

ULI Code Rewrite Workgroup Comments
Re: City of Austin Land Development Code Rewrite October 2019 Draft
November 11, 2019

WHO

The Urban Land Institute (ULI) is a member driven organization providing leadership in the responsible use of land and in creating and sustaining thriving communities worldwide. As the preeminent, interdisciplinary real estate forum, ULI facilitates the open exchange of ideas, information and experience among local, national and international industry leaders and policy makers who are dedicated to creating better places. ULI has long been recognized as one of the world's most respected and widely quoted sources of objective information on urban planning, growth, and development.

Established locally in 1994, ULI Austin is a district council of the Urban Land Institute where real estate professionals from across Central Texas exchange ideas and best practices to serve community needs. ULI Austin brings together leaders from both private and public sectors who share a common interest in responsible land use strategies and a commitment to excellence in development practice. ULI Austin does not advocate; we offer fact-based information through research, education and publishing. ULI Austin collaborates with other industry-leading organizations on many land use initiatives, including but not limited to workforce housing, high-capacity transit and roadways, the reuse of existing infrastructure, and planning healthier environments.

WHAT

Members of the ULI Austin Code Rewrite Workgroup (ULI Workgroup) took time to review the October 2019 Draft of the City of Austin Land Development Code Rewrite (Code Rewrite Draft) and offer comments. The Code Rewrite Draft was divided amongst ULI Workgroup's members to review the content sections in small groups and report to the full workgroup for similarities and themes. This work and the comments contained within are provided to work with the city and other stakeholders toward a Land Development Code (LDC) that aligns with ULI's mission with special emphasis on alignment with affordability and multi-modal transportation connectivity. The goals laid forth in the City Council Direction were also utilized as a lens when reviewing the Code Rewrite Draft. This same workgroup also provided comments previously on the City Council Direction in a document that can be found at: <https://ulidigitalmarketing.blob.core.windows.net/ulidcnc/2019/09/ULI-Review-of-City-Council-Direction-on-Code-Rewrite.pdf>.

RESPONSE TO OCTOBER 2019 DRAFT

The Workgroup identified up to five items within each section of the Code Rewrite Draft that would have a considerable impact on affordability or transportation. These comments on each section are included in Appendix A (Page 4). However, the impact of the items within the appendix are not equivalent and the main body of this

document highlights those items that could have significant impact to affordability and multi-modal transportation connectivity. Many comments are aligned with the City Council Direction goals to get more housing units built and to increase Missing Middle housing options. To realize these goals, policy and procedures need to align to facilitate development in areas identified for higher density.

Design Criteria Manuals

Substantial decisions on policy have been deferred to the rewrites of the Criteria Manuals This deferral hinders a full review of the Code Rewrite Draft to ascertain the impacts of affordability and transportation, especially the review for Site Planning, Permitting, Civil, Transportation, and Environmental. Since so much policy interpretation is left to these criteria manuals, the changes to the Criteria Manuals should be reviewed with the same level of interdepartmental review and coordination that the Code Rewrite is receiving. Currently Title 1 of the Code allows for the changes to the Criteria Manuals to undergo an Administrative Review. The Workgroup recommends instead to either 1) have the criteria manuals strictly guided by the same directives of the council May 2nd policy with an interdepartmental review, or 2) have the criteria manuals available before adoption of the code so that they can be reviewed appropriately with an interdepartmental review. For both options, the Workgroup recommends that the all Criteria Manuals be reviewed by any appropriate Commission and approved by both the Planning Commission and City Council, all with public hearings.

Upzoning Equity

The new map largely follows the previous neighborhood plans but upzones corridors established through the Austin Strategic Mobility Plan (ASMP) as well as entire neighborhoods in high-opportunity areas. In a macro sense, the central neighborhoods (District 9) and East Austin (District 1) have received a large amount of the upzoning efforts and are prime targets for development. Some affluent single-family centric areas, such as District 10, have largely remained untouched which restricts potential development to only small-scale residential. This delineation of areas to be upzoned greatly limits development in current affluent areas likely to be prime candidates for moderate density, such as Exposition Blvd. This limits the ability for future transit service in those areas due to lack of density and greatly restricts that district's ability to meet the housing goals laid forth in the City of Austin Strategic Housing Blueprint Implementation Plan and reiterated in the City Council Direction on the Code Rewrite.

Affordable Housing Bonus Program

23-4E Introduces a new Affordable Housing Bonus Program (AHBP). There is a shift from a set percent of all units in a building as affordable to a percent of the bonus units. The workgroup is optimistic that this approach will encourage more builders to participate in a new AHBP and result in more affordable units. New rules are in place to require similar number of bedrooms in the affordable units mix to the market priced mix, have the affordable units scattered within the development and not clumped together, and access to all amenities in the development for affordable unit residents. Discrimination based on source of payments (i.e., voucher use) is prohibited under AHBP. Similar rules exist for S.M.A.R.T. Housing and Downtown Density Bonus Program. These rules encourage equity and diversity, which can lead to successful developments and thriving communities.

