



MEMORANDUM

To: Mayor and City Council

From: Gregory I. Guernsey, AICP, Director
Planning and Zoning Department *GG*

Subject: Council Resolution No. 20180628-125 regarding CodeNEXT Review, Model, and Testing Professionals

Date: April 10, 2019

This memorandum is in response to Resolution No. 20180628-125 directing the City Manager to convene a group of design and development professionals and technical experts to obtain review, modeling, and testing of regulations proposed in CodeNEXT.

With the approval of Resolution No. 20180809-111, "finding that CodeNEXT is no longer a suitable mechanism to achieve its stated goals," the Planning and Zoning Department is closing this item.

If you have any questions, please contact Greg Guernsey at 512-974-2387 or Jerry Rusthoven at 512-974-3207 or via email at greg.guernsey@austintexas.gov or jerry.rusthoven@austintexas.gov.

cc: Spencer Cronk, City Manager
Rodney Gonzales, Assistant City Manager
Jerry Rusthoven, AICP, Assistant Director, Planning & Zoning Department
Jorge Rousselin, Development Services Division Manager, Planning & Zoning Department

RESOLUTION NO. 20180628-125

WHEREAS, the City of Austin is one of the fastest-growing cities in the country, with a regional population expected to reach more than 4,600,000 by 2050 according to the City Demographer; and

WHEREAS, housing makes up the largest share of most Americans' spending, and continued escalation in housing costs forces individuals to spend less on food, health care, utilities, transportation, and other necessities; and

WHEREAS, the Joint Center for Housing Studies of Harvard University reports that a shortage of available, affordable housing threatens to displace long term residents as more affluent households pay a premium for homes that would traditionally be occupied by lower-income families; and

WHEREAS, a stable, functioning housing market is vital to Austin's economic strength and resilience to retain families in Austin; and

WHEREAS, the Austin Strategic Housing Blueprint reports the need for the construction of a minimum of 135,000 additional housing units in the City of Austin by 2027; and

WHEREAS, according to the White House Housing Development Toolkit released during the Obama Administration:

"The growing severity of undersupplied housing markets is jeopardizing housing affordability for working families, increasing income inequality by reducing less-skilled workers' access to high-wage labor markets, and stifling GDP growth by driving labor migration away from the most productive regions"; and,

WHEREAS, the Imagine Austin Comprehensive Plan endeavors to:

- Distribute a variety of housing types throughout the city to expand the choices available to meet the financial and lifestyle needs of Austin's diverse population and to increase rental and ownership opportunities for singles, seniors, individuals with disabilities, and multi-generational families; and
- Protect neighborhood character by providing housing opportunities for existing residents who are struggling with rising housing costs to continue living in their existing neighborhoods; and

WHEREAS, the Code Diagnosis released in 2014 stated that, "the LDC update affords in improving the organizational structure within Planning and Development Review, it offers a similar chance to evaluate how all city departments interact in the permitting process. Currently, all city departments are autonomous; there is no priority to the regulations they enforce. Consequently, there is no way to resolve conflicting requirements between departments, and no encouragement of creative problem-solving"; and

WHEREAS, research released by the Federal Transit Administration states, "Increased density in station areas not only supports transit but also may accomplish other goals, including reducing urban sprawl, reducing congestion, increasing pedestrian activity, increasing economic development potential, realizing environmental benefits, and building sustainable communities"; and

WHEREAS, in order to achieve the vision established by the Imagine Austin Comprehensive Plan and the Austin Strategic Housing Blueprint we must ensure

that we effectively calibrate non-zoning regulations with Austin's current and future housing needs and the goals of Imagine Austin; and

WHEREAS, while the Planning Commission provided a final report on the entirety of CodeNEXT, its review of Chapter 23-4 (*Zoning Code*) was more thorough and robust than its review of non-zoning regulations, most notably Chapters 23-1 through 23-3 and Chapters 23-5 through 23-13; and

WHEREAS, a frequent refrain throughout public comment on CodeNEXT has been uncertainty as to how the Code as a whole will impact properties and, in particular, the extent to which non-zoning regulations may affect the number of developable residential units otherwise allowed by Chapter 23-4 (*Zoning Code*); and

WHEREAS, in light of these limitations, it is recognized that additional review and testing of non-zoning regulations in CodeNEXT would aid Council in better understanding the impact of CodeNEXT and the degree to which it furthers Imagine Austin and other stated Council goals; and

WHEREAS, several community groups and stakeholders, including without limitation, the Austin chapter of the American Institute of Architects and other technical experts, have convened to review the non-zoning regulations included in CodeNEXT in order to test the workability and practical application of CodeNEXT and produced reports which include pointed and specific recommendations for improving CodeNEXT; and

WHEREAS, further vetting and evaluation of the non-zoning regulations, including modeling of their combined impact on the capacity, feasibility and affordability of CodeNEXT is vital to ensuring Austin's current and future market rate and affordable housing needs are met; **NOW, THEREFORE**,

