation can be permitted. Manufactured Homes and RVs that are on a permanent foundation can serve as the primary dwelling unit.

12) *Increase the number of allowed employees from one to two for home occupation and from two to five for live/work.*

STAFF RESPONSE: This amendment has been incorporated into the 2nd Reading Draft.

13) For home occupation, increase trips per day from 4 to 16 (to allow for an 8-hour day with 30-minute appointments).

STAFF RESPONSE: Code revisions consistent with this amendment have been incorporated into the 2nd Reading Draft.

14) Change definition of "multifamily" use for small multifamily (4-10) and multifamily (11+) and define 3 units as residential.

STAFF RESPONSE: The provisions in Chapter 23-2 defining the applicable regulations for residential uses have been modified in the 2nd Reading Draft to reflect the recommended differentiation. However, the definition of multi-family needs to remain as currently defined to match other goals of the LDC.

Casar PC-NR10 | Microbrewery tasting rooms

AMENDMENT TEXT

Increase the allowed size of microbrewery tasting rooms on smaller sites.

STAFF RESPONSE

In the 2nd Reading Draft, the size limitation on tasting rooms in microbreweries has been changed to 50 percent or 5,000 square feet of the total floor area of the principal developed use, whichever is less. Staff could continue to evaluate proportionally larger tasting room floor areas for microbreweries with smaller levels of production but would need to study the issue further.

Casar PC-NR17 | Mobile food trucks

AMENDMENT TEXT

Allow mobile food trucks in all RM2 and above zones with CUP and MU1 and MU2 with a Minor Use Permit, where they are currently prohibited.

STAFF RESPONSE

The 2nd Reading Draft allows mobile food trucks with a CUP in all RM2 and less restrictive zones, and a MUP in MU1 and MU2.

Casar PC-NR22 | Creation of MS1 zone

AMENDMENT TEXT

Create a new MS1 zone for 3-story commercial with MS uses

STAFF RESPONSE

Staff has created a new MS1 with a two-story base, and up to three-stories with a bonus.

Kitchen #7 | Review of MU/MS categories

AMENDMENT TEXT w/ STAFF RESPONSE

To ensure we provide appropriate zoning to achieve and support transit and corridor investments with housing opportunities.

1. *Staff is directed to explore a zoning category that would enable and ideally incent large retail centers along corridors and major transit intersections, when they redevelop, to incorporate housing, including affordable housing. In addition, explore appropriateness of the proposed MU and/or MS zoning for tracts along corridors and major transit intersections, to accomplish and incent greater opportunity for affordable housing in mixed use developments, including capturing current “V” designations.*

STAFF RESPONSE: Residential multi-unit is allowed in all MU and MS zones which would be the zoning category for all large retail centers. Within each zone, there is a calibrated density bonus allowance that is an incentive to build housing, specifically affordable housing. A “-V” has been applied to all properties that currently are designated as VMU.

2. *Review MU and MS mapping along corridors, particularly along major transit corridors and those being upgraded with significant multi-modal transportation bond improvements.*

STAFF RESPONSE: Interior neighborhood single-unit detached style, commercially zoned properties were mapped with a Mixed Use-1 (MU1) or Mixed Use-2 (MU2) zone. This is the comparable neighborhood level mixed-use zone that is appropriate for small, house-scale properties. The application of MU5A and MU5B was not changed from the 1st Reading map, but staff acknowledges the application of these zones should be reviewed for consistency.

3. *Ensure the designated zoning provides maximum affordable housing potential, particularly on the larger corridor tracts at major intersections, including capturing or utilizing current “V” designations.*

STAFF RESPONSE: In response to this amendment, a “-V” designation has been applied to properties that are designated “VMU” under current code.

4. *Review use assignments for MU and MS to ensure maximizing housing opportunities along transit corridors are not diminished by such uses as personal storage or uses in conflict with residential use.*

STAFF RESPONSE: In response to this amendment, staff reviewed the uses that are allowed in the Mixed Use and Main Street zones to ensure housing appropriateness. With the application of CUP and MUP approval procedures, as well as specific distance and other regulatory requirements, staff concludes that the allowed uses are appropriate. Personal Storage is only permitted in MU5B, and a minimum distance for separation of these uses has been added.

Additionally, the Main Street zone requires ground-floor “Pedestrian Oriented Uses” (POU) and allows residential services (e.g., gyms), as well as residential lobbies, to count towards the required POU. This helps to encourage residential uses and harmonizes the ground-floor requirement with Council’s overall goal to facilitate more housing in these zoning categories.

Kitchen #8 | Adult entertainment in MU5B zone

AMENDMENT TEXT

To provide family friendly housing in dense residential category:

1. *Explore options for revising proposed restrictions and/or creating a public process for appealing the uses under MU5B zoning that allow for adult entertainment in a residential location.*
2. *Proposed code currently provides for location restrictions such as:*
 - a. *Within 1000 feet of another adult entertainment establishment;*
 - b. *Within 1000 feet of a lot with a school, church, public park or playground, licensed day-care, museum or library is located; or*
 - c. *Where 50 percent or more of the lots within 100- foot radius are zoned or used for a residential use.*
3. *On this last restriction, please consider modifications as follows:*
 - a. *Adjusting 50% threshold and provide rational or consideration of a more sensitive/protective threshold percentage for families; and*
 - b. *Include residences that are part of the actual commercial tract in considering number of impacted residential units triggering restriction*

STAFF RESPONSE

In coordination with the Law Department, staff has proposed changing the location restrictions in the 2nd Reading Draft to include only lots used for residential, which is defined to include both residential house-scale and residential multi-unit development. The lot that contains the proposed Adult Entertainment use is included in the radius.

Flannigan Zoning #1 | Special uses in historic districts

AMENDMENT TEXT

Revise special uses in historic districts to address the difference between the Code's nondiscrimination clause as defined in Ch. 23-3D-1360 A.9 and the City's official nondiscrimination policy and to expand the applications for Conditional Use Permits.

STAFF RESPONSE

In response to this amendment, the 2nd Reading Draft conforms the non-discrimination clause in the City's historic district regulations with the official non-discrimination policy in Title 5 of the City Code. Additionally, the applicable use definitions were expanded to include new land uses available through the CUP process.

Tovo #34 | Updates to UNO regulations

AMENDMENT TEXT

Update the draft code Section 23-3C-10130 (University Neighborhood Overlay) to reflect changes adopted on November 14, 2019, and December 9, 2019, and revise capacity numbers.

STAFF RESPONSE

These changes are incorporated into the 2nd Reading Draft.

Tovo #35 | Updates to Mueller capacity

AMENDMENT TEXT

Update the draft Code Section and update capacity numbers to reflect changes to the Mueller Planned Unit Development adopted on December 5, 2019.

STAFF RESPONSE

This amendment does not require a change to the code but has been factored into capacity calculations.

Tovo #39 | Bars

AMENDMENT TEXT

Leave in place the current CUP requirements for late night/outdoor bars, and for lower-impact neighborhood bars, establish a graduated scale that allows such establishments in more intense zones, and then requires MUP's or CUP's in medium intensity and low-intensity zones, respectively.

STAFF RESPONSE

In response to this amendment, as well as Casar CC5 (pp. 11), the LDC Team carefully reviewed the requirements for bars and how they're treated in various zoning districts. Based on this review, staff concluded that it would be difficult to achieve a greater degree of graduation than provided for in the 1st Reading Draft.

At a neighborhood scale, the mix of uses allowed in the Mixed-Use 1 and Mixed-Use 2 zones are graduated. While both zones are considered appropriate for neighborhood commercial centers or corner stores, MU1 allows a less intense mix of uses and does not permit alcohol sales. MU2 is the more intense neighborhood scale mixed-use zone and allows Bar/ Nightclub uses through a MUP.

At a more commercial scale, the MU3 through MU5 (A&B) zones provides a graduated mix of uses more appropriate for development on corridors and for larger regional-scale Mixed-Use zones. The intensity of uses, density, and height increases from MU3 to MU5B, as do allowances for alcohol-related uses. The MU3 zone is the least intense and does not allow any Bar / Nightclub uses. MU4 allows Indoor Bar / Nightclub with a Conditional Use Permit (CUP), but no Outdoor/ Late-Night permit, while MU5 (A&B) both allow Indoor Bar / Nightclub with an MUP and Outdoor/ Late-Night with a CUP.

The level of graduation was further refined for downtown-scale uses, where staff has proposed allowing late night permits only through a CUP in the CC, DC, and UC zones. Staff will continue to review options but is able at this time to identify further changes that are consistent with the zone hierarchy.

Alter #1 | Imagine Austin Centers

AMENDMENT TEXT

Additional mapping of increased entitlements to maintain our housing capacity goals should first prioritize adding capacity by mapping additional entitlements within Imagine Austin Centers, starting with Regional Centers in high opportunity areas that are not zoned F25 and do not currently have a regulating plan as well as Imagine Austin Centers containing undeveloped (greenfield) areas.

STAFF RESPONSE

Staff has identified the properties that are currently undeveloped within Imagine Austin Growth Centers. The majority are inside PUDs which are not being reevaluated as part of the Land Development Code Revision process. There is a small percentage of acreage in the Centers, less than 10%, that have a Residential House-Scale zone proposed. Staff will review these properties for increased capacity prior to Third Reading.

Alter #2 | Corridor uses

AMENDMENT TEXT

Staff shall identify options for removing personal storage as a by-right permitted use on all corridors. Personal storage could be allowed via a MUP or CUP.

STAFF RESPONSE

In the 1st Reading Draft, Personal Storage is not an allowed use in any Mixed-Use and Main Street zones except MU5B. MU5B is not zoned on the corridors; only MU5A is zoned on the corridors. This effectively removes Personal Storage as an allowed use on all corridors.

