

**CM Pool Policy Directions for Land Development Code Revision Meeting
Monday, December 9, 2019**

1. Trees – Protecting our Canopy & Promoting Climate Resiliency

We are hearing from our longtime environmental advocates as well as from ordinary folks that we might be endangering one of our greatest natural resources that is a key to meeting our climate resiliency goals.

I was pleased to see the Planning Commission recommendation to increase our tree canopy from 35% to 40% and be spread equitably across our city.

I'd like to see us go farther and be truly ambitious with 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. This would align with our climate plan and resiliency goals.

As for the code changes to the heritage tree ordinance on the corridors, let's look at alternatives – restoring public accountability while also providing more incentives and flexible site development standards to encourage tree preservation on site.

Direction:

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.

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.

To prevent a broader loss of our heritage tree canopy over time, reserve an administrative removal process for "major transit corridors" such as Lamar, Burnet, or Guadalupe instead of across all "corridors."

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.

Related to:

PC Recommendations

I-115. Tree Canopy.

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%.

Council's May 2 Policy Document
Question 2.1.d. Housing Capacity

In general, housing affordability should be the primary policy driver of code and mapping revisions and the Manager should explore: i. options to allow some level of administrative variances for some building form regulations (setbacks, height, building cover, etc.) to help maximize the shared community values of housing, tree preservation, parks, and mitigating flood risk; and ii. the feasibility of how regulations can overlap (e.g., how a drainage field can also safely serve as open space).

Question 2.2. Housing Capacity. Code Text.

Code revisions to provide additional housing capacity should include: c. Non-zoning regulations should provide flexibility to allow for higher unit yields for parcels within activity centers and activity corridors. The code should create alternative equivalent means to ensure the balance of needs, while protecting environment and sustainability (landscaping, parkland and tree preservation), public safety, transportation, utility and right of way needs. Review non-zoning regulations related to Austin Energy and Austin Water (other than regular fees) that can significantly impact the cost of development. Review and suggest changes to non-zoning regulations that may encourage demolition rather than the redevelopment of existing structures.

Staff's 11/25 Supplemental Report No. 2

TRP-1 Limitation on Administrative Variances for Heritage Trees (Correction), p.14

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.

2. Ensuring Protest Rights and Process for our Community

Direction/Amendments language to come.

3. Reserving Impervious Cover in R4 & RM1

We've talked a lot about impervious cover, and like other site development standards such as height allowances, FAR, or parking reductions, impervious cover is a big part of the entitlements equation.

I was pleased to see staff recommend reducing the impervious cover in R4 and RM1 when the redevelopment only provides two units, but I think we need to look at that problem from the other way around.

We are not being very ambitious with our affordable housing goals in this code, and I join other colleagues in urging us not to give away entitlements without gaining community benefits such as on-site affordable housing, in a variety of housing types spread throughout our communities.

I would like to see staff return to us with scenarios regarding the reservation of impervious cover increases in R4 and RM1 for the provision of on-site affordable housing units. This would keep the impervious cover at current allowances of 45%, but if affordable units are provided on site, then the R4 could go to the staff-proposed 50% and RM1 to 60%.

Direction:

Please provide scenarios to consider holding impervious cover limits at 45% in R4 and RM1 and only raising the limit (in varying amounts) with the provision of on-site affordable housing units.

Related to:**Staff's 11/25 - Supplemental Report No. 2****RES-6. Graduated Impervious Cover**

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

MM-2 Impervious Cover for Two-Unit Residential (Staff & PC Recommendation)

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.

PC Recommendations**R35. Impervious cover reduction for single units**

Reduce impervious cover for single units in all zones where 45% down to 40% whichever is greater. (Rebonds to 45% with ADU, duplex, or other 2-unit form.) Establish rules that grandfather in current allocation of impervious cover.

4. Increasing Multi-Bedroom Housing to Benefit Families with Children and Other Multi-Generational Households

We have an opportunity to explore ways, in this code revision, to provide multi-bedroom units for our families with children and other multi-generational households.

We need help from our staff to look at the possibility of a creating a multi-bedroom requirement in residential zones, starting with R4.

Further, I'd like staff to examine how these requirements might be targeted to benefit our urban public schools.

