

ORDINANCE AMENDMENT REVIEW SHEET

Amendment: C20-2022-013 Alternative Option for Great Streets

Description

Consider an ordinance amending Title 25-2-586 (Downtown Density Bonus Program) to provide an alternative option for properties located along TxDOT frontages that cannot comply with Great Street Standards.

Summary of proposed code amendment

The proposed amendment to Title 25-2-586 (Downtown Density Bonus Program) will provide an alternative option for compliance with Great Streets Standards when there is extra jurisdictional control of the right-of-way.

Background: Initiated by City Council [Resolution No. 20220728-093](#)

On July 28, 2022, the City Council initiated a Code amendment to Title 25-2-586 (Downtown Density Bonus Program) based on Staff recommendations from a [Fee-in-Lieu Memorandum](#) to Council dated July 7, 2022.

Specifically, the Code amendment will:

1. Allow a fee-in-lieu for properties located along TxDOT frontages that cannot comply with Great Streets standards in the range of \$55-\$60 per square foot pf frontage along TxDOT right of way.
2. Require a fee-in-lieu and one-time fee in the amount of 10% of the cost for construction at \$5.50-\$6.00 per square foot to cover maintenance of any Great Streets improvements, including landscape elements, trash receptacles, benches, bike infrastructure, and streetlights.
3. Create a specific fund within the Public Works Department for the design, construction, and maintenance of Great Street capital improvement projects within the Downtown area.

Certain properties in Downtown are eligible to participate in the Downtown Density Bonus Program (the Program) as outlined in [25-2-586](#). In accordance with Program requirements, the applicant is required to execute a restrictive covenant committing to provide streetscape improvements along all public street frontages, consistent with the Great Streets Standards (the Standards).

Properties in the Rainey Street Subdistrict of the Waterfront Overlay (WO) are eligible to participate in the Program per [25-2-739](#). Certain properties in the WO subdistrict have frontage on Texas Department of Transportation (TxDOT) right-of-way (ROW). Where these properties have frontage along TxDOT ROW, the City of Austin has no jurisdiction to require streetscape improvements. Any proposed improvements outside private property on said frontage are to be coordinated with TxDOT.

On March 12, 2020, the City Council executed [Resolution No. 20200312-040](#) directing the City Manager to “bring forward a recommendation for creating a fee-in-lieu option for the Great Streets requirement of the Downtown Density Bonus Program for projects unable to provide such streetscapes due to other jurisdictional opposition to their construction.”

Staff Recommendation

Staff recommends **APPROVAL** of the proposed Code amendment.

Board and Commission Anticipated Actions

October 19, 2022: To be reviewed by the Codes and Ordinances Subcommittee

November 8, 2022: Public hearing at the Planning Commission

City Staff: Jorge E. Rousselin **Phone:** (512) 974-2975 **Email:** Jorge.rousselin@austintexas.gov

RESOLUTION NO. 20220728-093

WHEREAS, developments participating in the Downtown Density Bonus Program (DDBP) must commit to providing “Great Streets” standard streetscape improvements along all public street frontages as part of the minimum requirements; and

WHEREAS, properties within the Rainey Street Subdistrict of the Waterfront Overlay are eligible to participate in the DDBP; however, certain properties in this subdistrict front on Texas Department of Transportation (TxDOT) right-of-way, and the City cannot require streetscape improvements in TxDOT right-of-way; and

WHEREAS, TxDOT has denied Great Streets improvements along its right-of-way for these projects; and

WHEREAS, two Rainey subdistrict projects with frontage along TxDOT right-of-way seek to participate in the DDBP but cannot meet the Great Streets “gatekeeper requirements” of City Code Section 25-2-586(C)(1); and

WHEREAS, a fee-in-lieu provision for this specific circumstance could prove a benefit to developers while also providing funding for Great Streets elements; and

WHEREAS, the Downtown Density Bonus Program does not have such a provision for a fee-in-lieu; and

WHEREAS, Resolution No. 20200312-040 gave direction to the City Manager to do the following:

- Bring forward a recommendation for creating a fee-in-lieu option for the Great Streets requirement of the Downtown Density Bonus Program for

projects unable to provide such streetscapes due to other jurisdictional opposition to their construction.

- Bring forward a recommendation for establishing a fund into which such fees-in-lieu can be deposited and creating an administrative process for allocating these funds only for the provision of Great Streets within the areas of Downtown included in the Great Streets and Downtown Density Bonus Program boundaries.

WHEREAS, on July 7, 2022, the Director of the Housing and Planning Department provided a memorandum in response to this resolution (Fee-in-Lieu Memorandum), recommending the following:

1. Create a fee-in-lieu for properties located along TxDOT frontages that cannot comply with Great Streets standards in the range of \$55-\$60 per square foot of frontage along the TxDOT right of way.
2. Adjust the fee for construction periodically, but not more than once per fiscal year, to account for increases in the cost of construction.
3. Create an additional up-front, one-time cost in the amount of 10% of the cost for construction (\$5.50-\$6 per square foot) to cover maintenance of any Great Streets improvements, including landscape elements, trash receptacles, benches, bike infrastructure, and streetlights.
4. Create a specific fund within the Public Works Department for the design, construction, and maintenance of Great Street CIP projects within the downtown area.

5. A deposit of the fee-in-lieu would be required to be posted to the fund prior to the issuance of a Certificate of Occupancy (CO) for the building;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF AUSTIN:

The City Council initiates a code amendment to amend City Code Section 25-2-586 (*Downtown Density Bonus Program*) to provide an alternative option for properties located along TxDOT frontages that cannot comply with Great Street Standards.