Alter #5 | Development Reserve Zone

AMENDMENT TEXT

Areas currently zoned as Development Reserve that are to be maintained as undevelopable open space for the foreseeable future, such as greenspace owned and operated by homeowner associations, should be mapped as Conservation Land (23-3C-9070) or some other suitable zone to reflect their status as privately owned open space.

STAFF RESPONSE

The Development Reserve (DR) zone, as adopted in the current LDC, has not been proposed for inclusion in the Land Development Code Revision because its basic purpose can be achieved through other, more flexible zones. In some respects, DR is similar to an “interim” zoning designation applied to property upon annexation. While more appropriate for larger sites, it is used in cases where inadequate planning or infrastructure exists to commit land to a more intensive pattern of uses.

In response to this amendment, the LDC Team carefully reviewed the mix of properties currently zoned DR and the zone conversion applied in the 1st Reading Draft. Based on that review, the proposed zone conversion is revised to include Former Title 25 (F25) in the conversion matrix:

Title 25 Zone	Classification / Condition	New LDC Zone
Development Reserve	Preserve Land	CL (Conservation Land)
	Existing public parkland	PR (Park)
	Municipal properties, besides parks	P (Public)
	Other DR properties	Former Title 25 (F25)

The use of F25 in these instances is appropriate and consistent with staff’s overall approach to applying the F25 zone. In particular, while the functions of DR for preserved land, parkland, and municipal property can generally be fulfilled by new zones, the entitlements for other properties zoned DR would change too significantly if a new zone were applied.

Adler #3 | Waller Creek setback

AMENDMENT TEXT

The new code should require a minimum 60' setback from the (to be established) creek centerline in the Waller Creek District for buildings and permanent structures.

STAFF RESPONSE

For staff’s response to this amendment, see Harper-Madison #1, at pp. 31.

Adler #4 | Compatibility standards

AMENDMENT TEXT

Development on parcels within activity centers or fronting activity corridors that participate in an affordable housing bonus program should receive a waiver of compatibility standards.

STAFF RESPONSE

The 2nd Reading Draft includes a provision waiving compatibility for projects that participate in an affordable housing bonus program.

Staff Amendments (Supplemental Report Nos. 1-2):

COM-1 | Private frontages

AMENDMENT TEXT

Where private frontage is required in a commercial or mixed-use zone, specify the percentage of building facade that must include private frontage.

STAFF RESPONSE

Private frontage requirements are established in each base zone.

CMP-1 | Measuring compatibility

AMENDMENT TEXT

The relationship of compatibility and the triggering property line is defined in 23-12A (General Definitions); however, for clarity and ease of use, staff recommends including language that references how compatibility is measured in relation to the triggering property line in each applicable zone.

STAFF RESPONSE

On further review, staff determined that the explanation provided in the compatibility definition is sufficient to explain how compatibility is measured. Restating how compatibility is measured in each zone would unnecessarily clutter the code.

CMP-2 | Compatibility allowances

AMENDMENT TEXT

Clarify what is allowed to be constructed in the compatibility setback, similar to what is provided for under current code.

STAFF RESPONSE

The 2nd Reading Draft clarifies the definition so that it refers to building type, consistent with the applicability throughout the zones.

CMP-3 | Distance from triggering property

AMENDMENT TEXT

Revise the compatibility standards of CR and all MU and MS zones to have height reductions within 100 feet of a triggering property lot line.

STAFF RESPONSE

In the 1st Reading Draft, compatibility standards were triggered at 50 feet or 100 feet of a triggering property line, depending on the zone. In the 2nd Reading Draft, the standards were revised to establish a consistent 100 feet distance from a triggering property line.

DT-1 | Commercial Core (CC) subzones

AMENDMENT TEXT

Staff supports the Planning Commission recommendation to allow all Commercial Core (CC) subzones to participate in the Downtown Density Bonus Program (DDBP), with no cap on floor area ratio (FAR) or height. This will help achieve greater market-rate and income-restricted residential units.

STAFF RESPONSE

In support of this amendment, staff will present an amendment to the Downtown Austin Plan (DAP) at Planning Commission to conform these changes to the Downtown Density Bonus Program map included in the DAP.

DT-2 | Research and development

AMENDMENT TEXT

Allow Research and Development - Non-Hazardous as a permitted use in CC and DC zones.

STAFF RESPONSE

Staff added Research and Development - Non-Hazardous as a permitted in the CC and DC zones.

Planning Commission Amendments:

NR1 | Bonus FAR in RM and MU zones

AMENDMENT TEXT

Remove the maximum FAR in the bonus configuration of all MU and RM zones, except staff should look at RM 1.

STAFF RESPONSE

The FAR bonuses for all RM and MU zones have been changed to unlimited, except for RM1.

NR2 | Ground-floor height in corridor zones

AMENDMENT TEXT

Make 15' minimum required height for bottom of the structure in MS zones and for corridor mixed-use zones with an activated ground floor.

STAFF RESPONSE

The 2nd Reading Draft revises minimum floor-to-bottom of structure height to 15 feet in all Main Street zones.

NR5 | Bonus height in RM, MU, MS, and UC zones

AMENDMENT TEXT

Increase heights under bonus configurations in RM2, RM3, RM5, MU1, MU2, MU3, MU4, and MS3 to match natural building heights and sync one of UC's heights to UNO's 300' height. UC base heights should match the height of existing zones that are zoned into UC, but a wide range of base heights should be available for future mapping.

STAFF RESPONSE

The heights for bonus configurations in the described zones have been revised and a new UC-60 zone has been added.

NR6 | Cottage court form

AMENDMENT TEXT

Follow residential WG guidance on cottage courts for RM zones.

STAFF RESPONSE

Cottage court use has been revised to improve flexibility and feasibility, with clarifications on court width, number of units allowed, and parking requirements.

NR13 | Existing under-parked buildings

AMENDMENT TEXT

Create a process for allowing applicants with change-of-use or minor construction on sites that have not met parking requirements for more than 10 years to continue without adding parking.

STAFF RESPONSE

This issue was addressed in the 1st Reading Draft, in Section 23-2H-2030 (Nonconforming Parking).

NR21 | Hotels in MU-1 & 2 zones

AMENDMENT TEXT

Allow hotels through a CUP in MU1 and MU2.

STAFF RESPONSE

In the 2nd Reading Draft, hotels are allowed as a CUP in the MU1 and MU2 zones.

DT2 | Unlimited CC Bonus

AMENDMENT TEXT

Consider an unlimited CC Base as is, and height unlimited with the bonus.

STAFF RESPONSE

This Planning Commission recommendation is superseded by Casar CC5, pp. 11.

I14 | Compatibility height and setback distances

AMENDMENT TEXT

Per Council direction and consistent with other zones that can reach 60' or more in height, Compatibility Height Setback Distance from the triggering property for MU3, MU4, MU5A, MU5B, MS2A, MS2B zones should reach base standard height at a distance greater than 100 ft. from the lot line of the triggering property, provided transit zones are mapped from IA centers and TODs such that compatibility does not impact within them.

STAFF RESPONSE

See CMP-3, at pp. 41.

Topic Area: Affordable Housing

Council Amendments:

Garza #1 | Equity Overlay

AMENDMENT TEXT

Boundaries: The area for the overlay should be delineated by the vulnerability map in the UT Uprooted study. Staff has already proposed this in their report.

- 1) Preserve Existing Multifamily: For current affordable multi-family
 - a) Map and zone to current structure and appropriate RM zone*
 - b) No new height in the base or the bonus**
- 2) On-site Affordability: Promote more onsite affordability
 - a) Require onsite affordability to be at least 10% of the total and no fee in lieu option**

STAFF RESPONSE

Staff incorporated a new “Equity Bonus Program” into the 2nd Reading Draft, using boundaries delineated by the vulnerability map in the *UT Uprooted Study*. The program will require a minimum of 10% of the building to be affordable without an in-lieu fee option, and would apply to all areas vulnerable to displacement and gentrification (Susceptible, Early Type 1, Dynamic, Late, and Continued Loss).

Rather than zoning to use, under the new program, property with existing multi-family development in the Equity Bonus Program area is mapped to zone that is comparable to the existing zoning of the property. Inherent to bonus programs, there is generally no new height allowed in the base zone. The program would require City Council approval before these properties may be eligible to participate in the bonus program.

Consistent with the goals of this amendment, and as part of the LDC Revision’s overall focus on equity, staff has proposed to eliminate transition area upzonings in Susceptible and Early Type 1 gentrification typologies per the *Uprooted* and to reduce the intensity of zoning in transition areas in the Dynamic gentrification typology. See MAP-1, at pp. 5.

Casar AH1 | Existing VMU

AMENDMENT TEXT

Keep the affordability requirements of VMU for currently zoned VMU lots. Set the base heights and residential densities for currently zoned VMU lots at the base height and densities of the current VMU lot.

STAFF RESPONSE

Staff added a “-V” to properties that are currently zoned VMU. See LDC Sec. 23-3C-5050(E) (Main Street Zone); 6050(F) (Mixed Use Zone). These properties will be required to provide a minimum of 10% of the building as affordable without an in-lieu fee option to participate in the bonus program. The MFI requirements will be consistent with the Citywide Affordable Housing Bonus Program (60% MFI for rental units and 80% MFI for ownership units).

Base height and densities for these properties are carried forward from the 1st Reading Draft zoning map, meaning that equivalent zoning was assigned based on current entitlements.

Kitchen #9 | Existing VMU

AMENDMENT TEXT

To ensure we maintain zoning on properties currently with -V designation

- 1) Carry over existing -V zoning designation on tracts to preserve the existing affordable requirements related to minimum residential units and 10% affordability based on total square footage of the development.*

STAFF RESPONSE

See Casar AH1, at pp. 45.

Tovo #7 | Existing VMU

AMENDMENT TEXT

Properties with current Vertical Mixed Use zoning should access the AHBP with requirements of at least 10% affordable units or more.

