



LAND DEVELOPMENT CODE REVISION

SUPPLEMENTAL STAFF REPORT – NO. 1

To: Mayor & Council
Planning Commission

From: LDC Team

Date: October 25, 2019

Subject: 1. Text & Map Revisions
2. Additional Provisions
3. Items for Further Consideration

On October 4, 2019, staff published the draft Land Development Code (LDC) Revision to the LDC [project homepage](#). The draft LDC was accompanied by a [staff report](#) comprehensively describing the proposed code and zoning map, with reference to the policy guidance approved by Council on May 2, 2019.

In response to feedback from the community, discussions at City Council work sessions, Planning Commission, and various other City Boards and Commissions, Benchmark Testing and Public Testing Sessions, and further internal review, this supplemental staff report proposes several revisions to the October 4 draft and highlights issues that staff believe warrant further consideration. The report is divided into three sections:

Part 1. Map & Text Revisions

Pages 2-9

Describes revisions recommended by staff to the proposed zoning map and code text.

Part 2. Additional Provisions

Pages 9-10

Summarizes proposed revisions to: (1) the Growth Concept Map of the *Imagine Austin Comprehensive Plan*, as set forth in Appendices A and A-1; and (2) Chapter 23-7 (*Signage*), as set forth in Appendix B.

Part 3. Items for Further Consideration

Pages 10-11

Highlights issues that warrant further review and discussion.

We hope this report is useful to Council and the Planning Commission, as well as the community members participating in the public process for the LDC Revision. For more information on upcoming events, as well as code drafts and other valuable resources, please visit the LDC Revision homepage at: <http://www.austintexas.gov/ldc>

1. MAP & TEXT REVISIONS

Following publication of the draft LDC Revision on October 4, 2019, the LDC team received community input through open houses, district-level town halls, neighborhood and stakeholder meetings, office hours, and public testing focused on design outcomes. Concurrent with these efforts, staff continued internal review of the draft code and zoning map to identify errors and potential areas of improvement.

Based on this review process, staff proposes the map and text revisions described below and recommends that Planning Commission incorporate them into its report to the City Council. The proposed revisions fall into three categories:

- **Substantive Revisions.** Revisions that change the effect of particular regulations or reflect a shift in staff's recommended approach to implementing Council's May 2nd policy direction.
- **Clarifications.** Revisions that clarify staff's original intent, correct ambiguous provisions, or make minor, non-substantive improvements.
- **Corrections.** Proposed revisions that correct errors in regulatory standards or proposed mapping classifications of individual properties.

Map Revisions

- ***Correction of Map Errors***

To address errors in the zoning classifications proposed for individual properties, staff created a document entitled "LDC Map Corrections" that recommends several revisions to the draft zoning map published on October 4. The document, [available here](#), identifies the basis for all proposed changes, which include errors in applying the criteria for mapping transition areas, in applying comparable equivalent zoning, and in use of the Former Title 25 (F25) zone, as well as errors of a more technical nature. This will be updated on an ongoing basis as errors are identified.

Properties for which a map revision is proposed are identified by "Property ID." The interactive "zoning comparison" tool, [available here](#), can be used to determine the Property ID for particular addresses.

- ***Transition Areas Affected by Steep Slopes***

Staff is reviewing the potential consequences of mapping transition zones on parcels with particularly steep slopes that may prohibit or severely restrict development. Among the issues being considered is the potential impact that loss of compatibility standards on adjacent parcels may have on slope stability.

- ***Substantive Revisions to Transition Area Mapping Criteria***

In addition to identifying technical errors and geographical challenges, the LDC staff team considered feedback from the community regarding the overall approach to mapping transition areas described in the October 4 staff report. Based on that feedback, staff is considering greater context-sensitivity for the mapping of transition areas that are adjacent to residential corridors predominantly developed with single-family rather than commercial or multi-family use, as well as continued refinement to the approach in areas susceptible to gentrification and displacement.

Therefore, staff is considering the following:

- Reduce the depth of the transition zone application (i.e. R4, RM1) on predominately residential corridors by adjusting the “2 to 5 lots deep” count to include the residential properties fronting the corridor. This would result in the citywide reduction of transition zone application depth by one lot on predominately residential corridors.
- Continue to reduce transition areas and the application of transition zones in areas susceptible to gentrification. Areas identified as being most susceptible to gentrification in the UT Uprooted Study will be considered to be reduced more than areas in dynamic or late stages of gentrification.
- Increase the application of missing middle zones in “High Opportunity Areas” including mapping transition zones adjacent to Imagine Austin Activity Centers and mapping R3 zones on corner lots. In the LDC Revision Draft staff applied the R4 zone in portions of high opportunity areas located along existing bus routes that are not a Transit Priority Network.

The rationale for applying missing middle zones in these high opportunity areas is based in increasing housing choice and increasing housing capacity in a manner that also implements our overarching transportation policy of achieving 50/50 mode share by 2039.