Direction:

Review a potential multi-bedroom requirement for the residential zones starting with R4 and provide a method to target these requirements in areas within ½ mile of our urban public schools.

Related to:**Council's May 2 Policy Document****Addition 1. Planning. p.16**

Planning Process Criteria: Include consideration for inhibiting displacement, preserving cultural and historic assets, promoting multi-generational housing, and support neighborhood schools, particularly schools with under-enrollment or in areas of rapid displacement.

Addition 2. Affordable Housing. p. 18

Increase the Supply of Multi-Bedroom Housing for Families with Children

Strategic Housing Blueprint

Key Actions to Support Community Values

Prevent Households from Being Priced Out of Austin. P21

Increase the Supply of Multi-Bedroom Housing for Families with Children:

Imagine Austin calls for a city that works for people of all ages, including families with children. The number of housing units available with multiple bedrooms can constrain the choices for families; however, families also consider a number of other factors such as schools, and the availability of family oriented services and amenities. The city should evaluate CodeNEXT to ensure it is providing an adequate supply of multi-bedroom housing throughout the community, creating diverse housing types and unit mix. This could provide added housing stock for families and help Austin retain families and support under-enrolled schools.

- Explore ways and develop a goal for the percentage of multi-bedroom housing in neighborhoods which can create age-diverse neighborhoods;
- Explore options to increase multi-bedroom housing in a variety of areas, including on publicly-owned land and on corridors and centers near schools. *Such options could include setting minimum bedroom requirements and policies that encourage dwellings for multi-generational households.*

5. Streamlining Permitting & Possible Programs to Add On & Stay in Place

It seems clear that the only people who can afford to take advantage of the new proposed entitlements in the R4 and RM1 transition zones are developers, outside investors, equity firms, and the like.

I'd like us to work on a way to ensure that ordinary homeowners of all incomes are able to use their new entitlements to build more units and remain in place. And we especially need to facilitate the participation of vulnerable communities in this type of program.

So, I'm bringing forward a direction that is already supported in our community to streamline permitting and establish pre-approved designs for Accessory Dwelling Units, micro-units, and other small housing types to facilitate development of new residential entitlements for ordinary homeowners on their properties.

Further, I would like to staff to look at methods to assist historically disadvantaged and low-income communities to add housing units on their properties through this streamlined process as well as through financial assistance and community partnerships.

Direction:

Explore providing a streamlined permitting process for a menu of pre-approved ADU (internal and detached), micro-unit, and other small housing types. Review methods for qualified homeowners to participate in developing additional units through financial assistance as well as through facilitated community partnerships.

6. Preserving Existing Affordable MF

We need to find a way to preserve our existing market affordable properties and ensure their success and maintenance into the future.

I'd also like to ask staff to review their data to find existing market affordable housing projects from 4-25 units to make sure they have not been unintentionally upzoned. We have an abundance of these valuable assets in my district and I want to make sure that we are not triggering redevelopment through our mapping.

We should look at a variety of ways to "right size" the zoning on these properties, especially if we want to stabilize them to remain long into the future.

Direction:

Deliver scenarios of different ways of zoning existing market affordable multifamily to answer the question: Which scenarios trigger redevelopment?

Scenarios should include options such as:

1. Map to current use with/without a bonus
2. Map proposed zoning with/without bonus

Related to:**Council's May 2 Policy Document****Question 2.2.g. Housing Capacity (p.8)**

Identifying and implementing opportunities throughout the code to encourage preservation of existing housing, especially market affordable housing.

Addition 2. Affordable Housing (p.18)

Preserve 10,000 affordable housing units over 10 years.

PC Recommendations**A19 Naturally occurring affordable housing in gentrifying areas**

Increase protections for naturally occurring affordable housing in all parts of the city. All naturally occurring multi-family affordable housing (as defined by staff) in all parts of the city should not be allowed a bonus unless rezoned at a later date.

Staff Response (Do Not Oppose):

Staff has not proposed upzoning multi-unit housing determined to be market-rate affordable based on parcel-level data on rental rates. However, bonuses are built into the zones, and the only way to prevent the use of bonuses would be through the application of F25 zone.