STAFF RESPONSE

See Casar AH1, at pp. 45.

Casar AH2 | Density bonus calibration

AMENDMENT TEXT w/ STAFF RESPONSES

- 1) Recalibration: Require NHCD to set goals, report quarterly, and recalibrate set-asides and fees in-lieu every year during the budget process. When recalibrating, explore ways to account for the increase in total value, not just the bonus value.

STAFF RESPONSE: These requirements are programmatic and therefore not included in the 2nd Reading Draft.

- 2) Affordable Homeownership: Include a condo or HOA fee in the maximum sale price for homeownership. Assess a reasonable assumption based on local trends for condo fees and increases over time. (e.g., 80% MFI homeowner may only be able to afford a home valued at 70% MFI plus condo fees)

STAFF RESPONSE: NHCD recently adopted a methodology to set maximum sales prices for affordable income-restricted homeownership units that incorporates condominium and HOA fees into maximum sale price. This methodology will continue to be used to set maximum sales prices for affordable income-restricted homeownership units required by the LDC.

- 3) Allocation of Bonus Funds: Create a process so that NHCD can easily assign bonus dollars to create on-site affordable homes during the development review process.

STAFF RESPONSE: A buy-down option has been added to the Affordable Housing Bonus Program general requirements. Additional procedures will be described in program guidelines.

Casar AH3 | Enforcement

AMENDMENT RESPONSE

Applicants may lease on-site affordable units as follows:

- 1) *Accept tenants from the City's waitlist, when one is established. Staff should fast-track the development of the waitlist program. Contract with a third-party nonprofit to manage service providers and the waitlist; and income-qualify, lease, and manage tenants for affordable housing units created through density bonuses; or*
- 2) *Applicant may contract with a third-party non-profit to manage the affordable units created through density bonuses, if the third-party nonprofit is on a list approved by the city.*

STAFF RESPONSE

See PC A1, at pp. 56.

Tovo #14 | Enforcement

AMENDMENT TEXT

Institute fees or fines, and/or other enforcement mechanisms, for non-compliance within the Affordable Housing Bonus Program.

STAFF RESPONSE

See PC I4, at pp. 57.

Casar PC-15 | Monitoring and compliance

AMENDMENT TEXT

Consider requiring a monitoring and compliance fee from all participants of the affordable housing bonus programs.

STAFF RESPONSE

The 2nd Reading Draft includes enabling language authorizing NHCD to charge an appropriate fee to cover the cost of processing density bonus applications and supporting documents. NHCD will not propose a fee amount for this fiscal year.

Tovo #11 | Monitoring and compliance

AMENDMENT TEXT

The Land Development Code should include a compliance and monitoring fee to properties that participate in the AHBP program.

STAFF RESPONSE

See Casar PC-I5, at pp. 47.

Pool #7 | Monitoring and compliance

AMENDMENT TEXT

Review the possibility of enacting a "monitoring and compliance fee" as a requirement to participate in the Affordable Housing Bonus Program.

STAFF RESPONSE

See Casar PC-I5, at pp. 47.

Kitchen #10 | VMU set asides

AMENDMENT TEXT

To ensure broader opportunities for affordability

- 1) Ways for Properties to access AHBP with at least 10% set asides*
- 2) Include VMU in at least every 3-year lookback period / evaluation cycle to analyze participation and success.*

STAFF RESPONSE

Because these requirements are programmatic, they are not included in the Code. See Casar AH1, at pp. 45.

Kitchen #11 | VMU ground floor commercial uses

AMENDMENT TEXT

To ensure greater flexibility for residential affordability and future commercial

- 1) Where market does not yet support ground floor commercial use, explore ways to reduce those requirements so that some of the ground floor space can be used as occupied residential space, provided that such ground floor space is constructed in such a way that it is able to be converted to pedestrian oriented commercial use in the future when warranted, while still requiring some of the ground floor space to be commercial.*

STAFF RESPONSE

The 2nd Reading Draft reduces the ground floor requirements for Pedestrian Oriented Uses (POU) for MS zones from 75% to 60% for a side street. POU uses have been expanded to allow residential services (gyms, etc.) and residential lobbies to count towards the required POU; this will help to encourage residential uses and avoid potential conflict between the ground-floor requirement and the Council's direction to allow residential uses. Additionally, the 1st Reading Draft mapped MS zones in a more targeted manner, focusing the MS zones on major intersections and transit hubs.

Kitchen #12 | Transitional and supportive housing

AMENDMENT TEXT

To remediate the confusion around distinguishing different populations in need of housing

- 1) Remove barriers to supportive housing in the proposed code.*
- 2) In accordance with the Fair Housing Act, reduce barriers for transitional housing and refine its definition.*
- 3) Report back to council on the above two directions before second reading.*

STAFF RESPONSE

See Casar CC4 Uses #7, at pp. 32.

Kitchen #13 | Art, music, and culture

AMENDMENT TEXT

To ensure we provide path to codify opportunities for creation and cultivation of the City's artistic community.

- *Create a new article: 23-3F: Diversify, Sustain, and Cultivate Art, Music, and Culture. Creation will provide path for future work by staff with the community to establish its General Provisions and content to sustain, diversify, and strengthen the music and arts industries and communities.*
- *The new section will provide city-wide regulations to promote arts, music, and culture with the goals of protecting existing assets and promoting new ones in areas inequitably deficient of art, music, and cultural assets, supporting housing and jobs for musicians and artists and sustain these important elements of Austin's economy.*

STAFF RESPONSE

The 2nd Reading Draft includes a new Article 23-4F that is reserved for future regulations to address the goals of this amendment.

Tovo #2 | Onsite affordability requirements

AMENDMENT TEXT

Tie all increases in entitlements over current base zoning to strong affordability requirements or to the creation of missing middle housing. Include on-site affordable unit(s) for projects of five units or more insofar as staff modeling of code changes shows that site development standards after first reading, and market conditions will in fact produce an on-site affordable unit or in-lieu fee.

STAFF RESPONSE

As in the 1st Reading Draft, the 2nd Reading Draft carries forward affordability requirements for any increased entitlements, relative to current entitlements. The transition zones are an exception — additional entitlements have been granted where the R4 and RM1 zone have been mapped as transition areas, but income-restricted affordability requirements are triggered at the fifth (R4 zone) or seventh (RM1 zone) unit built, depending on whether the preservation incentive is utilized. Staff believes that a fee-in-lieu option is necessary for the viability of most missing middle projects that participate in the Affordable Housing Bonus Program, and that the market feasibility of on-site income restricted units for missing middle housing is relatively small.

Tovo #3 | Non-profit partnerships for administration and monitoring

AMENDMENT TEXT

The Land Development Code text should contain provisions for the City of Austin to partner with local nonprofit organizations to identify qualified tenants and provide ongoing monitoring to manage on-site affordable units in smaller projects.

STAFF RESPONSE

See PC A1, at pp. 56.

Tovo #4 | Zoning existing missing middle housing

AMENDMENT TEXT

To protect renters, right zone city wide existing missing middle housing, including triplexes and fourplexes.

STAFF RESPONSE

Staff regards the following direction in Council’s May 2nd policy guidance as controlling with respect to potential downzones: “Generally, revisions to the Zoning map should not result in a downzoning of an existing use.” Based on this direction, staff has not recommended conventional downzoning or reducing entitlements on properties to reflect current use, which is often a complex, lot-specific, review process. Zoning designations on fourplexes and triplexes were only changed if other criteria resulted in an adjustment.

Tovo #8 | VMU affordability levels

AMENDMENT TEXT

Standardize VMU Median Family Income affordability levels to 60% for rental units and 80% ownership.

STAFF RESPONSE

See Casar AH1, at pp. 45.

Tovo #9 | VMU participation

AMENDMENT TEXT

Include VMU in at least every 3-year lookback period / evaluation cycle to analyze participation and success.

STAFF RESPONSE

These requirements are programmatic and therefore not included in the 2nd Reading Draft.

Tovo #10 | Limits on participation by repeat offenders

AMENDMENT TEXT

To the extent it is legally feasible to do so, exclude properties and property owners on the Repeat Offender List from participating in the AHBP program until they are no longer listed or the Housing Director has made a determination that participation is permissible because the existing multi-family structure requires extensive repairs and rehabilitation costs that will exceed 50% of the market value as determined by the building official. Should this determination be made, public notification is required.

STAFF RESPONSE

After careful review, staff concluded that implementing this amendment presents challenges which likely cannot be fully evaluated or addressed as part of the LDC process. Additionally, because many multifamily properties are owned or operated by one-asset companies, this type of limitation may be ineffective.

Tovo #13 | Income averaging

AMENDMENT TEXT

Continue the analysis of the opportunities or challenges associated with allowing for income averaging for income-restricted units and propose a unit threshold for which income averaging would be permitted.

STAFF RESPONSE

Staff does not recommend allowing Income averaging for all situations. Moreover, staff is concerned that if this provision is included in the Code, it may reduce the effectiveness of the bedroom count proportionality requirement. In lieu of authorizing income averaging for all situations, the director will allow income averaging when appropriate.

Tovo #15 | Housing opportunities in MU/MS zones

AMENDMENT TEXT

Staff should require a percentage of onsite residential with an affordability requirement in MU zones and develop an incentive within MS zones.

STAFF RESPONSE

In MU and MS Zones, the Citywide Affordable Housing Bonus Program will require at least 50% of the affordability requirement to be met on-site.

Tovo #16 | STRs in density bonus units

AMENDMENT TEXT

Prohibit STRS within density bonus units.

STAFF RESPONSE

Staff does not recommend differentiating Type 1 STR regulations based on income levels, which would be a potential consequence of this amendment. For Type 3 STRs, see Staff MM-1, at pp. 29.