Missing Middle

Optimizing “Missing Middle”. One of the primary goals of the code rewrite was to once again allow Missing Middle housing types that have been functionally outlawed under the existing code. To that end there is regulation in the Code Rewrite Draft to allow missing middle housing but there are administrative detail changes that could increase the feasibility of missing middle development actually getting built.

First, currently, the proposed language in *23-2B-2020 - Three to Eight-Unit Residential* reads that it “applies to the construction or expansion of three to eight residential units that are located on a platted residential lot”. To allow for more Missing Middle this text should not be restricted to just “platted residential lots” but also be allowed on any legal lot (i.e. many missing middle eligible lots in transition zone might not be “platted residential”).

Second, follow through on the administrative side to treat missing middle housing similar to smaller-scale residential development and not like more intense multifamily or commercial development would facilitate the development of Missing Middle. Per the direction in *23-2C-1010 Application Requirements and Procedures* that states: “To the greatest (extent) possible, application requirements should be tailored to the regulations of this Title applicable to the proposed development for which the application is submitted. The director may allow an applicant to omit generally required information from an application if the director determines it is not material to a particular application under review.” Officially creating the administrative shift now for how Missing Middle is treated provides a clear process for developers and will facilitate expanding Missing Middle options in Austin.

Neighborhood Plan Contact Teams

Role of Neighborhood Plan Contact Teams (NPCTs). There appears to be little change to the formalized role of NPCTs in the Code Rewrite Draft. Public engagement and participation in the development process is important to an equitable city; however, based on the findings of the City of Austin, November 2016 Audit of Neighborhood Planning, there are significant concerns on the opportunity for engagement in the existing and proposed process. The report summarizes, “the contact teams lack transparency, have inconsistent bylaws, and create barriers to public engagement and representative decision making. The bylaws for all but one contact team create barriers to voting eligibility for neighborhood stakeholders.” (P. 3) In addition none of the neighborhood plans in place have been updated since the 2012 passage of the Imagine Austin Comprehensive Plan. The Land Development Code rewrite should be an opportunity to have a more open participation process, rather than further solidifying the non-representative system that exists.

Other methods for citizen participation could be explored or to ensure a higher degree of equitable participation the city could require additional criteria for NPCTs to be recognized. These criteria could include ensuring a greater diversity of membership by, for example, removing rules that “Representatives shall to the greatest extent possible be drawn from the group of persons involved in the development of the neighborhood plan”. As most of the neighborhood plans are decades old, this criteria excludes renters and new residents in favor of older, long-term home owners. The City could also be more proactive in advertising the role and function of NPCTs and requiring more transparency in NPCTs’ process and engagement, as the audit shows the existing channels for engagement are opaque and barriers exist for new and diverse participants.

APPENDIX A

Appendix A includes comments on each section of the Code Rewrite Draft. Those items that have the most significant impact on Affordability and Multi-Modal Transportation Connectivity have been included and expanded upon in the main body of the document.

Single Family Residential

- *The new map largely follows the previous neighborhood plans but upzones corridors established through the Austin Strategic Mobility Plan (ASMP) as well as entire neighborhoods in high-opportunity areas. Equity of upzoning is discussed in the main body of the document.*
- *All small-scale residential now has clear FAR restrictions written in the code language itself and act as the sole restriction on building area. This clarifies the restrictions on buildable home area better than the current code. In addition, FAR will be dictated by use rather than the zone itself giving potential opportunity to build adequate ADU structures and "Missing Middle" housing even in small-scale residential zoning.*
- *Small-scale residential has now been generally constrained to R2A, R2B, and R2C; varying levels of intensity of residential zoning. These changes generally simplify most residential zones by combining use-specific zones such as SF4-A and SF-6 into new zones as "allowable uses". The progression of these new zones corresponds to the intensity of potential density each zone will allow for. R2 is geared toward single-family, R3 now acts a transition zone between small-scale residential and "missing middle" housing, and R4 and RM1 are primed for multi-family, "missing middle" uses.*
- *While historic structures still have similar restrictions as in the current code, structures older than 30 years old, if renovated or utilized in redevelopment, may now utilize a preservation incentive. The preservation tool does not require the existing structure to be historic in nature or affordable, but it must be at least 30 years old—an age at which much housing becomes affordable through market conditions. If the existing dwelling unit is preserved, a site may be developed with unlimited floor area ratio (FAR) but remains bound by all other site development regulations of the zone. The code also limits the extent to which a dwelling unit used to qualify for the preservation incentive can be remodeled. This preservation incentive could assist with preserving current affordable housing stock, while still allowing for increased density.*
- *In-lieu of the McMansion tent, the Code Rewrite Draft introduces the concept of "top plate," which is the highest point of a wall beneath the roof structure. As proposed, the top-plate requirement would limit height to 25 feet within 10 feet of the property line of a residential lot while allowing an overall height of 35 feet in the center in order to allow more design flexibility at the center of the lot. In addition, FAR calculations are clearly codified in tables and are dictated by use. These changes will hopefully translate to more flexibility for designers and an expedient review by the city. In small case studies, these changes could allow for more buildable area in small-scale residential projects than with the current code and be more adaptive to site conditions (trees, hills, etc.) that may be present.*