BE IT FURTHER RESOLVED:

The City Council directs the City Manager to incorporate the following recommendations from the Fee-in-Lieu Memorandum into the code amendment:

1. allow a fee-in-lieu for properties located along TxDOT frontages that cannot comply with Great Streets standards;
2. require a fee-in-lieu and one-time fee for maintenance of Great Streets improvements for properties that utilize the fee-in-lieu option; and
3. create a specific fund for the design, construction, and maintenance of Great Street capital improvement projects within the Downtown area.

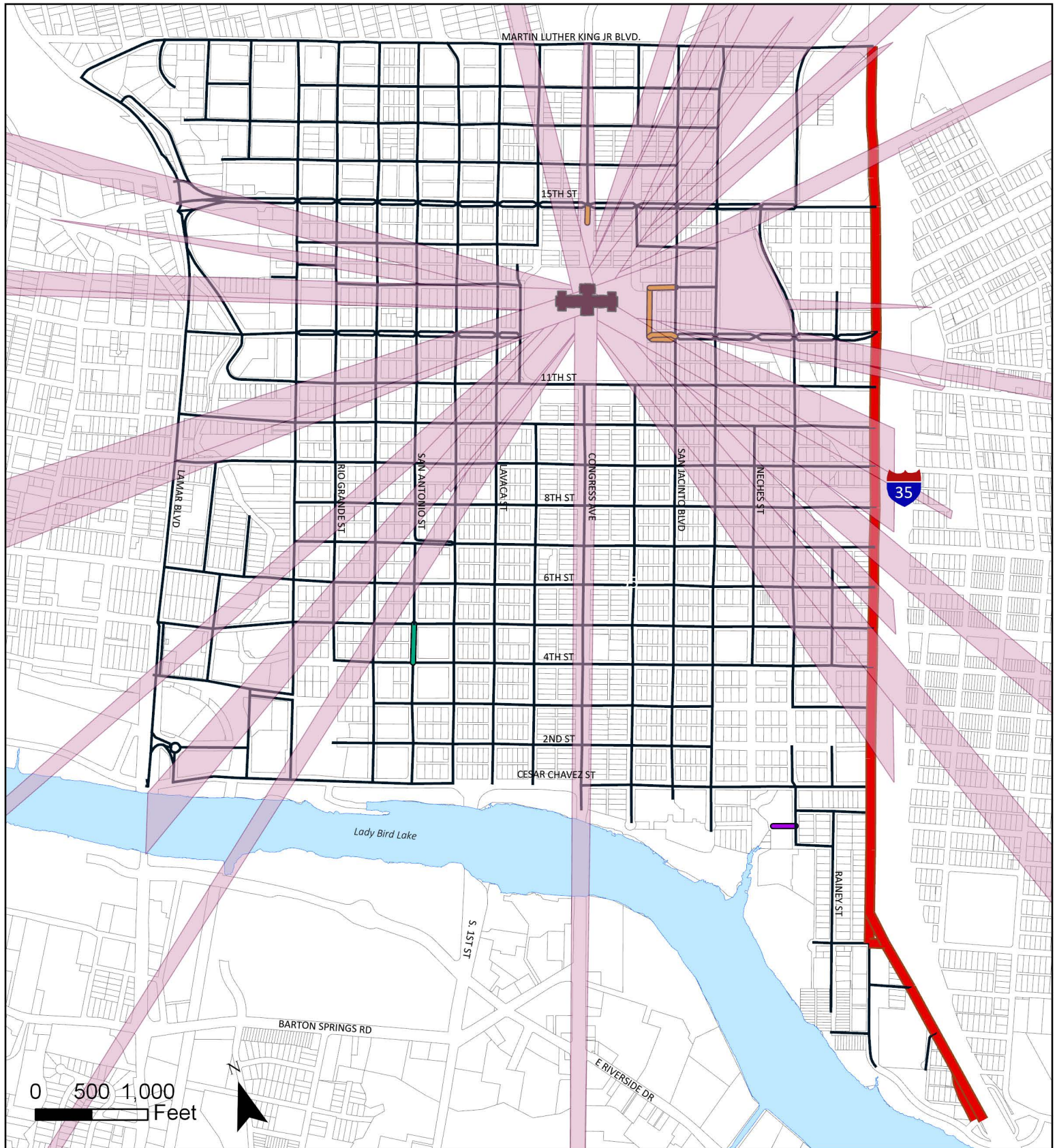
BE IT FURTHER RESOLVED:

As soon as feasible and no later than October 13, 2022, the City Manager shall prepare the necessary code amendments to create a fee-in-lieu for properties located along TxDOT frontages that cannot comply with Great Streets standards.

BE IT FURTHER RESOLVED:

The City Manager shall present a fee schedule for approval by the City Council contemporaneously with the necessary code amendments.

ADOPTED: July 28, 2022 **ATTEST:** *Myrna Rios for*
Myrna Rios
City Clerk












GREAT STREETS FEE-IN-LIEU: RIGHT-OF-WAY OWNERSHIP

Housing and Planning Department | Zoning and Urban Design

DRAFT: October 6, 2020



 Capitol Building	 City of Austin ROW	 State ROW = 1,317 LF TOTAL Within CVC = 1,317 LF Out of CVC = 0 LF
 Capitol View Corridors (CVC)	 Federal ROW = 346 LF TOTAL	
 Lady Bird Lake	 Private ROW = 202 LF TOTAL	 TxDOT ROW = 11,433 LF TOTAL Within CVC = 5,849 LF Out of CVC = 5,584 LF
 Land Base		