Tovo #17 | STRs in missing middle zones

AMENDMENT TEXT

Prohibit non-owner-occupied STRS within missing middle zones, except for on lots where the affordable housing bonus program is used, and only for the duration of participation in the affordable housing bonus program. No greater number of STRs than affordable units shall be allowed.

STAFF RESPONSE

See response to Staff MM-1, at pp. 29.

Tovo #18 | STRs in MU/MS zones

AMENDMENT TEXT

Reduce percentage of short-term rentals Type 3 allowed in MU and MS zones.

STAFF RESPONSE

Following LDC adoption, staff would propose reductions in the percentage of Type 3 allowed to 10% for structures built after Code adoption. For structures built prior to Code adoption, Staff recommends the percentage remain the same.

Tovo #19 | STRs in income-restricted units

AMENDMENT TEXT

Prohibit income-restricted units from being permitted as short-term rentals.

STAFF RESPONSE

See Staff MM-1, at pp. 29.

Alter #3 | Affordability for residential uses in commercial-only zones

AMENDMENT TEXT

Parcels currently zoned for commercial-only use such as CS, GO, GR, LO, NO that do not allow residential uses by right today should be mapped to include an affordability requirement with any residential development. This can be accomplished by either re-mapping them for a MU zone that contains an affordability requirement or creating a zone that has an affordability requirement to the MS category that these parcels were mapped to in the October 4th draft.

STAFF RESPONSE

In the 1st Reading Draft, an “-A” was used to restrict residential development on existing commercial properties with no existing residential entitlement. The 2nd Reading Draft retains this basic approach but uses a new nomenclature (“-Q”). See Sections 23-3C-5050(E) (MS Zone Standards) and -6050(F) (MU Zone Standards).

Staff Amendments (Supplemental Report Nos. 1-2):

AH-1 | Planned unit developments

AMENDMENT TEXT

Revise Section 23-3C-9130 (Planned Unit Development Zone) to reinstate more specific affordability provisions, modeled on current code, as Tier 2 superiority criteria in Subsection (E).

STAFF RESPONSE

The 2nd Reading Draft adds language to Section 23-3C-9130 (Planned Unit Development Zone) to reinstate more specific affordability provisions, modeled on current code, as Tier 2 superiority criteria in Subsection (E).

AH-2 | Affordability Unlocked

AMENDMENT TEXT

Revise the applicability provision in Section 23-3D-10090 (Affordability Unlocked Density Bonus) to include the Former Title 25 (F25 Zone), so that development on properties zoned F-25 may qualify for the Affordability Unlocked density bonus.

STAFF RESPONSE

Section 23-3D-10090 is revised to include the F25 Zone.

AH-3 | Delete duplications

AMENDMENT TEXT

Revise Section 23-4E-1040 (Affordable Housing Bonus Calculation) to delete the tables contained in Subsections (C)-(F), which are duplicates of Subsection (B).

STAFF RESPONSE

Duplicate tables have been removed.

AH-4 | General edits and improvements to bonus program provisions

AMENDMENT TEXT

Revise Division 23-2E-1 (Citywide Affordable Housing Bonus Program) to improve the overall clarity and uniformity of the LDC affordable housing bonus provisions. While largely non-substantive, the revisions will aid in the administration and enforcement of density bonus programs codified in the LDC and in separately adopted regulating plans.

STAFF RESPONSE

To improve readability, this chapter has been reorganized to group universal, generally applicable requirements together and reduce duplication throughout the balance of the chapter. The language has also been improved and tightened in places to increase enforceability and ensure consistency, but none of the revisions substantively change the overall effect of the chapter.

AH-5 | Rename the ‘-A’ subzone

AMENDMENT TEXT

Retitle this subzone, which provides a density bonus for mixed-use properties, in order to avoid confusion with other zone titles containing “A” in the title.

STAFF RESPONSE

The 2nd Reading Draft retitles the “-A” subzone to “-Q” zone designation, which is grouped with other specialized zone designations in Section 23-3C-5050(E) (MS Zone Standards) and -6050(F) (MU Zone Standards).

Planning Commission Amendments:

A1 | Management of income-restricted units

AMENDMENT TEXT

Allow the management and monitoring of scattered-site affordable units so that they can be made feasible.

STAFF RESPONSE

The 2nd Reading Draft includes provisions that require developers to partner with a city-approved entity to manage income-restricted affordable units, if the development includes three or fewer income-restricted affordable units, or use a City waitlist of pre-qualified, income-eligible households for income-restricted affordable units. This will not apply to developers receiving local, state, or federal funding, as those developments are subject to other monitoring requirements.

A3 | Income-restricted housing in high opportunity areas

AMENDMENT TEXT

The opportunities for income restricted housing high opportunity areas need to be maximized.

STAFF RESPONSE

In response to this amendment, the 2nd Reading Draft includes several provisions that help to maximize income-restricted housing in high opportunity areas:

- Waives compatibility through an affordability housing bonus, in zones where compatibility applies;
- Greater application of the R4 Zone, which provides for an affordable housing bonus;
- Returns the “-V” designation to current VMU properties, which ensures that affordable housing program requirements are not reduced;
- Adds the “-Q” designation to MS zones, which allows commercially zoned properties that currently lack residential entitlements to include residential only through participation in an affordable housing density bonus program; and

- Lifts compatibility along Corridors and Centers through the application of missing middle zones.
-

A9 | Density bonus in CC zones

AMENDMENT TEXT

Offer an unlimited bonus in the CC zone to increase community benefits, including affordable housing.

STAFF RESPONSE

See DT-1, at pp. 41.

I2 | Limits on participation by repeat offenders

AMENDMENT TEXT

Consider not allowing offenders with any properties registered with the Repeat Offender Program (ROP) to participate in all affordable housing bonus programs, Affordability Unlocked, and the S.M.A.R.T housing program.

STAFF RESPONSE

See Tovo #10, at pp. 52.

I4 | Post-construction requirements and penalties

AMENDMENT TEXT

Revise, align and strengthen post construction requirements; reporting, compliance, monitoring, and enforcement mechanisms and procedures; and penalties for all affordable housing bonus programs, Affordability Unlocked, and the S.M.A.R.T housing program.

STAFF RESPONSE

Consistent with this programmatic measure, newly utilized land use restriction agreements will better address non-compliance with reporting, monitoring, and affordability requirements. The post-construction requirements and enforcement applied to Affordability Unlocked will also be applied to all other density bonus or affordable housing incentive programs.

Topic Area: Non-Zoning Regulations

Council Amendments:

Harper-Madison #9 | Permit requirements for pocket parks

AMENDMENT TEXT

Consider a process that will, without limitation, allow pocket-parks, parks under 1/4 acre, to be approved through the building permit process to expedite and simplify their development for PARD and community groups.

STAFF RESPONSE

After reviewing process time and cost related to pocket parks, staff created a definition for Standard Publicly Accessible Recreation Amenities and added these types of park improvements to the category of development that has a limited site plan review under Division 23-6B-3 (Limited Site Plan Review).

Casar NZ1 | Drainage management and mitigation

AMENDMENT TEXT w/ STAFF RESPONSES

1) Review the plumbing code to clarify and strengthen mitigation for lot to lot flood risks in residential house scale and missing middle zones.

STAFF RESPONSE:

The 2017 amendments to the 2015 Plumbing Code introduced for the first time a path for the City of Austin to help resolve lot-to-lot drainage problems created by construction activities on individual residential properties. Previously, resolution was a private matter between the property owners to enforce state law, often via litigation. Staff propose to clarify and strengthen the existing Plumbing Code by (a) coordinating programmatic responses; and (b) potentially proposing revised language to clarify the drainage requirements in the next amendment cycle.

On the programmatic side, staff in the Development Services, Code, and Watershed Protection Departments are conferring to best respond to new cases requiring enforcement. Staff will also add a requirement to the permitting process whereby applicants acknowledge their responsibilities to prevent lot-to-lot flooding and correct it where it occurs. Future Plumbing Code amendments will reevaluate the current code language to ensure that it clearly and effectively prevents and provides relief from lot-to-lot problems. The amendment cycle will begin in 2020 and is anticipated for consideration for approval in 2021.

2) Explore expanding requirements for drainage management, including Regional Stormwater Management Program, to all newly built residential house scale homes based on impervious cover rather than just some zones.

STAFF RESPONSE:

Current drainage management strategies for one- and two-unit development include the application of impervious cover limits (based on a maximum percent of the lot) and a provision in the Plumbing Code that prohibits lot-to-lot drainage impacts. As described in RES-6, staff is proposing additional drainage review requirements for projects that exceed 50% or 5,000 square feet of impervious cover, whichever is less. Missing middle projects with more than 50% impervious cover would be required to submit a drainage plan for review and approval.

However, a very large single-family project at 40% might have as large a footprint and create similar drainage challenges as a missing-middle project with more than 50% impervious cover. Thus, staff proposes that all residential projects with one or more units that exceed 5,000 square feet of impervious cover be required to submit a drainage plan for review and approval. The drainage plan will manage drainage through and from the property so as not to concentrate flows onto downstream neighbors. Staff does not recommend that one- or two-unit projects be required to build a detention pond or be eligible for participation in the Regional Stormwater Management Program (RSMP), as the primary concern for this scale of project is lot-to-lot impacts.

3) Requirements for drainage management should be drafted in a prescriptive manner to eliminate uncertainty and provide swift review.

STAFF RESPONSE:

Staff will propose new criteria for inclusion in the Drainage Criteria Manual to explain the requirements for drainage management on one-unit, two-unit, and missing middle residential projects in a prescriptive manner to eliminate uncertainty and facilitate more expeditious review.

Casar NZ2 | Options for GSI in right-of-way

AMENDMENT TEXT

Explore allowing staff the discretion to incorporate Green Stormwater Infrastructure into the City's rights-of-ways when it is appropriate and would not create future non-compliance issues.

