

Planned Unit Development Ordinance

Staff Recommendations

October, 2015

Current Ordinance Language	Proposed Amendments	Staff Comments	Stakeholder Input	CDC Action ¹	Planning Commission Action
2.5.1. Limitation on Development. Except as provided in Section 2.5.2 (<i>Requirements for Exceeding Baseline</i>), site development regulations for maximum height, maximum floor area ratio, and maximum building coverage in a PUD with residential uses may not exceed the baseline established under Section 1.3.3 (<i>Baseline for Determining Development Bonuses</i>).	2.5.1. Limitation on Development. Except as provided in Section 2.5.2 (<i>Requirements for Exceeding Baseline</i>), site development regulations for maximum height, maximum floor area ratio, and maximum building coverage in a PUD with residential uses may not exceed the baseline established under Section 1.3.3 (<i>Baseline for Determining Development Bonuses</i>).	Strike “with residential uses”. A development accessing the density bonus should pay a fee in exchange for the benefit received.	<u>Require developments with non-residential uses to pay a fee-in-lieu of affordable housing units</u> - Planned Unit Developments with no residential use provide community benefits in the form of additional tax revenue and jobs - There is a nexus between the additional jobs created by commercial developments and an increased demand for affordable housing and therefore commercial developments receiving a density bonus should make a contribution to affordable housing - Adding a fee on non-residential uses could create a disincentive for participation in the density bonus program	Support staff recommendations for section 2.5.1.	Support staff recommendations for section 2.5.1.
2.5.2. Requirements for Exceeding Baseline. Development in a PUD with residential uses may exceed the baseline established under Section 1.3.3 (<i>Baseline for Determining Development Bonuses</i>) for maximum height, maximum floor area ratio, and maximum building coverage if:	2.5.2. Requirements for Exceeding Baseline. Development in a PUD with residential uses may exceed the baseline established under Section 1.3.3 (<i>Baseline for Determining Development Bonuses</i>) for maximum height, maximum floor area ratio, and maximum building coverage if:	Strike “with residential uses”. A development accessing the density bonus should pay a fee in exchange for the benefit received.		Support staff recommendations for section 2.5.2. A & B	Support staff recommendations for section 2.5.1.
A. the application for PUD zoning includes a report approved by the Director of the Neighborhood Housing and Community Development Department establishing the prevailing level of affordability of housing in the vicinity of the PUD, expressed as a percentage of median family income in the Austin metropolitan statistical area; and	A. the application for PUD zoning includes a report approved by the Director of the Neighborhood Housing and Community Development Department establishing the prevailing level of affordability of housing in the vicinity of the PUD, expressed as a percentage of median family income in the Austin metropolitan statistical area; and	This section was tied to language previously removed through the 2013 ordinance amendment process and the requirement is no longer relevant. Staff has recommended the requirement for this report be removed because it is not currently attached to any language that explains the purpose of the report. The language that the report would help determine if the MFI for rental properties be			Keep the prevailing level of affordability report Staff is comfortable with keeping the prevailing level of affordability report if language is added to specify that the report would only be used to inform considerations for a reduction in the maximum allowed percent MFI to a lower percentage. (i.e. lower than 80% MFI for ownership and lower than 60% MFI for rental).

¹ CDC = Community Development Commission

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		reduced from 80% MFI to 60% MFI was removed in 2013 when the code was amended to require that the affordable rental units be affordable at 60% MFI.			
B. the developer either:	B. the developer either:				
1. provides contract commitments and performance guarantees that provide affordable housing meeting or exceeding the requirements of Section 2.5.3 (<i>Requirements for Rental Housing</i>) and Section 2.5.4 (<i>Requirements for Ownership Housing</i>); or	1A. Developments with residential units, provide contract commitments and performance guarantees that provide affordable housing meeting or exceeding the requirements of Section 2.5.3 (<i>Requirements for Rental Housing</i>) and Section 2.5.4 (<i>Requirements for Ownership Housing</i>); or			Support staff recommendations for section 2.5.1.	Support staff recommendations for section 2.5.1.
2. makes donations for affordable housing under Section 2.5.5 (<i>Alternative Affordable Housing Options</i>).	2B. Developments with no residential units, donate the amount established under Section 2.5.6 (<i>In Lieu Donation</i>) for each square foot of bonus square footage above baseline to the Affordable Housing Trust Fund to be used for producing or financing affordable housing, as determined by the Director of the Neighborhood Housing and Community Development Department, makes donations for affordable housing under Section 2.5.5 (<i>Alternative Affordable Housing Options</i>).	Developments with no residential uses my pay a fee-in-lieu by right and are not required to secure City Council approval.	In place of a fee-in-lieu of on-site affordable units in commercial developments, a portion of the additional tax revenue created by new commercial developments could be dedication to the City’s Housing Trust Fund (ex: a percent of the bonus area)	Support staff recommendations for section 2.5.1.	Support staff recommendations for section 2.5.1.
2.5.3 Requirements for Rental Housing. If rental housing units are included in a PUD, dwelling units equal to at least 10 percent of the bonus area square footage within the PUD must:		No change to Section 2.5.3.			
A. be affordable to a household whose income is 60% or below the median family income in the Austin metropolitan statistical area;					
B. remain affordable for 40 years from the date a certificate of occupancy is issued; and					
C. be eligible for federal housing choice vouchers.					