7. Ensure Support for Monitoring of Affordable Housing Units

As we look to add almost 9,000 affordable housing units, we need to build monitoring capacity with adequate funding to support NHCD in this effort.

I'd like us to consider a monitoring and compliance fee for participants in our affordable housing bonus programs; I compare this to the type of fees we collect for other administrative services, such as permitting and inspections, or zoning applications. We should look at whether such a fee would align with current practices or whether we need to introduce new enabling policy.

Direction:

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

Related to:

PC Recommendations

I-15 Monitoring and compliance fee for affordable housing program participation.

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

Staff Response (Partially Agree):

Because newly utilized land use restriction agreements address non-compliance with reporting/monitoring and affordability requirements, NHCD will wait to make a decision about monitoring fees or fines for non-compliance.

8. Ensuring Protest Rights and Process for our Community

Direction:

- A. **AMENDMENT 1: RECOGNIZING PROTEST RIGHTS EXIST WITH COMPREHENSIVE REVISIONS.** The City of Austin shall recognize and give full legal effect to property owners' valid petition rights to protest the rezoning of their or nearby properties made pursuant to Texas Local Government Code, Section 211.006(d) whether those rights are asserted in connection with the rezoning of one property, multiple properties, or through comprehensive revisions of the zoning map, and the City shall require a supermajority vote of 3/4th vote of the entire Council for the protested rezoned properties to become effective.
- B. **Amendment 2: AMENDMENT TO PROTECT AUSTIN PROPERTY OWNERS' VALID PETITION RIGHTS SHOULD A COURT HOLD THAT THE CITY'S LEGAL POSITION IS WRONG.** The City shall not finalize the rezoning of properties under the proposed LDC map until a Court has entered a final order on whether protest rights exist for a comprehensive LDC revision. If a Court rules that property owners have protest rights under a comprehensive revision, the City shall post conspicuously and clearly the finding on its website, do extensive public outreach, and allow Austin property owners at least 60 additional days from the order's date to file their valid petition forms pursuant to Texas Local Government Code, Section 211.006. Valid petitions filed during this period shall be considered timely filed.

9. Prioritizing SMART Housing Project Review

CM Pool TPs:

I'd like to bring an item forward to prioritize SMART Housing projects and their expedited review. This is something the affordable housing community would like us to consider, and while I have actual language here, I'd like to make sure our staff are able to review this and consider its effectiveness.

Direction:

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

Specific Language provided by housing groups:

23-3E-4060 Prioritized Expedited Review.

Prioritized Fast-Track review means a S.M.A.R.T. Housing project under this section is reviewed before all other applications including those where an expedited review fee has been paid. Prioritized fast-track review shall include all City of Austin departments including, but not limited to Watershed Protection, Development Services, Austin Energy, Water Utilities, and the Austin Fire Department.

NOTES:

The primary purpose of the SMART Housing Program to incentivize market development to include restricted affordable housing units where other Affordable Housing Bonus Programs (AHBP) are ineffective or to increase the number of affordable units within an AHBP area. It does this by reducing development costs and development time by waiving fees, reimbursing specific expenses and by expediting plan review, building inspections and other City services. In order for the program to work effectively, the benefits of waived fees, reimbursements and expedited review must compensate the developer for reduced revenue from rent or sale of the housing being developed. It, therefore, is essential that the value of waived fees, cost reimbursement and expedited service is sufficient for SMART Housing to be a successful program.

10. Facilitating Residential Cooperatives in the Code

Direction:

1. Review the definitions for “Group Residential” and “Co-Housing” in all Residential and MU/MS zones and consider the distinctive structure of cooperatives as compared to conventional dwelling units. For example, consider restoring the exemption from occupancy limits in the definition for “Group Residential” that we currently have in the code, and since “Co-Housing” is new, consider inserting a similar exemption in its definition.

Suggested Language: “**GROUP RESIDENTIAL.** The use of a site for occupancy by a group **of more than six people** who are not a family on a weekly or longer basis in which sleeping units are separate from, but located in the same building, common areas that include kitchen, laundry, and other shared facilities.”

2. Consider allowing “Group Residential” by right in R2B and R2C and align “Group Residential” and “Co-Housing” in the “R” zones with the “Adult Care – Large” (7 adults and up), which is allowed by CUP in all residential zones.