STAFF RESPONSE

The LDC Team does not recommend that green stormwater infrastructure (GSI) for a private development be permitted in the City's rights-of-way (ROW) except under very limited circumstances. The use of GSI in the ROW is sometimes beneficial, as it can provide water quality protection, urban heat island mitigation, and water conservation benefits, while minimizing impacts on development resulting from installation of GSI on-site. However, if installation of GSI in the ROW were allowed, future changes in ROW use would require removal of the GSI installation and render the private development noncompliant.

An exception may be where, as part of a Planned Unit Development (PUD), GSI water quality controls that exceed minimum code requirements are provided to achieve “superiority” per PUD standards. (The PUD would enter into a license agreement with the City for permission and to formalize maintenance arrangements.) If the City needed to remove any of these GSI installations in the future, the project would still be compliant, just not as environmentally superior. GSI water quality installations could also be permitted for compliance by roadway projects; the ROW would be an appropriate location to treat runoff from itself.

Casar NZ3 | Landscaping irrigation requirements

AMENDMENT TEXT

Clarify that irrigation requirements do not require permanent irrigation when it is unnecessary, such as for landscaping that has low watering needs.

STAFF RESPONSE

Except for newly planted trees, permanent irrigation is only required for the establishment period: two years for shrubs, and one year for ornamental grasses or perennial forbs. A plant that has low watering needs still requires watering at time of planting and through establishment. The 2011 Commercial Landscape Ordinance (No. 20101216-097) already waives permanent irrigation for some landscapes.

Casar NZ4 | Parking requirements for certain commercial uses

AMENDMENT TEXT

Parking requirements for certain uses:

- 1. For home occupations and live/work, eliminate any additional parking requirements for employees.*
- 2. For commercial uses in MU, MS, and above, consider reducing the minimum parking requirements by a portion, such as by one-third, without losing any ADA parking.*

STAFF RESPONSE

1. The 2nd Reading Draft eliminates parking for live/work employees and, as in the 1st Reading Draft, does not require parking for home occupations.

2. Staff does not recommend further parking reductions at this time. Parking requirements in the 2nd Reading Draft are calibrated with comparable cities and represent a reduction from today's parking standards, consistent with 50/50 mode share goals. Additionally, because parking minimums determine ADA requirements per the Building Code, further reductions in minimum parking would reduce the number of ADA parking spaces that development is required to provide.
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Casar NZ5 | Permit denial based on transportation impacts

AMENDMENT TEXT

Maintain the Director's current ability to deny a proposed development, instead of administratively reducing the density or intensity, if it presents a risk to public safety that cannot be reasonably mitigated.

STAFF RESPONSE

In response to this amendment, the 2nd Reading Draft includes language limiting permit denial to instances where transportation impacts pose a risk to public safety.

Casar NZ6 | On-premise signs for pedestrian uses

AMENDMENT TEXT

In areas with a significant number of pedestrians, such as downtown, propose options for on-premise signs to be focused for pedestrian use.

STAFF RESPONSE

In response to this amendment, the 2nd Reading Draft applies the "Pedestrian Oriented Sign Overlay" to the Regional Center Sign District in Chapter 23-7 (Signage). These regulations require on-premise signs to be scaled to pedestrian use.

Flannigan NZ1 | Deferral of new off-premise sign regulations

AMENDMENT TEXT

- *Revise Ch. 23-7 of Draft 1 to reflect non-substantive changes related to new zoning districts and administrative procedures, but to maintain provisions related to off-premise signage as codified in the current LDC Ch. 25-10, adding no new restrictions or limitations to off-premise signage.*
- *The City Manager should initiate a separate public process for new off-premise signage requirements as discussed during the 8.22.2019 City Council Item 83.*

STAFF RESPONSE

In response to this amendment, current regulations authorizing relocation of off-premise signs were incorporated into the sign regulations. See 23-7B-4040 (*Relocation of Off-Premise Signs*). Additionally, previously proposed regulations authorizing certain new off-premise signs have not been incorporated into the signage chapter.

Kitchen #14 | Water Forward and beneficial use of stormwater

AMENDMENT TEXT

To ensure climate resiliency and responsible stewardship of water resources.

- *Consider enhancements to the code that could increase the beneficial use of stormwater from smaller storm events to be beneficially used onsite and reduce demands on potable water. As part of this analysis, report back to council on any affordability impacts of any proposed changes.*

STAFF RESPONSE

In response to this amendment, the LDC Team considered the viability of additional measures for beneficial use of stormwater but was unable to identify feasible options beyond those included in the 1st Reading Draft. These previously proposed measures, also included in the 2nd Reading Draft, further the intent of both this amendment and Council's May 2, 2019 direction that "[d]evelopments should retain more water on-site and encourage beneficial reuse."

These proposals include:

- Direct requirements to use on-site water in large projects (greater than 250,000 square feet of building space);
 - Requirements that all site-plan projects calculate their water balance and consider water and money saving options;
 - Transition to green stormwater infrastructure (GSI) water quality controls that retain and reuse more water onsite (among other benefits) than conventional options;
 - Requirements to decompact soils to better retain water onsite, increase soil moisture, and reduce the need for conventional irrigation;
 - Requirements to "depress" landscaped medians in parking lots to accept stormwater and help water trees and other plants with rain rather than potable water; and
 - Introduction of a Functional Green landscaping system to provide more benefits to humans and natural systems on highly impervious developments, with a key provision that incentivizes the inclusion of capture and reuse of stormwater.
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Flannigan NZ2 | Parking maximum variance process

AMENDMENT TEXT

1. *Maintain parking maximums but develop a process that allows an applicant to apply for an administrative variance based upon completion of a parking study defining the market need and proof of mitigation in order to achieve community goals with context-sensitive requirements.*
2. *Regional parking structures that include compatible uses such as transit-supportive and bike and ped supportive elements should be allowed in the Downtown Capitol View Corridors. The parking regulations should further incentivize participation in joint parking plans and construction of regional parking structures instead of on-site parking.*

STAFF RESPONSE

1. 2nd Reading Draft authorizes administrative modifications to exceed parking maximums if:
 - a. An off-site parking facility is shared;
 - b. The modification is supported by market conditions; and
 - c. The excess parking will not undermine other established planning policies. See Sec. 23-3C-2040(B).
 2. Staff will create a Specific to Use allowance that limits parking facilities allowed Downtown to those properties where at least 50% of the site is subject to the Downtown Capitol View Corridor.
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Pool #1 | Tree canopy policy enhancements

AMENDMENT TEXT w/ STAFF RESPONSES

- *Explore the possibility of a "No-Net Loss and 50-by-50 Tree Canopy Policy" to set near-term goal of no net loss of canopy, and a long-term goal of 50% canopy cover by 2050 to align with the City of Austin climate plan and resiliency goals.*

STAFF RESPONSE

The LDC Team believes that establishing a policy of no-net loss in tree canopy is of immense value to the community and has included the policy in the 2nd Reading Draft. See Section 23-4C-1010. Staff also strongly supports a long-term canopy cover goal for the City, which is also included in Section 23-4C-1010. Staff believes further efforts are needed to achieve 50 percent tree canopy by 2050 and that this initiative should be taken up separately.

Staff recognizes that clear tree preservation, mitigation, and planting policies are necessary to reach these goals. While preservation and mitigation were adequately addressed in the 1st Reading Draft, the planting policy was not. Therefore, the 2nd Reading Draft establishes a tree planting requirement for residential projects and other projects not subject to the Landscape Ordinance.

- *Consider including a "Tree Species Prioritization for Resiliency" list in the code. The protection list should prioritize native and well adapted trees and those expected to be more common as a result of climate change.*

STAFF RESPONSE

Administrative rules will be necessary to implement the planting requirement and are the best place to identify appropriate species. However, the 2nd Reading Draft includes enabling language to ensure that diverse and resilient trees are selected for planting and preservation. Staff anticipates drawing on the results of an ongoing study by the U.S. Forest Service assessing climate resilient trees in Austin.

- *Consider the benefits of restoring the public process for heritage tree removal and develop an incentives program that relaxes and makes flexible site development standards to encourage on site preservation of heritage trees for parcels on all corridors.*

STAFF RESPONSE

The 2nd Reading Draft revises Section 23-4C-3020(C) to limit the administrative variance process to projects on Transit Priority Networks.

Ellis #1 | Heritage tree preservation bonus

AMENDMENT TEXT

The new code should create a Heritage Tree Preservation Bonus program for developments in Imagine Austin Centers and along Imagine Austin Corridors and explore its application to the Transit Priority Network. The bonus program should offer a well-calibrated incentive of flexibility in development standards (e.g. an additional floor of building height) in exchange for the preservation of an existing, healthy heritage tree. The program should include a defined set of criteria including a provision requiring that the project demonstrate they require the bonus to achieve the goal of tree preservation. The bonus should be administratively approved, and the heritage tree preservation bonus program should not negatively impact the viability of an applicable affordable housing bonus program.

STAFF RESPONSE

The goals of this amendment informed proposed code revisions authorizing the BOA to reduce height and setback restrictions where non-zoning regulations (including tree preservation) significantly impacts housing capacity. See Section 23-3B-4040 (Special Exception – Level 2)

However, increased zoning entitlements cannot be provided as a “bonus” for heritage tree preservation because preservation is required by code. Additionally, simple by-right increase in entitlements, such as height or floor-to-area ratio, for sites containing heritage trees would potentially undermine the City’s affordable housing density bonus programs.

Flannigan Process #3 | Conservation subdivision

AMENDMENT TEXT

Develop conservation subdivision guidelines that may be required for new greenfield residential development sites that promotes environmental sustainability, ecosystem preservation, and natural flood mitigation while maintaining the city’s Residential House-Scale entitlements and furthering its housing-capacity goals.