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2.5.4 Requirements for Ownership Housing. If owner occupied housing is included in a PUD, dwelling units equal to at least five percent of the bonus area square footage within the PUD must be:				Support staff recommendations for section 2.5.4. A, B, & C	Support staff recommendations for section 2.5.4. A, B, & C
A. affordable to a household whose income is 80% or below the median family income in the Austin metropolitan statistical area;	A. affordable to a household whose income is 80% or below the median family income in the Austin metropolitan statistical area;				
	<u>B. remain affordable for 99 years from the date a certificate of occupancy is issued; and</u>	We believe the exclusion of an affordability period for ownership units was an oversight in the 2013 code amendments			
B. transferred to the owner subject to a shared equity agreement approved by the Director of the Neighborhood Housing and Community Development Department.	C B. transferred to the owner subject to a shared equity agreement, <u>land trust, or restrictive covenant</u> approved by the Director of the Neighborhood Housing and Community Development Department.	Explicitly states the range of tools available to administer an income restricted home ownership program			
2.5.5 Alternative Affordable Housing Options. Development within a PUD may exceed baseline standards as provided in Section 2.5.2.B.2 (<i>Requirements for Exceeding Baseline</i>) if the developer:	2.5.5 Alternative Affordable Housing Options. Development within a PUD may exceed baseline standards as provided in Section 2.5.2.B.2 (<i>Requirements for Exceeding Baseline</i>) if the developer: <u>Exceptions to contract commitments and performance guarantees that provide affordable housing meeting or exceeding the requirements of Section 2.5.3 (<i>Requirements for Rental Housing</i>) and Section 2.5.4 (<i>Requirements for Ownership Housing</i>) may be formally requested as follows:</u>			Support staff recommendations for section 2.5.5.A but recommends the deletion of section 2.5.5. B	
A. donates to the Austin Housing Finance Corporation land within the PUD that is appropriate and sufficient to develop 20 percent of the residential habitable square footage planned for the PUD, as determined by the Director of the Neighborhood Housing and Community Development Department; or	A. <u>Subject to approval by the Director of the Neighborhood Housing and Community Development Department, the developer may</u> donates to the Austin Housing Finance Corporation land within the PUD that is appropriate and sufficient to develop 20 percent of the residential habitable square footage planned for the PUD. as determined by the Director of the Neighborhood Housing and Community Development Department; or				

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B. subject to approval by the city council, donates the amount established under Section 2.5.6 (<i>In Lieu Donation</i>) for each square foot of bonus square footage above baseline to the Affordable Housing Trust Fund to be used for producing or financing affordable housing, as determined by the Director of the Neighborhood Housing and Community Development Department.	B. Subject to approval by the city council, <u>in developments with residential units, the developer may donate the amount established under Section 2.5.6 (<i>In Lieu Donation</i>) for each square foot of bonus square footage above baseline to the Affordable Housing Trust Fund to be used for producing or financing affordable housing, as determined by the Director of the Neighborhood Housing and Community Development Department. <u>A request for in lieu donation for all or a portion of the affordability requirement in Section 2.5.2.A must be submitted in writing to the Director of Neighborhood Housing and Community Development Department. The request must include supporting documentation sufficient to demonstrate the infeasibility of compliance with Section 2.5.2.A. Any request for fee in lieu must be presented to and approved by city council.</u></u>	Process and procedures will be established through department guidelines or rules. All requests for fee-in-lieu approval will go before City Council.	<u>Fee-in-Lieu option vs. Onsite only</u> - on-site affordable units requirement helps City to achieve geographic dispersion goals - fee-in-lieu option should be an administrative process rather than require City Council approval - in the staff recommended amendments the “infeasibility” required for fee approval should be tied to more than just economics alone - fee-in-lieu should also be considered in low opportunity areas with a high concentration of affordable units - staff should clarify language in recommended amendments to reflect that all requests for a fee-in-lieu approval will be taken forward to City Council - this could be stated explicitly in procedural guidelines or rules	Recommends the deletion of section 2.5.5. B	- Keep “infeasibility” language - Require a 2/3 vote for Council action to approve - Demonstrate the feasibility of investing the fee-in-lieu within the PUD area
2.5.6. In Lieu Donation. The amount payable under Section 2.5.5.B (<i>Alternative Affordable Housing Options</i>) shall be \$6 for each square foot of bonus square footage above baseline. Such fee will be adjusted annually in accordance with the Consumer Price Index all Urban Consumers, US City Average, All Items (1982-84=100), as published by the Bureau of Labor Statistics of the United States Department of Labor or other applicable standard as defined by the director of the Neighborhood Housing and Community Development Office. The city manager shall annually determine the new fee amounts for each fiscal year, beginning October 1, 2014 and report the new fee amounts to the city council.		No change to Section 2.5.6.			

Stakeholder Input	Community Development Commission Action (CDC)	Staff Comments
There should be a set process for determination of Planned Unit Development baseline zoning that is inclusive of many departments including Neighborhood Housing and Community Development	The CDC recommends that consideration be given to requiring a public hearing on baseline zoning prior to the first presentation to the Austin City Council	Staff agrees with stakeholder input and supports the CDC recommendation
The City should review the current policy related to requests for a fee-in-lieu payment refund		Staff agrees with stakeholder input and plans to address this policy for a developer incentive programs through the development of rules. This will allow for further stakeholder feedback on a proposed policy.
Could the options of all on-site affordable units, all fee-in-lieu, or a portion of each be handled administratively rather than the fee requiring City Council approval?	The CDC recommends the deletion of Section 2.5.5. B which would eliminate the In Lieu Donation option	
It is important to have the fee-in-lieu requests be approved by City Council because the affordability question should be a public conversation	The CDC recommends the deletion of Section 2.5.5. B which would eliminate the In Lieu Donation option	
The City should review the set fee-in-lieu amount for Planned Unit Developments		Staff would recommend working with an outside consultant to conduct an analysis of the PUD fee-in-lieu structure and make recommendations on this fee as well as other density bonus fees in lieu of onsite affordable units