Re: Community input, CodeNEXT draft

To: Mayor Adler, Councilmember Kitchen, and Director Guernsey

In response to the city staff's request that questions and comments about the draft rewrite of the Austin Land Development Code (CodeNEXT) be provided by today, June 7, 2017, the Zilker Neighborhood Association Executive Committee has compiled the following comments and attachments about the draft code. While we appreciate the opportunity to provide this feedback on the first draft, we want to emphasize that any staff response to these comments will be somewhat like rearranging the deck chairs on the Titanic. Staff can respond to each and every comment received from our neighborhood, but the resulting new code will not be reflective of the goals of the Imagine Austin Comprehensive Plan (IACP) or of our neighborhood association membership. Our particular concerns and issues raised by this response should not be seen in any way as suggesting this draft code can be fixed simply by addressing these specific comments. This draft code is unacceptable and reflects systemic problems with the entire process utilized by the City in developing this draft code. These problems include:

• Selection of a code consultant team that was prejudiced to a particular form-based code outcome. Adding density to our urban core neighborhoods was clearly the goal of this effort from Day One.
• Manipulation of the entire process to focus almost entirely on a code that put "compact and connected" as the highest priority. Other IACP goals, such as preserving our neighborhood character, respecting neighborhood plans, assuring affordability for moderate and lower income households, and protecting the environment, have been ignored.
• Avoidance of controversial issues throughout the process. As a result, compatibility standards, neighborhood density, infrastructure costs, and impact on property taxes have not been addressed.
• Collusion of other City departments in formulating policy that reinforced the CodeNEXT agenda while ignoring other City efforts that would be in conflict with the CodeNEXT direction. For example, the City has produced the Housing Blueprint, but the Flood Mitigation Taskforce recommendations have not been pursued.

In particular, the following staff and consultant decisions have also made it much more difficult for the community to fully understand what is being proposed in the draft code.

• At more than 1,100 pages long, the draft code is based on a totally new framework (form-based coding), and even for code geeks, it is hard to understand just what is being proposed.
• The 1,100-page draft was released in full at one time, which has prevented the community from digesting appropriate components of the code in a rational sequence and with reasonable time for community review.
• The draft is not even complete. The Density Bonus provisions have not been released yet, and they could significantly change how the code would impact our neighborhoods.
• No clear graphical or pictorial content fully describes how the proposed transects will change entitlements by the proposed transects. Just how big of a structure can be built out in each transect is not forthcoming in a clear and easily understood manner.
• The transition between residential areas and commercial development now addressed by

compatibility standards is fundamentally changed with the emphasis on the "missing middle housing." There is no clear description of how the related residential and commercial transects regulate compatibility.

• There is no clear way to assess what has changed from the existing code, what was deleted, or what was moved around. Even though a "legislative format" was requested many times to allow the community to understand the extent of the changes proposed, staff and consultants refused to provide this as a means to track code changes.

All of these problems with the roll-out of the code contribute to the lack of trust in the process. But the avenues the staff and consultants have provided to gather community response to the draft code are also skewed. The following obstacles prevent real community input into the outcome of this process.

• The online input tool is so cumbersome and time consuming to use that it has proven to be a deterrent to public input, not just for the many who do not have computer access or the needed computer skills but also for those who do not have large blocks of free time. The result is a skewing of the input toward a tech savvy group (New Urbanist) rather than reflecting the community at large.

• The quantity of community input matters more than the quality of that input. As an example, some individuals can send in numerous comments online about one aspect of the draft, while a response from a community group representing hundreds of residents is counted only once as an input. The simple numeric assessment of comments may not reflect the real depth of community concerns.

• The community engagement meetings have largely been repetitive PR campaigns to promote the staff and consultant view on how bad the current code is and how great this process has been. There has been little actual responsiveness to issues raised at these meetings, with no follow-up to indicate that there has been any response from staff at all to concerns raised by the community.

• Time and time again, members of the Code Advisory Group have raised issues and asked for data and more details on the impact of the proposed code changes , but they have received no response from the staff or consultants.

• Because of this lack of clarity regarding just what the draft code will do, the City's own Planning Commission is not ready to provide specific comments to the draft code at this time.

• The Zoning and Platting Commission has not had time to assess the real impact of the draft code. The commission's recent resolution calling for an extension of the process is a clear signal to the City Council of the deep-seated problems with the code rewrite.

Down the road, as the new code is implemented, neighborhoods will inevitably discover major negative impacts on their communities, which we are not being allowed to address now. If there is not a significant recalibration of the proposed new code, the often stated desired result of the code rewrite-- to lessen community conflict-- will not be achieved. If we do not step back now and give ourselves sufficient time to get this right, our neighborhoods will be facing a long, drawn out debate over future code amendments to correct problems created by the new code, problems that will be points of contention in future political campaigns.

And while the rewrite was proclaimed as a way to simplify the development process, it should be noted that in the Zilker Neighborhood we currently have 25 different residential and commercial zoning districts. Under the proposed form-based code, we would have about 39 different zoning districts, and almost every property in our neighborhood would have entitlement changes, both more or less, which our association will have to analyze. Such complexity is not a simplification; certainly for an all-volunteer organization such as ZNA, it will not be easier for us to help our neighbors navigate the upheaval of the City's zoning and permitting landscape.

The fundamental question for our association is this: Is this proposed code responsive to what our neighborhood wants for our future? At the April ZNA quarterly meeting we focused entirely on CodeNEXT and presented what information we had at that time to our membership. At that meeting we also conducted a straw poll of our membership. The results listed below reflect what our community expects from CodeNEXT.

38 responses wanting more moderate and lower income housing, with only 2 responses wanting more housing for higher income levels

32 responses wanting more housing for families and empty nesters, with only 5 responses wanting more housing for singles

29 responses wanting to maintain the mix of existing housing types or more single-family homes, with only 4 responses wanting more apartments

30 responses wanting to maintain the limited use of residential property for business (home occupation) or reducing business uses, with only 5 responses wanting more business uses.

26 responses wanting to maintain existing compatibility standards or increase compatibility standards between residential and commercial properties, with only 8 responses wanting to decrease compatibility standards.

While this is not a statistically valid survey by any means, we do think it is reflective of our community's aspirations for maintaining the character of our neighborhood. Unfortunately, the draft code as currently presented is either unclear on what changes might occur to our neighborhood or does not lay out a plan that would achieve our community's desired outcomes. Data with regard to adverse gentrification and displacement have not been forthcoming, and what was available has now been removed as "inaccurate." The consultants have also indicated that their scenario modeling does not consider the future infrastructure costs needed to support the proposed new densities. So, there has been no assessment of how these zoning entitlement changes will provide more "affordability" to our existing residents.

After spending over $6 million on the development of this draft code, we still do not have a clear understanding of the proposed code's long-term impact on the quality of life and economic prosperity for all of our residents. The ZNA Executive Committee appreciates the opportunity to provide some specific responses to the proposed code, but our overall conclusion is that this draft code fails to achieve the aims of Imagine Austin. We hope that the City Council will also recognize that failure and understand the adverse impact that adopting even a "revised" code will have on our community.

Jeff Jack
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Zilker Neighborhood Association