STAFF RESPONSE

Several national and regional conservation subdivision codes exist that are consistent with Council’s objectives of furthering environmental sustainability, ecosystem preservation, and natural flood mitigation in projects that provide the same or greater housing capacity. The LDC Team recommends a separate code development project to explore conservation subdivision options after the conclusion of the LDC Revision process.

Adler #1 | Parkland dedication process for corridors & centers

AMENDMENT TEXT

Clarify code text to reflect current PARD practice: Development on parcels within activity centers and fronting activity corridors that are less than 1 2/3rd acres in size should not be required to dedicate parkland on site, unless dedication of parkland is necessary to provide for pedestrian connectivity to a creek, existing or planned park, or existing or planned trail connection. Dedication of parkland should be limited to the amount of land required for the pedestrian connectivity need. Any remaining applicable fees in lieu of dedication will still be required.

STAFF RESPONSE

In response to this amendment, the 2nd Reading Draft revises Section 23-4B-3010 to clearly reflect current practice and identify that payment of a fee-in-lieu of parkland dedication is authorized if the site has frontage on a corridor, is less than or equal to 1.66 acres, and is not adjacent to: a creek or body of water, an existing or planned park, or an existing or planned trail.

Staff Amendments (Supplemental Report Nos. 1-2):

LSC-1 | Landscaping requirements for surface parking lots

AMENDMENT TEXT

Revise Section 23-3D-3070 (Surface Parking Lot Perimeter Landscape) to allow use of use of trees in perimeter landscape, provided that they comply with Diversity Standards and do not replace required shrubs.

STAFF RESPONSE

In response to this amendment, staff reviewed applicable regulations and concluded that no further code changes are required. The 1st Reading Draft permits trees in the perimeter landscape, and those provisions have been carried forward in the 2nd Reading Draft.

LSC-2 | Landscaping application and submittal requirements

AMENDMENT TEXT

Revise 23-3D-3140 (Submittal Requirements) to remove requirement to identify all existing vegetation, soils, landscape features, and rock materials.

STAFF RESPONSE

The landscape regulations in the 2nd Reading Draft includes this change, which was supported by additional testing and public comment.

LSC-3 | Front yard requirements

AMENDMENT TEXT

Revise Section 23-3D-3040 (Front Yard Planting) to adjust front yard planting setback categories to better match zoning front and side yard setback—i.e., 5 -15 feet and greater than 15 feet.

STAFF RESPONSE

The 2nd Reading Draft revises the landscape regulations consistent this amendment.

LSC-4 | Vegetated roofs

AMENDMENT TEXT

Revise Section 23-3D-3130 (Functional Green Landscape Elements) to eliminate requirement that a vegetated roof be located over an occupied space.

STAFF RESPONSE

The 2nd Reading Draft revises the landscape regulations consistent this amendment.

PLD-1 & 2 | Private parkland access

AMENDMENT TEXT

- *Revise Section 23-4B-2030 (Private Parkland), Subsection (A), to require that easements granting access be approved by the city attorney.*
- *Revise Section 23-4B-2030 (Private Parkland), Subsection (E), to require that access be granted by easement, to eliminate the fiscal surety requirement in Paragraph (E)(2), and to consolidate and clarify the remaining provisions.*

STAFF RESPONSE

The 2nd Reading Draft revises Section 23-4B-2030 consistent this amendment.

PLD-3 | Applicability of parkland dedication to missing middle housing

AMENDMENT TEXT

Clarify applicability of PLD requirements to missing middle housing categories.

STAFF RESPONSE

Staff review of potential options for this amendment remains ongoing. Specific code revisions will be offered at 3rd Reading.

PRK-1 | ADA parking calculations

AMENDMENT TEXT

Revise Section 23-3D-2040 (Parking for Persons with Disabilities) to clarify: (i) that ADA parking is required for structures of 6,000 square feet or more, notwithstanding the size of individual uses within the structure; and (ii) how ADA parking requirements are determined for buildings containing multiple uses with different ADA parking requirements.

STAFF RESPONSE

The 2nd Reading draft revises Section 23-3D-2040 to specify that ADA parking requirements are determined based on gross floor area for the site, not by use.

PRK-2 | Applicability of ADA parking requirements

AMENDMENT TEXT

Clarify whether ADA parking is required for single-family or duplex units, less than 6,000 square feet, that meet the qualifications to have a 100% reduction in off-street parking.

STAFF RESPONSE

The 2nd Reading Draft revises the applicable provisions to clarify that residential sites with three or fewer units are exempt from ADA requirements.

SGN-1 | Landscape wall signs

AMENDMENT TEXT

Revise Section 23-7C-2050 to replace reference to “Low Density” sign district with “Residential House-Scale Sign District.”

STAFF RESPONSE

The 2nd Reading draft includes this change, which helps to ensure consistent terminology between sign and zoning districts.

SGN-2 | Wall mural signs

AMENDMENT TEXT

Revise Section 23-7C-2120 (Wall Mural Sign) to specify that wall mural signs may not be illuminated.

STAFF RESPONSE

The 2nd Reading Draft revises the requirements for wall mural signs to prohibit illumination.

TRP-1 | Limitation on administrative variances for heritage trees

AMENDMENT TEXT

Consistent with October 4 staff report accompanying the LDC Revision, revise applicable regulation to limit allowance for heritage trees variances to be approved administratively to residential projects with sufficient frontage and onsite affordability.

STAFF RESPONSE

The 2nd Reading Draft revises Section 23-4C-3020 to indicate that, in order for the administrative variance to apply, at least 50% of the building square footage must be residential and at least 10% of the units must be income restricted.

TRNS-1 | Sidewalk requirements

AMENDMENT TEXT

- *Revise Section 23-8E-6010 (General Sidewalk Requirements) to clarify that sidewalk dedication may be required at site plan and to specify that dedication for new subdivisions must be by easement depicted on the plat.*
- *Revise Section 23-8F-2030 (Joint Use Driveway) to require that vehicular access through a joint use driveway be depicted in an easement in order to be allowed as an alternative to direct access to an abutting public or private street.*

STAFF RESPONSE

The 2nd Reading Draft revises Sections 23-8E-6010 and 23-8F-2030 consistent with this amendment.

EV-1 | SOS Ordinance

AMENDMENT TEXT

Delete proposed SOS Ordinance amendments in Article 23-4D (Water Quality) and defer them to a subsequent public process, to allow additional time for stakeholder review and discussion.

STAFF RESPONSE

The 2nd Reading Draft removes proposed code changes that would have required an SOS Ordinance amendment.

Staff did retain some non-substantive, clarifying edits to the Barton Springs Zone Redevelopment Exception. For example, there are new headings to enhance clarity and organization. Citations were updated, and some language was edited to match the stylesheet for the LDC Revision (e.g., “standards” instead of “requirements”). Some existing standards were reorganized to improve clarity and better mirror the format of the redevelopment exceptions for other watersheds. Finally, the term “Sedimentation/Filtration Pond” was updated to “Standard Pond” to reflect the LDC Revision’s requirement for green stormwater infrastructure. None of the remaining revisions change the current requirements of the Barton Springs Zone Redevelopment Exception, and therefore none require an SOS Ordinance amendment.

EV-2 | Project assessments

AMENDMENT TEXT

Revise Section 23-2C-1060 (Project Assessments) to specify that, in addition to “critical environmental features,” review under Subsection (D)(2)(e) may include “critical water quality zone, water quality transition zone, and steep slopes.”

STAFF RESPONSE

The 2nd Reading Draft revises Section 23-2C-1060(D)(2)(e) to specify that project assessments may address whether a site is affected by waterway setbacks or steep slopes.

EV-3 | Lake Austin setbacks

AMENDMENT TEXT

Revise Section 23-3D-10070 (Setback Exceptions) to specify, in Subsection (D), that the allowance for pools in setbacks does not apply in the LA Zone. Addresses a longstanding conflict between general setback regulations and heightened restrictions on development applicable in the LA Zone and within critical water quality zones.

STAFF RESPONSE

Staff has clarified that pools and fountains are not allowed within the shoreline setback in the Lake Austin (LA) zone and Lake Austin (LA) Overlay.

EV-4 | Commercial Recreation shoreline setbacks

AMENDMENT TEXT

Revise Section 23-3C-8060 (Commercial Recreation Zone) to specify, in Subsection (D), that permanent improvements are prohibited within 100 feet of the shoreline, rather than 75 feet, to coincide with the width of the critical water quality zone.

STAFF RESPONSE

The 2nd Reading Draft revises has changed the Commercial Recreation shoreline setback distance to 100 feet.

EV-5 | Clarify applicability of Barton Springs Zone Overlay

AMENDMENT TEXT

Clarify the meaning of “retail uses” for applicability of the BSZO.

STAFF RESPONSE

The 2nd Reading Draft restores the current applicability section by changing "The following uses are exempt from the standards of this section" to "In this section, retail use means," and correcting the list of retail uses as needed to match the uses listed under current code. Staff made additional corrections to the overlay language to remove inadvertent changes and restore current requirements.

Planning Commission Amendments:

16 | Improve site plan process

AMENDMENT TEXT

Explore ways to cut down on the time it takes to deliver site plan approvals.

STAFF RESPONSE

A multipronged, inter-departmental effort to streamline and shorten the site plan process remains ongoing. While no code change is proposed in response to this amendment, the LDC Revision authorizes staff to scale application requirements based on the type of development proposed.

I13 | Administrative modifications for heritage trees

AMENDMENT TEXT

*(1) Add administrative approval condition for removal of a Heritage Tree fronting a corridor and
(2) correct language to add clarity.*

STAFF RESPONSE

The 2nd Reading Draft revises Section 23-4C-3020 to indicate that at least 50% of the building square footage is residential and at least 10% of the units are income restricted.

I15 | Tree canopy

AMENDMENT TEXT

The land development code related to tree planting and protections should enable City to increase canopy from 35% to 40% and be equitably spread through all city districts. Tree canopy measurements last taken in 2010 and 2014 show Austin tree canopy is at 35%. Forestry Dept. states that best practice is 40%.

