ORDINANCE NO. <u>20240229-073</u>

AN ORDINANCE AMENDING CITY CODE CHAPTER 25-2 TO CREATE A COMBINING DISTRICT FOR DENSITY BONUS PROGRAMS; AMENDING CITY CODE CHAPTER 25-8 TO REGULATE COMPATIBILITY BUFFERS APPLICABLE TO DENSITY BONUS PROGRAMS; AND INITIATING REZONINGS.

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

PART 1. Subsection (F) of City Code Section 25-2-32 (*Zoning Districts and Map Codes*) is amended to add a new combining district that reads as follows:

(F)   Combining districts and map codes are as follows:

(21)   <u>density bonus 90</u> .... <u>DB90</u>

PART 2. Division 6, Subchapter A, Article 2 of City Code Chapter 25-2 (*Zoning*) is amended to a new Section 25-2-181 to read:

§ 25-2-181 DENSITY BONUS COMBINING DISTRICTS.

(A)   Density bonus (DB) combining districts authorize a particular property to participate in a voluntary density bonus or incentive program that provides modifications to development regulations or other regulatory-related benefits in exchange for community benefits.

(B)   DB90 Combining District allows residential uses on sites with certain commercial base zoning districts, modifies compatibility requirements, and grants additional height in exchange for income-restricted housing.

PART 3. Division 6, Article 3, Subchapter C of City Code Chapter 25-2 (*Zoning*) is amended to add a new Section 25-2-652 to read:

§ 25-2-652 DENSITY BONUS 90 (DB90) COMBINING DISTRICT REGULATIONS.

(A)   This section establishes the applicable regulations for DB90 zoning.

(B)   This section governs over a conflicting provision of this title or other ordinance unless the conflicting provision is less restrictive.

(C)   To utilize the regulations described in Subsections (F) and (G), the site's zoning must include DB90 and an applicant must comply with Subsection (E).

(D)   A DB90 combining district may be combined with the following base districts:

  (1)   Commercial Liquor Sales (CS-1);

  (2)   General Commercial Services (CS);

  (3)   Community Commercial (GR);

  (4)   Neighborhood Commercial (LR);

  (5)   General Office (GO); and

  (6)   Limited Office (LO).

(E)   Affordability Requirements.

  (1)   Affordability Minimums - Ownership Units. If an applicant develops dwelling units for sale, this subdivision applies.

    (a)   An applicant must reserve a minimum of 12 percent of the residential units as affordable for ownership and occupancy by households earning 80 percent or less of the current Austin-Round Rock Metropolitan Statistical Area Median Family Income as determined by the Housing Director.

    (b)   An applicant for a proposed owner-occupied housing development may elect to meet the affordability requirement without providing income-restricted units onsite by paying a fee in-lieu to the Housing Trust Fund. At a minimum the fee-in-lieu shall be equivalent to the required percentage of the total residential units, including the mix of bedrooms required, at the rate set in the fee schedule at the time of final site plan submission.

  (2)   Affordability Minimums - Rental Units. If an applicant develops dwelling units for lease, this subdivision applies. An applicant must reserve:

    (a)   a minimum of 12 percent of the residential units as affordable for lease and occupancy by households earning 60 percent or less of the

current Austin-Round Rock Metropolitan Statistical Area Median Family Income as determined by the Housing director; or

(b)   a minimum of ten percent of the residential units as affordable for lease and occupancy by households earning 50 percent or less of the current Austin-Round Rock Metropolitan Statistical Area Median Family Income as determined by the Housing director.

(F)   Development Standards and Mixed Use.

(1)   In a DB90 combining district, the following uses are permitted:

(a)   uses that are permitted in the base zoning district unless the use is restricted by a conditional overlay that applies to the property; and

(b)   residential uses.

(2)   A development must comply with Article 2 (*Site Development Standards*) and Article 3 (*Building Design Standards*) in Subchapter E (*Design Standards and Mixed Use*) of this chapter except when those provisions conflict with this section.

(3)   Mix of Uses.

(a)   In this subdivision, PRINCIPAL STREET has the same meaning as principal street in and is applied consistent with Article 5 (*Definitions*) of Subchapter E (*Design Standards and Mixed Use*).

(b)   Pedestrian-Oriented Commercial Spaces. When a site abuts a principal street, 75 percent of the ground floor of the building must contain one or more commercial uses and must comply with the dimensional requirements found in Section 4.3.3.C in Subchapter E (*Design Standards and Mixed Use*) of this chapter.

(c)   If a building includes a mix of uses, a non-residential use:

(i)   may not be located above a residential use; and

(ii)   may not be located on or above the third story of the building.

(d)   An on-site amenity is a residential use when provided solely for use by the occupant, or the occupant's guests.

(e) The ordinance zoning or rezoning a site as DB90 may modify the requirements in Subdivision (3)(b) if the site abuts one of the following roadways defined in Article 5 (*Definitions*) of Subchapter E (*Design Standards and Mixed Use*):

   (i) urban roadway;

   (ii) suburban roadway;

   (iii) highway; or

   (iv) hill country.

(4) A building may exceed the maximum building height in the base zoning district by a maximum of 30 feet except that no building may exceed 90 feet in height.

(5) A site is not required to comply with the base zoning district's:

   (a) minimum site area requirements (if applicable);

   (b) maximum floor area ratio;

   (c) maximum building coverage;

   (d) minimum street side yard setback and interior yard setback; and

   (e) minimum front yard setback; provided, however, that if the right-of-way is less than 60 feet in width, the minimum front yard setback for buildings three or more stories in height shall be 30 feet from the centerline of the street to ensure adequate Fire Department access.