Text Revisions

The code revisions described below reflect input from a wide range of community and stakeholder groups, as well as ongoing interdepartmental review. The proposals consist primarily of technical improvements, clarifications, and substantive changes that staff believes will better align the draft LDC with Council’s May 2nd policy direction.

The proposed revisions are organized by topic, with the purpose and effect of each revision clearly described. If this supplemental staff report is approved by Council at first reading, these revisions will help guide preparation of the subsequent LDC draft. Typographical errors, including mistakes in spelling, grammar, and citation, as well as minor textual cleanups, are compiled separately in [this document](#), which will be updated on an ongoing basis and corrected in subsequent drafts.

— *Affordable Housing*

- | | | |
|------|--|-------------------|
| AH-1 | <u>Planned Unit Developments</u> | <i>Correction</i> |
| | Revise Section 23-3C-9130 (<i>Planned Unit Development Zone</i>) to reinstate more specific affordability provisions, modeled on current code, as Tier 2 superiority criteria in Subsection (E). | |
| AH-2 | <u>Affordability Unlocked</u> | <i>Correction</i> |
| | Revise the applicability provision in Section 23-3D-10090 (<i>Affordability Unlocked Density Bonus</i>) to include the Former Title 25 (<i>F25 Zone</i>), so that development on properties zoned F-25 may qualify for the Affordability Unlocked density bonus. | |
| AH-3 | <u>Delete Duplications</u> | <i>Correction</i> |
| | Revise Section 23-4E-1040 (<i>Affordable Housing Bonus Calculation</i>) to delete the tables contained in Subsections (C)-(F), which are duplicates of Subsection (B). | |

- AH-4 Supplemental Edits to Bonus Program *Clarification*
- 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.
- AH-5 Rename the “-A” Subzone *Clarification*
- 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.
- ***Austin Energy***
- AE-1 Removal of Utilities Prior to Demolition or Relocation *Clarification*
- 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.
- AE-2 Subdivision Requirements *Clarification*
- 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*).
- AE-3 Wording Changes *Clarification*
- 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.
- ***Austin Fire Department***
- The changes described below reflect input from the Fire Marshall on how the LDC can better address wildfire risk through changes to the development review process.
- AFD-1 Project Assessments *Substantive Revision*
- 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.
- AFD-2 Emphasize Importance of Mitigating Wildfire Risk *Substantive Revision*
- Revise Section 23-4A-1010 (*Purpose*) to add mitigation of wildfire risk to the list of enumerated purposes in Subsection (B).
- AFD-3 Heightened Wildfire Protections for Hill Country Development *Substantive Revision*
- 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.”

AFD-4 Fire-Resistant Fences & Walls

Substantive Revision

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.

— ***Austin Water Utility***

AWU-1 Requirements for Service Extension Requests

Substantive Revision

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.

AWU-2 Determination of Service Units

Correction

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.

— ***Board of Adjustment***

These proposed revisions address concerns raised by BOA Chair Don Leighton-Burwell in his October 18, 2019 letter to Council, and in subsequent discussions with staff on how the draft LDC Revision may impact BOA.

BOA-1 Type 2 Special Exception

Substantive Revision

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.

BOA-2 Notification Requirements

Substantive Revision

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.

— ***Commercial Zoning Regulations***

COM-1 Private Frontage

Clarification

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

— ***Compatibility***

CMP-1 Measuring Compatibility

Clarification

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.

CMP-2 Compatibility Allowances

Clarification

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

— ***Demolition Permits***

DEM-1 Exemption for Interior Demolitions *Substantive Revision*

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

— ***Height***

HGT-1 Residential 4 (R4) Height *Clarification*

Revise applicable R4 standards to clarify that bonus height, for purposes of the affordable housing density bonus, applies to both top plate and overall height.

HGT-2 Top Plate *Clarification*

Revise Section 23-12A-1030 (*General Definitions*) to clarify that the definition of “top plate” applies only to the Residential House-Scale Zones and not to the general concept of top plate.

— ***Historic Regulations***

HIST-1 Restrictions on Permit Issuance *Substantive Revision*

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.

— ***Landscape Requirements***

LSC-1 Surface Parking Lot Perimeter Landscape *Substantive Revision*

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.

LSC-2 Submittal Requirements *Substantive Revision*

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

LSC-3 Front Yard Planting *Substantive Revision*

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.

LSC-4 Vegetated Roof *Substantive Revision*

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

— ***Lot Lines***

LOT-1 Front Lot Line *Clarification*

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.

LOT-2 Side Lot Line

Clarification

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.

— ***Missing Middle Housing***

MM-1 Type 3 Short-Term Rentals

Substantive Revision

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.

MM-2 Impervious Cover for Two-Unit Residential

Substantive Revision

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. In staff’s view, the additional impervious cover is not necessary to accommodate the construction of two units in an R4 or RM1 zone because other residential zones that allow two units on a similarly sized lot are limited to 45% impervious cover.