STAFF RESPONSE

See Pool #1, at pp. 63.

Topic Area: *Process*

Council Amendments:

Harper-Madison #2 | Increased interdepartmental review

AMENDMENT TEXT

All reviewing departments (AWU, AFD, AE, PARD, ATD, DSD, PZD, NHCD, WPD, PWD, Law, etc.) are integral to the success of the new code and should be directed to cooperate with each other to incorporate and implement Council’s policy direction and priorities to (i) increase housing supply, diversity and affordability into their requirements, regulations and processes, (ii) achieve our environmental goals, (iii) achieve our transportation goals, (iv) streamline the code and site requirement review process, and (v) make it more predictable.

STAFF RESPONSE

The interdepartmental and multidisciplinary team assembled for the LDC Revision will continue its work through implementation of the Land Development Code Revision upon adoption. Additionally, the new DSD one-stop shop, which will co-locate all reviewing department staff in one uniform location, facilitating continued collaboration.

Harper-Madison #4 | Amended plat process for missing middle housing

AMENDMENT TEXT

Consider a process to allow administratively amended plats to replat up to 6 new lots in accordance with the Texas Local Government Code by acknowledging all Missing Middle-zones as "residential improvement areas" under state law.

STAFF RESPONSE

In response to this amendment, staff carefully considered several potential options. However, a number of challenges were identified that preclude staff from recommending code revisions at this time. Specifically:

- To create new lots in missing middle zones, reductions in lot size would often be required and that presents numerous challenges. See Harper-Madison #5, at pp. 24.
 - In many cases, the desired lot configurations would be ones for which some sort of access easement/ dedication would be required and that cannot be done through amended plat process.
-

Casar P3 | Simple subdivision

AMENDMENT TEXT

Consider creating a simple subdivision process utilizing Residential Improvement Areas and reduced code requirements for:

- 1) Lots zoned R4 and RM1.*
- 2) Lots utilizing the preservation bonus.*

STAFF RESPONSE

See Harper-Madison #4, at pp. 73.

Casar P1 | Limited site plan and building permit procedures

AMENDMENT TEXT

Allow small developments of 4-10 units to utilize a limited site plan. Allow up to 3 units to utilize the building permit process.

STAFF RESPONSE

The 2nd Reading Draft specifies that: (1) Four to eleven-unit projects that qualify for streamlined regulations in Section 23-2B-2020 may utilize the limited site plan application process; and (2) One- to three-unit projects may utilize the building permit application process, with the exception of three-unit projects in the Barton Springs Zone. The unit thresholds for the streamlined regulations have also been updated to one-to-three units and four-to-11 units, with the same exception for the Barton Springs Zone.

Casar P2 | Criteria manuals

AMENDMENT TEXT

- 1) Require PC majority approval for the initial adoption of criteria manuals*
- 2) Future changes may be appealed to PC; changes to the criteria manual go into effect until or unless the PC votes to reject the changes.*
- 3) PC does not write or rewrite criteria manuals, only accepts or denies the original manual, and accepts or denies appeals to future changes. PC may make suggestions.*
- 4) If there is a policy issue, PC can initiate code amendments for Council approval as currently allowed.*

STAFF RESPONSE

While the LDC Team remain concerned about aspects of this amendment, staff are working to develop an implementation plan establishing a public process for initial adoption of criteria manuals. No code changes are proposed at this time.

Casar P5 | Zoning change reports

AMENDMENT TEXT

Include the following information in zoning change reports:

- 1) *Mode Shift Impact*
- 2) *High Opportunity Impact*
- 3) *Displacement Impact*

STAFF RESPONSE

This is a programmatic change to the zoning report information submitted to commissions and Council. Staff will consider what metrics could be included in said reports to address the above three items.

Kitchen #18 | District-level planning process for corridors and centers

AMENDMENT TEXT

Direction to develop district level planning process to meet goals outlined in and beyond the LDC Revision Policy Direction document.

STAFF RESPONSE

This is a programmatic change; development of a future district-level planning remains on-going.

Flannigan Process #1 | Alternative equivalent compliance

AMENDMENT TEXT

Expand the AEC process to allow for minor modifications to some base zoning requirements and to apply to Residential House-Scale zones in order to achieve the City's goals in a context-sensitive manner and include housing-capacity goals in the BOA variance approval criteria.

STAFF RESPONSE

In response to this amendment, the LDC Team developed a new special exception process that allows the Board to grant 10% reductions in height and setbacks where site conditions or non-zoning regulations pose a significant impediment to housing construction. The amendment would allow variations where water quality ponds, utilities, drainage facilities, or other factors impact housing. The process is not available in house-scale residential zones and would allow the BOA to consider impacts on surrounding areas.

Flannigan Process #2 | Shared use easements

AMENDMENT TEXT

All utilities and departments that regularly require easements should develop a process for sharing easement area as much as possible to minimize the total land dedicated to easements, in accordance with best management practices.

STAFF RESPONSE

The “Statement in Support of Utility Coordination Efforts” included in the initial [LDC Staff Report](#) (p. 40), released with the 1st Reading Draft, expresses the shared commitment of LDC staff and the utility departments to explore shared easements and other potential improvements following LDC adoption. Staff will provide more detail regarding the process by 3rd Reading.

Tovo #38 | Demolition permit affidavit

AMENDMENT TEXT

Require affidavit for demolitions as proposed by staff.

STAFF RESPONSE

This requirement is programmatic and will be addressed through updates to the demolition application process.

Tovo #40 | Impact of missing middle zones on new multi-bedroom units

AMENDMENT TEXT

Provide feedback about how the Land Development Code text and mapping proposals (especially with regard to FAR and other elements within missing-middle zoning categories) could impact the construction of multi-bedroom units.

STAFF RESPONSE

While the new limitations on FAR could have the effect of reducing the number of bedrooms for some projects, it's also possible that bedrooms will simply be smaller than they would have been without a FAR limit. Many new homes built today have two or three bedrooms in smaller structures (i.e. approximately 1,000 square feet or less). The proportional bedroom requirement for income-restricted affordable units also remains in place.

Alter #6 | Permitting and parking requirements for schools

AMENDMENT TEXT

To increase efficiency of constructing and operating schools, consider appropriate revisions to the draft LDC and/or applicable land development standards agreements to generally:

- 1. Simplify the development review and permitting process and*
- 2. Engage with local school districts to identify potential code revisions needed to ensure that reductions in minimum parking standards do not disrupt school operations, including transport of students to and from school.*

STAFF RESPONSE

In responding to this amendment, the LDC Team met on several occasions with AISD staff to better understand their concerns regarding the LDC and impacts on school construction. While several potential improvements were discussed, the one that appears in the 2nd Reading Draft is to eliminate the CUP requirement for school construction on sites more than one acre.

No code changes are proposed to parking requirements in proximity to schools. However, staff is considering changing traffic queuing requirements through updates to the TCM. Further programmatic changes will be considered, including future revisions to the land development standards agreements and traffic management around schools.

Kitchen #19 | Zoning for state owned and publicly owned lands

AMENDMENT TEXT

Review proposed zoning for state and publicly owned lands, including lands controlled by Special Districts with elected boards, to ensure that zoning assignments align with current uses.

STAFF RESPONSE

Properties currently owned by governmental entities have a wide range of zoning designations. In most instances, municipally owned properties have a P or PR designation. In reviewing these properties, the range of proposed zoning designations in both the 1st and 2nd Reading draft maps reflect the application of LDC Revision comparable zoning. The majority of the acreage is zoned PUD, UNZ, P, or PR.

Staff does not recommend changing this approach as part of the LDC Revision process. Due to the complexity of zoning governmental uses, any application of a new zoning on the remainder of properties should be addressed through a separate, inter-governmental process.

Pool #9 | S.M.A.R.T. Housing project review

AMENDMENT TEXT

Consider a “Prioritized” Expedited Review for S.M.A.R.T. Housing projects in which projects would be reviewed ahead of other applications including where an expedited review fee has been paid.

STAFF RESPONSE

This programmatic measure is not addressed in the LDC. S.M.A.R.T. Housing certified developments are currently prioritized for review, but review times are not codified in the LDC.

Staff Amendments (Supplemental Report Nos. 1-2):

AE-1 | Removal of utilities prior to demolition or relocation

AMENDMENT TEXT

Revise Sections 23-6C-3040 and 23-6D-1040 (Requirements Regarding Utility Service) to strengthen requirement for coordination between DSD and utility providers regarding need to remove utilities prior to demolition or relocation.

STAFF RESPONSE

The 2nd Reading Draft includes code revisions responsive to this amendment.

AE-2 | Electrical requirements at subdivision

AMENDMENT TEXT

Ensure that the standards currently codified in Section 25-4-200 (Electric System) are incorporated, directly or by reference, into proposed Chapter 23-5 (Subdivision).

STAFF RESPONSE

The 2nd Reading Draft includes previously omitted provisions.

AE-3 | Minor wording changes

AMENDMENT TEXT

- Revise Section 23-3C-1030 to replace “utility easements” with “utility requirements.”
- Revise Section 23-6C-2040 (Licensed Contractor Requirements) to delete reference to solar permits and the Solar Energy Code.
- Revise 23-3D-3170 (Planting and Soil Standards) to clarify requirements for AE review and approval before street trees may be located in utility easements.

STAFF RESPONSE

The 2nd Reading Draft includes these code revisions.

AFD-1 | Project assessments for wildfire risk

AMENDMENT TEXT

Revise Subsection 23-2C-1060 (Project Assessments), Subsection (D)(2)(f), to specify that project assessments may be used to determine whether a site is located in a “wildfire risk area” as well as a floodplain.

STAFF RESPONSE

The 2nd Reading Draft includes this code revision.