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF AUSTIN:


- (1) The City Manager is directed to convene a group of design and development professionals, including architects, technical experts, and environmental experts, to obtain professional review, modeling, and testing of the latest draft of CodeNEXT and the recommendations of City commissions, with a particular focus on:
 - (a) the impact of non-zoning regulations on achieving the unit capacity yields, otherwise available under Chapter 23-4 (*Zoning Code*), on the goals of Imagine Austin, and on the financial feasibility on tested projects; and
 - (b) any conflicts between different regulations or requirements imposed under CodeNEXT, along with recommendations for resolving these conflicts and making the Land Development Code simpler and more predictable.
- (2) In obtaining the review, modeling, and testing required under Paragraph (1), above, the City Manager shall dedicate needed staff and consulting resources and shall ensure an open and transparent public process that mirrors the Texas Open Meetings Act by:
 - Providing notice of meetings;
 - Conducting meetings in publicly accessible location; and
 - Providing a record of the meeting, including a list of participants.
- (3) A person who is registered or required to register as a lobbyist under City Code Chapter 4-8 or who is employed by a person registered or required to register under City Code Chapter 4-8 is prohibited from participating in the group of design and development professionals.

- (4) The City Manager shall obtain and provide to the City Council the results of the review, modeling, and testing required under Paragraph (1), including staff responses to all technical determinations, by no later than August 31, 2018.

BE IT FURTHER RESOLVED:

The City Council affirms that CodeNEXT should not be implemented until confirmation that the new Land Development Code works and all necessary training, technology updates, organizational changes, and updates to criteria manuals have been finalized.

ADOPTED: June 28, 2018

ATTEST: 
Jannette S. Goodall
City Clerk

RESOLUTION NO. 20180809-111

WHEREAS, the purpose of the comprehensive rewrite of the Land Development Code, known as CodeNEXT, was to promote each of the priority programs and the adopted policies and goals of the Imagine Austin Comprehensive Plan and to comply with Article X, Sections 1 and 5 of the City Charter which requires that Austin's land development regulations be consistent with the comprehensive plan; and

WHEREAS, a constantly amended timeline, spanning over five years, a combination of significant disruptions to the CodeNEXT process including major changes to our city leadership and transition to a new 10-1 district system of representation, adoption of the Strategic Housing Blueprint and Strategic Direction 2023 Plan, as well as multiple drafts with major revisions between each draft, have in our community led to significant confusion and lack of confidence in the process that CodeNEXT can achieve its stated goals; and

WHEREAS, many residents, businesses, and stakeholder groups throughout the community have expressed significant concerns that the CodeNEXT process has not reflected their input or produced a draft code they believe is consistent with Imagine Austin or adequately addresses Austin's challenges; and

WHEREAS, over the course of the CodeNEXT process concerns have been raised about the reliability of the data provided to Council, including forecasting models and housing capacity analyses, which led Council to direct the City Manager through Resolution No. 20180628-125 to conduct additional testing and modeling of the latest draft of CodeNEXT and the recommendations of the City Commissions by August 31, 2018; and

WHEREAS, City staff informed Council through a July 24, 2018 Memorandum about challenges encountered in the testing process that make it difficult to meet the August 31, 2018 deadline and that Council would be provided a status update, including an anticipated timeline for the completion of the testing effort, once the participants and meeting dates are set; and

WHEREAS, committed volunteers from the Code Advisory Group, Planning Commission, Zoning and Platting Commission, other City Commissions, and City of Austin residents have dedicated countless hours to the CodeNEXT process leading to informative and valuable work, insight, and input; and

WHEREAS, the process of a comprehensive rewrite of a Land Development Code is necessarily complicated and requires consistent executive leadership from staff, a stable political framework, and reliable analytical data;
NOW THEREFORE,

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF AUSTIN:

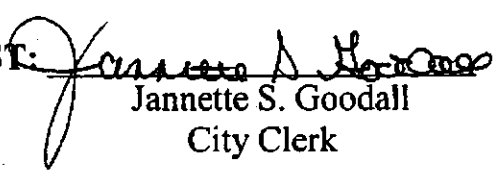
The Council finds that due to a combination of significant disruptions to the process, CodeNEXT is no longer a suitable mechanism to achieve its stated goals or address the critical challenges currently facing our City.

BE IT FURTHER RESOLVED:

The City Manager is directed to develop and propose a new process leading to a Land Development Code that achieves the stated goals of the City as outlined in the *Imagine Austin Comprehensive Plan*, the *Strategic Housing Blueprint*, *Austin's Watershed Protection Master Plan*, and the *Austin Strategic Direction 2023 Plan*; and considers any recommendations the City Manager may derive from the findings in any future City Auditor's special report that may be undertaken.

ADOPTED: August 9, 2018

ATTEST:


Jannette S. Goodall
City Clerk