

## Memo

### Comments on proposed LDC Changes Scheduled for Discussion at the 11.30.21 Council meeting

( Michael Curry, Fred Lewis and Barbara McArthur 11.28.21)

#### General

Legal. As you know, but to recap, the right of a property owner to protest is triggered if there is “a proposed change to a [zoning] regulation or boundary...” and those changes would apply to that property owner’s property or nearby property. Texas Local Gov Code Section 211.006(d). Zoning regulations include changes in the zoning’s use, height, setbacks, FAR, density, compatibility, etc. Tex. Local Gov Code, Section 211.003. Protest rights apply even if the proposed code changes apply to different or multiple zoning classifications. If a property is “reclassified” from one zoning district to another then individual notice under the same parameters must be given.

#### Select Spreadsheet Items (underlined)

##### A. Land development code changes to allow residential uses in commercial zones.

1. We support the concept of allowing residential uses on commercial properties, as a way to incentivize affordable units, subject to compatibility standards as they are currently written. It is worth remembering that the commercial districts were expressly designed in conjunction with the compatibility standards. The commercial districts were made less restrictive because of the compatibility standards. Additionally, in the subsequent decades, commercial zoning has been granted where it otherwise would not be granted because of the ameliorating effect of the compatibility standards. The mayor’s proposed corridor “compatibility adjustment” conflicts with this proposal (which he is co-sponsoring). We oppose changing the compatibility standards. We agree that NO (Neighborhood Office) should not be included for obvious reasons.

We do have some questions:

2. What is proposed appears to be an amendment to the site development regulations of commercial properties and not the creation of mixed-use combining districts. Is this understanding correct? (We note that the preamble refers in one paragraph to “mixed-use.”

3. The resolution states: “Extend the residential bonus option to all parcels within the listed zoning districts, subject to compliance with site development regulations, parking requirements, and design standards that are similar to those currently applicable to Vertical Mixed Use.” As you know, VMU excuses base site development regulations except height and IC, and imposes requirements and design standards that seem corridor-related and that require a mix of uses among other things. See Section 4.3.3. Is it the intent that the same standards (or elimination of standards) apply to commercial properties off of a corridor in the same way that they apply to those on a corridor? Can projects meeting the affordability requirements be 100% residential or is a mix of uses required? We think these issues need clarification.

4. The resolution states: “To the extent feasible, provide an incentive for ground floor retail by increasing height by 5-10 feet to accommodate the higher ceiling on the first floor.” Does the height increase apply even if there is no first floor retail?

##### B. ADUs

5. We support CM Tovo’s ADU initiative detailed here: [ADUs - City of Austin Council Message Board \(austincouncilforum.org\)](https://austincouncilforum.org/ADUs-City-of-Austin-Council-Message-Board)

6. One factor that appears to work against ADU affordability is ADU size. We support lowering the cap on the size of ADUs to promote smaller, more affordable ADUs not just for the homeowner but as part of new home construction. As proposed by Jim Duncan and as noted in a recent [UT Housing study](#) of Austin in a section specifically on ADUs:

“For all the ADU development situations, this analysis illustrates that City policy encouraging ADU development has had mixed results. On one hand, Austin's ADU policy has led to a significant increase in high-value primary homes built as part of demolition and multi-unit redevelopments involving ADUs, but on the other hand, ADU's built behind existing housing seem to provide units that are slightly more affordable than existing homes generally. ADUs built as part of redevelopments, while remaining similar to existing housing in value, are developed alongside large new primary units which are significantly more expensive than existing housing, due mostly to their size. **It seems that an opportunity exists to improve the ADU ordinance to increase affordable development by encouraging ADU construction behind existing housing instead of ADU construction as part of demolition and redevelopment. Further, it may help affordability to limit the size of new homes in neighborhoods that contain smaller and older homes.**”

#### C. Outcomes-based direction to staff regarding permit improvements and predictability

We support this concept.

#### D. Compatibility adjustment to enable corridor affordability bonuses to be achieved, but only if there's an opportunity or a concept that would obtain broad support on the dais

This proposal undermines the “residential on commercial” and “VMU” initiatives and will precipitate a backlash from the public. There is widespread community opposition to adjusting compatibility standards.

Here are maps to show the impact of reduced compatibility on existing neighborhoods in Austin (VMU shown is purple and blue (CS, GR, GO, LR, LO, NO and SF1-5 in green (which trigger compatibility):

These maps show all neighborhood properties zoned SF-1 to SF-5 in green and those properties which currently have VMU zonings (CS, GR, GO, LR, LO, NO) in blue and purple. The maps show that many neighborhood communities are in close proximity to currently zoned VMU properties, and the combination of increased height entitlements and reduced compatibility would create "default" transition zones. Compatibility standards are an effort to require commercial properties to transition to lower density residential properties; reducing compatibility would effectively shift the transition to the residential properties. This was the idea behind the failed concept of transition zones.

[All City](#)

[North including District 7](#)

[South Central East](#)

#### **Other ideas for creating or maintaining affordable housing (not on spreadsheet).**

- 1) Potential redevelopment of large office-warehouse properties as a housing alternative that are context sensitive and don't negatively impact local small businesses.
- 2) Locations for affordable prefab and mobile homes that would allow more home ownership.
- 3) Funding of local community-based housing corporations for infill redevelopment rather than for-profit development that triggers displacement
- 4) Establish anti-displacement zoning policies that prevent redevelopment in vulnerable neighborhoods.