AFD-2 | Wildfire risk mitigation in purpose statement

AMENDMENT TEXT

Revise Section 23-4A-1010 (Purpose) to add mitigation of wildfire risk to the list of enumerated purposes in Subsection (B).

STAFF RESPONSE

The 2nd Reading Draft includes this code revision.

AFD-3 | Heightened wildfire protections for Hill Country Development

AMENDMENT TEXT

Revise the natural area protections in Section 23-3C-10090 (Hill Country Roadway Overlay), Subsection (H)(3), to specify that: “Natural areas may be managed for ecosystem function or wildfire safety under a vegetation management plan approved by the Environmental Officer, Arborist, and Fire Marshall.”

STAFF RESPONSE

The 2nd Reading Draft includes code revisions responsive to this amendment.

AFD-4 | Fire resistant fences and walls

AMENDMENT TEXT

Subject to further review, consider adding a provision to Section 23-3D-10060 (Fences and Walls) requiring that “ignition-resistant material” be used for fences in wildfire risk areas that are located within 10 feet of a structure.

STAFF RESPONSE

The LDC Team recommends no code changes in response to this amendment, which requires further review and consideration.

AWU-1 | Requirements for service extension requests

AMENDMENT TEXT

Revise Section 23-5C-3060 (Requests for Utility Service) to eliminate requirement that applicants for service extensions in the ETJ request annexation if not covered by a certificate of convenience and necessity.

STAFF RESPONSE

The 2nd Reading Draft includes this revision.

AWU-2 | Determination of service units

AMENDMENT TEXT

Revise Section 23-9C-3010 (Service Units Where a Meter is Purchased) to delete table specifying applicable service units, which is established through the annual fee schedule.

STAFF RESPONSE

The 2nd Reading Draft includes this revision.

BOA-1 | Eliminate Type 2 special exception

AMENDMENT TEXT

Delete Section 23-3B-4040 (Type 2 Special Exception), which would authorize the BOA to vary regulations where a structure is built in reliance on permits issued in error.

STAFF RESPONSE

The 2nd Reading Draft includes this revision.

BOA-2 | Notification requirements

AMENDMENT TEXT

Revise Section 23-3B-2020 (Code Interpretations) to require that the director notify the BOA of: (a) all code interpretations issued by the director, within the 20-day appeal deadline; and (b) all appeals filed by a party, if the appeal is submitted after the 20-day deadline.

STAFF RESPONSE

The 2nd Reading Draft includes revisions responsive to this amendment.

Proposed Amendments to Imagine Austin – Growth Concept Map

CPA-1 | Map changes to transition area zone and land use designation

AMENDMENT TEXT

Where a neighborhood plan FLUM includes transition areas or similar planning designations, consider appropriate adjustments to the boundaries of the proposed transition area zones and corresponding land use designation shown on the Growth Concept Map.

STAFF RESPONSE

An amendment to the Imagine Austin Comprehensive Plan (IACP) is proposed concurrent with the LDC Revision. The amendment will update the IACP Growth Concept Map to include appropriate transition area designations for missing middle housing, as well as related revisions consistent with Council policy direction. The amendment will be considered by the Planning Commission on February 25, 2019 and 1st Ordinance reading for City Council March 12, 2020.

CPA-2 | Plan-related text changes

AMENDMENT TEXT

Consider additional text changes to ensure consistency between the comprehensive plan and zoning map, particularly as it relates to the use of comparable equivalent zoning outside of transition areas and the broader allowance for colocation of residential and commercial uses.

STAFF RESPONSE

An amendment to the Imagine Austin Comprehensive Plan (IACP) is proposed concurrent with the LDC Revision. The amendment will include text changes related to the transition area land use designation, the comparable equivalent zoning outside of transition areas, and other changes related to Council policy direction. The amendment will be considered by the Planning Commission on February 25, 2019 and 1st Ordinance reading for City Council March 12, 2020.

CM-1 | Criteria manuals

AMENDMENT TEXT

Recognizing the important role that criteria manuals play in LDC implementation, consider code revisions that relocate more significant and impactful requirements to code rather than relying solely on criteria manuals.

STAFF RESPONSE

In response to Casar P2, the LDC Team is considering potential options for obtaining Planning Commission approval of criteria manuals following LDC adoption. Additionally, the revisions proposed in both the 1st and 2nd Reading Drafts provide clearer direction as to the scope of the criteria manuals. With these considerations in mind, staff continues to work with departments to identify technical criteria appropriate for codification as a means to increase predictability and streamline development review.

DP-1 | Exemption for interior demolitions

AMENDMENT TEXT

Revise Section 23-6C-2010 (Permit Requirements) to eliminate the permit exemption for interior demolitions in Subsection (B).

STAFF RESPONSE

The 2nd Reading Draft removes this exemption.

HIST-1 | Restrictions on permit issuance

AMENDMENT TEXT

Revise Section 23-6E-1050 (Process of Historic Review) to allow the building official to approve building, demolition, or relocation permits if the Historic Landmark Commission has not conducted a public hearing within 60 days from the date of application.

STAFF RESPONSE

The 2nd Reading Draft revises Section 23-6E-1050(D) to authorize the building official to approve permits if the Historic Landmark Commission has not conducted a public hearing within 60 days from the date of application.

HIST-2 | Applicability of historic districts and historic zoning

AMENDMENT TEXT

Recognizing that a more restrictive requirement prevails over the less restrictive, consider ways that continued applicability.

STAFF RESPONSE

The LDC Revision does not override or contradict historic districts or historic zoning classifications, which continue to be reflected on the zoning map. The LDC Revision states that a more restrictive requirement prevails over a less restrictive one, so no code revisions are necessary to address this issue.

LOT-1 | Front lot lines

AMENDMENT TEXT

Revise Section 23-12A-1030 (General Definitions) to clarify that, for a corner lot, the street providing primary “pedestrian access” determines the front lot line.

STAFF RESPONSE

The 2nd Reading Draft includes this revision.

LOT-2 | Side lot lines

AMENDMENT TEXT

Revise Section 23-12A-1030 (General Definitions) to clarify that an alley does not count as right-of-way for purposes of determining a side lot line.

STAFF RESPONSE

The 2nd Reading Draft includes this revision.

PRO-1 | Community organizations

AMENDMENT TEXT

- *Revise Chapter 23-12 (General Definitions) to adopt a uniform definition of “registered community organization” and use that term consistently throughout the LDC, in place of “registered neighborhood and environmental organization,” “neighborhood organization,” “neighborhood association,” and other terms used to describe registered groups entitled to notification and other rights under the Land Development Code.*
- *This change, proposed by the Neighborhood Assistance Center, would correct longstanding inconsistencies in current code, which are carried forward in LDC Chapter 23-2 (Administration & Procedures), Chapter 23-3 (General Planning Requirements), and Chapter 23-6 (Permits and Special Approvals).*

STAFF RESPONSE

The 2nd Reading Draft includes a definition of “Registered Community Organization” which is applied uniformly to all code sections requiring public notice to be provided to organizations or associations.

PRO-2 | Ex parte contacts

AMENDMENT TEXT

Revise Section 23-1A-3020 (Classification of Applications and Decisions) to clarify that prohibition on ex parte contacts is limited to the Board of Adjustment.

STAFF RESPONSE

The 2nd Reading Draft removes this limitation, which applies only to BOA and is adopted through their rules of procedure.

SUB-1 | Remainder tracts

AMENDMENT TEXT

Revise Section 23-5A-1050 (Remainder Tracts) to specify that the Commission must approve inclusion of a remainder tract if the omitted portion meets minimum lot area and “substantially complies” with other applicable regulations.

STAFF RESPONSE

The 2nd Reading Draft includes this revision.

TCR-1 | Typographical and wording errors

AMENDMENT TEXT

Continue to update this document, on an ongoing basis, with typographical errors, including mistakes in spelling, grammar, and citation, as well as minor textual cleanups.

STAFF RESPONSE

Where appropriate, these changes have been incorporated into the 2nd Reading Draft.

TCR-2 | Departmental comments

AMENDMENT TEXT

Continue to review departmental comments to identify process improvements, technical errors, and other non-substantive changes that will improve LDC implementation and usability.

STAFF RESPONSE

The 2nd Reading draft addresses many interdepartmental comments provided by technical staff, which generally fall into three categories: typographical errors, clarifications, and minor substantive revisions. However, the LDC Team continues to address departmental comments and may propose additional revisions, as appropriate, at 3rd Reading.

Planning Commission Amendments:

P21 | Parking screening

AMENDMENT TEXT

Clarify that required parking screening from sidewalks applies only to sidewalks in ROW, not interior sidewalks.

STAFF RESPONSE

The 2nd Reading Draft revises the parking screening applies to the right-of-way.

P11 | Sunset F25

AMENDMENT TEXT

Staff should develop a timeline and process for converting all F25 zoning to the new LDC.

STAFF RESPONSE

The LDC Team is evaluating options for future planning and zoning initiatives to apply new LDC zones to F25 parcels following code adoption.

P28 | Conditional and minor use permits

AMENDMENT TEXT

Consider clarifying that - to the extent appropriate - CUPs and MUPs only review those site characteristics inherent to the change/establishment of use, not all code requirements. Consider publicly posting guidelines for CUP and MUP reviews.

STAFF RESPONSE

The 2nd Reading Draft revises applicable criteria for MUPs and CUPs consistent with this amendment. The changes emphasize that conditions should be tailored to the type of construction proposed and reduce the range of conditions available through the MUP process, which is intended to provide a middle-ground between purely administrative process and full commission approval.

I12 | Asbestos protections

AMENDMENT TEXT

Amend the draft codes as necessary to not weaken local ordinances specifically relating to asbestos.

STAFF RESPONSE

After reviewing all applicable provisions, the LDC Team concluded that the proposed code revisions do not weaken existing protections and proposes no further revisions to these sections in the 2nd Reading Draft.