MM-3 Unified Development Agreements

Clarification

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.

— ***Parkland Dedication***

PLD-1 Private Parkland

Clarification

Revise Section 23-4B-2030 (*Private Parkland*), Subsection (A), to require that easements granting access be approved by the city attorney.

PLD-2 Private Parkland

Substantive Revision

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.

— ***Parking Requirements***

PRK-1 ADA Parking Calculations

Clarification

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.

PRK-2 ADA Parking Applicability

Clarification

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.

— **Process**

PRO-1 Community Organizations

Clarification

- 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*).

PRO-2 Ex Parte Contacts

Clarification

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.

— **Residential Zoning Regulations**

RES-1 Density

Clarification

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.

RES-2 Preservation Incentive

Substantive Revision

- 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.

RES-3 Private Frontage

Clarification

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.

— **Sign Regulations**

SGN-1 Landscape Wall Signs

Correction

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

SGN-2 Wall Mural Signs

Correction

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

— **Subdivision**

SUB-1 Remainder Tracts

Substantive Revision

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.

— ***Transportation***

TRNS-1 Sidewalk Requirements

Clarification

- 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.

— ***Water Quality***

EV-1 Save Our Springs Ordinance

Substantive Revision

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.

EV-2 Project Assessments

Clarification

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.”

EV-3 Lake Austin Setbacks

Clarification

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.

EV-4 Commercial Recreation Shoreline Setback

Clarification

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.

2. ADDITIONAL PROVISIONS

Proposed Growth Concept Map Amendments

As explained in the LDC Revision staff report issued on October 4, 2019:

The “Growth Concept Map” is an adopted component of the Imagine Austin Comprehensive Plan and is used to designate transit corridors and activity centers for

growth and development to accommodate new residents, jobs, open space and transportation infrastructure and related growth patterns. The map is used in the LDC Revision (Division 23-3A-5), together with the Transit Priority Network from the Austin Strategic Mobility Plan, as a reference point for regulatory requirements that are triggered by adjacency to a corridor or location within a center.

Staff plans to propose an update to the map concurrent with public hearing process for the LDC Revision, to reflect proposed changes affecting growth and development along corridors and in activity centers.

The proposed amendments are attached here as Appendix A (*Proposed Amendments to the Imagine Austin Comprehensive Plan*) and Appendix A-1 (*Proposed Amendments to the Imagine Austin Comprehensive Plan—Growth Concept Map*).

Proposed Revisions to Chapter 23-7 (Signage)

Exhibit B contains revisions to proposed Chapter 23-7 (*Signage*) that would allow limited, temporary off-premise advertising in certain circumstances defined in the amendments. The proposed code revisions are recommended by staff in the Planning and Zoning Department in response to prior Council initiation.

3. ITEMS FOR FURTHER CONSIDERATION

The items discussed below present unique challenges and opportunities that staff has concluded deserve further consideration. The LDC Team will be available during the upcoming legislative process to assist the Planning Commission and City Council in considering potential options for addressing these issues.

ZONE STANDARDS

— *Missing Middle Zones*

Staff is considering the need for a new zone analogous to the current SF-6 zoning district that can provide a range of missing middle housing types on larger lots with a density based on units per acre instead of units per lot as in the R4 and RM1 zones.

— *Missing Middle Height*

Staff is considering revision to Section 23-3C-3130 (*Residential House-Scale 4 Zone*) and Section 23-3C-4060 (*Residential Multi-Unit 1 Zone*) to limit height to 35 feet overall (rather than 40 feet in RM1 or 45 feet with a bonus in R4) for projects with two units or less. In staff's view, the additional height is not necessary to accommodate the construction of two units in an R4 or RM1 zone. Other residential zones that allow two units on a similarly sized lot are limited to 35 feet in overall height.

— *Preservation Incentive*

Staff is reviewing the extent to which a dwelling unit preserved for the Preservation Incentive:

- May be modified or altered
- Must remain preserved (length of time in years)

— ***Cottage Courts***

Staff is reviewing the feasibility and flexibility of the Cottage Court use, to ensure usability for a range of lot sizes and dwelling unit configurations.

ON-SITE DRAINAGE & WATER QUALITY CONTROLS

Staff will continue to evaluate the potential impact of on-site drainage and water quality controls on housing capacity and consider whether to enable additional sites to participate in the Regional Stormwater Management Program and/or water quality payment-in-lieu program.

CONTINUED PUBLIC ENGAGEMENT AND NEXT STEPS

The LDC team is committed to continuing this iterative process as we continue to engage with the public through town halls, office hours, and Planning Commission deliberations. Through additional feedback and discussions, staff will continue to evaluate and review the Code, recommending additional changes through supplementary staff reports and on-going communication with the Planning Commission and Council.