(6) Section 1.4 (*Minor Modifications*) and Section 1.5 (*Alternative Equivalent Compliance*) in Subchapter E (*Design Standards and Mixed Use*) of this chapter apply to a site developed under this section.

(G) Compatibility Requirements.

(1) A building is not required to comply with Article 10 (*Compatibility Standards*), Subchapter C.

(2)   In this subsection, a triggering property:

    (a)   includes at least one dwelling unit but less than four dwelling units; and

    (b)   is zoned Urban Family Residence (SF-5) or more restrictive.

(3)   Compatibility Buffer. A compatibility buffer is required along a site's property line that is shared with a triggering property.

    (a)   The minimum width of a compatibility buffer is 25 feet.

    (b)   A compatibility buffer must comply with Section 25-8-700 (*Minimum Requirements for a Compatibility Buffer*).

(4)   Exterior lighting must be hooded or shielded so that the light source is not visible from the site's property line that is shared with a triggering property.

(5)   Mechanical equipment may not produce sound in excess of 70 decibels measured at the site's property line that is shared with a triggering property.

(6)   A concrete slab used for a refuse receptacle may not be placed within 15 feet of triggering property.

(7)   Except for a multi-use trail, an on-site amenity that is available only to residents and occupants of the site and their guests may not be located within 25 feet of a triggering property.

(8)   Screening Requirements. Except when visible from or through a pedestrian or bicycle access point, the following objects may not be visible at the site's property line that is shared with a triggering property and shall be screened:

    (a)   vehicle lights from vehicles that use or are parked on a parking lot or in a parking structure located on the site;

    (b)   mechanical equipment;

    (c)   outdoor storage;

(d)   refuse receptacles and collection areas; or

        (e)   common areas for amenities, including outdoor decks, patios, or
                pools.

    (9)   The screening required in Subdivision (9) may not impede pedestrian or
            bicycle access points.

(H)   To preserve reserved dwelling units, an applicant must comply with Division 1
      (*General Provisions*), Article 2 (*Density Bonus and Incentive Programs*) of
      Chapter 4-18 before applying for a building permit or site plan that relies on the
      regulations described in Subsections (F) and (G).

PART 4. Chapter 25-8 (*Environment*) of City Code Title 25 is amended to add a new
Subchapter C to read:

SUBCHAPTER C. COMPATIBILITY BUFFERS

§ 25-8-700 MINIMUM REQUIREMENTS FOR COMPATIBILITY BUFFERS.

(A)   This section applies to a site that is required to provide a compatibility buffer.

(B)   In this section,

    (1)   PROPERTY LINE means the property line that is shared with a triggering
            property; and

    (2)   TRIGGERING PROPERTY means a property that:

        (a)   includes at least one dwelling unit but less than four dwelling units;
                and

        (b)   is zoned Urban Family Residence (SF-5) or more restrictive

(C)   Except as provided in this section, a compatibility buffer may not include vertical
      structures.

(D)   A compatibility buffer shall include a screening zone and restricted zone.

    (1)   Screening Zone.

(a)   The screening zone is parallel to the property line, begins at the property line, and extends ten feet into the property.

(b)   At 25 linear feet intervals parallel to the property line that is shared with a triggering property, a screening zone must include a minimum of:

    (i)   1 large or medium tree;

    (ii)   1 small tree; and

    (iii)   10 large shrubs.

(c)   A pathway and gate to an adjacent property may be located within the screening zone.

(d)   If a utility easement or utility infrastructure makes compliance with the requirements of this subsection impossible, a property complies with this subsection if the elements described in Subdivision (2) are included within the restricted use zone.

(2)   Restricted Zone.

(a)   The restricted zone is parallel to the property line, begins at the edge of the screening zone, and extends an additional 15 feet into the property.

(b)   A restricted zone may include:

    (i)   landscaping or gardens;

    (ii)   fences, walls, or berms;

    (iii)   surface parking lots, driveways, alleys, or fire lanes;

    (iv)   paths, walkways, or public use trails;

    (v)   utility infrastructure

    (vi)   refuse receptacles; and

    (vii)   mechanical equipment.

(3)   A compatibility buffer may include retaining walls and green stormwater infrastructure, including cisterns and rainwater capture systems.

(E)   In a compatibility buffer, vegetation must be:

    (1)   listed in Appendix N of the Environmental Criteria Manual; and

    (2)   irrigated, maintained, and certified in accordance with the Environmental Criteria Manual.

(F)   If a utility easement or utility infrastructure makes compliance with the requirements of this section impossible, an applicant may request alternative methods of compliance.

(G)   Nothing in this section requires an applicant to remove healthy and existing vegetation located within the screening zone.

PART 5. Rezonings Initiated.

(A)   This part applies to a property:

    (1)   rezoned to allow for one or more VMU buildings after June 10, 2022, but before February 29, 2024; or

    (2)   that was the subject of a site plan or building permit application that relied on an ordinance described in (2) and the application was submitted after June 20, 2022, but before December 11, 2023.

(B)   City Council initiates rezoning of property that was impacted when Ordinance No. 20220609-080, Ordinance No. 20221201-056, and Ordinance No. 20221201-055 were invalidated.

(C)   By initiating rezoning for the properties described in (1), the City Council waives fees only. An applicant must submit an application to request to rezone a property to the DB90 combining district. Nothing in this part commits the Council to adopt a rezoning described in this ordinance.

(D)   This part expires on December 31, 2024.

PART 6. This ordinance takes effect on March 11, 2024.

PASSED AND APPROVED

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February 29   , 2024

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Kirk Watson
Mayor

APPROVED: _____

Anne L. Morgan
City Attorney

ATTEST: _____

Myrna Rios
City Clerk