Multi-Family Residential

- *23-3C are divided into Single Family Residential (R) and Residential Multi-Unit (RM) Zoning.* What was previously SF5, SF6, and MF1 zoning has not been encompassed in RM zoning. RM Zoning is intended as "Missing Middle" housing and is used in Transitions to separate Residential Uses from higher intensity uses. This allows a buffer that will reduce the impact of compatibility requirements.
- *23-3C Mixed Use is a zoning group from MU1 through MU5B.* Overlays within a code are complicated and difficult to coordinate with requirements of base zoning districts. Creating MU Zoning simplifies understanding what requirements are needed for Mixed Use development rather than having to apply base district zoning requirements and then overlaying MU requirements. This modification will ease the development of multi-family housing and could help increase the number of units developed.
- *23-3C introduces Main Street, Regional Centers, and Urban Centers as Zoning Groups.* The Main Street Zoning group is intended to create mixed development along transportation corridors. The previous code did not have a specific zoning group effectively detailing the type of development desired along corridors. Similarly, Regional Centers acknowledges the creation of special zoning districts like the Domain and Mueller as greater than Corridors or base zoning districts. Under the current code Downtown is the only unique district outside of the base zoning groups. Like the Regional Centers, the Urban Center develops design criteria for dense centers of development that is greater than Corridors or Base Zoning districts. Each of these new zoning groups provides guidelines and goals for development in areas of increased density.
- *23-3C places an emphasis on Mixed Use developments.* The Code Rewrite Draft has a greater emphasis in Mixed Use developments, which allows for more multi-family development in more zoning categories. This will help reach some of the City of Austin Strategic Housing Blueprint Implementation Plan goals.

Affordable Housing

- *23-4E Introduces a new Affordable Housing Bonus Program (AHBP).* Comments on this program are included in the main body of the document.
- *Calibration of the affordable units to be provided in exchange for the density bonus has not been finalized.* The calibration will be different across the city based on the economics of providing affordable units in a given area. Several builders report they are talking to the city and consultants to try to understand what to expect. The lack of information about the calibration, creates concern about the program viability and effectiveness.

One particular concern is that some areas of higher construction cost, such as downtown, are areas where affordable units are very much needed and could have the greatest effect on affordability. Balancing the cost of construction of affordable units with the incentive of additional profit from the added market-rate units is important. Similarly, the fee-in-lieu will need to be of a level that is high enough to encourage construction of affordable units rather than paying the fee, but still low enough that the added profit from market-rate units is sufficient enticement to partake in the bonus program. Once the program is finalized, measures should be included for periodic recalibration to accommodate changes in market conditions.

- *23-3D-3: Landscape.* The Code Rewrite Draft includes reduced site plan requirements for up to 9 units in residential zoning, easier tree removal associated with affordable housing developments, and facilitates lot subdivisions by no longer requiring variance for flag lots. These modifications will likely promote development due to resulting cost and schedule savings.
- *23-9E-3010 Criteria for Approval of Development Applications.* The NHCD Affordability Impact Statement mentions a new requirement that multifamily and subdivision redevelopment provide flood mitigation that reduces a developed site's storm-water runoff to a rate at or below the site's storm-water runoff under undeveloped conditions. This requirement may adversely affect project affordability and feasibility, therefore curtailing redevelopment of currently underutilized sites. Successful redevelopment projects that added housing units that may be less feasible with this requirement include the Highland Mall redevelopment and Lamar Union.

Mixed Use

- *Limitations have been removed on mix of uses within the mapping of uses and creating general mixed uses with limitations for design based on location.* This allows for the market to create larger mixed-use areas and activating frontages on the existing grid infrastructure in the downtown area. This should promote walkability and decrease the Vehicle Miles Travelled within a district. This can then decrease the market-based parking needs and create a larger vibrant downtown area. The innovation district also has increased potential of development for various uses due to removal of limitations for only high-density residential or office and increased allowance for vertical mixed-use.
- *Proposed mixed use zones (height and design guidelines imposed) create the potential to develop a wide variety of uses within new developments.* Allowing for a wider variety of uses within the simplified mixed-use zones allows developments to incorporate a variety of market needs and can provide larger scale pedestrian friendly frontages and overall more vibrant places. This could tie into transportation plans and infrastructure improvements to create activated public spaces.
- *FAR maximums are removed except for areas mapped for height limitation-based zones.* This modification may spark more investment in downtown and urban areas since developers are able to maximize potential return on high land values. This also creates the opportunity to locate future employment sites and activity centers in proximity to future infrastructure improvements.
- *Some parking requirements have been removed or lowered and maximums established.* Relaxed parking requirements allow for higher intensity development of efficient uses, lowering spaces and investment required for parking, promoting alternative transportation mode utilization, and activating ground floor frontages.
- *Mixed-use zoning only has a strong presence within the downtown area.* Assigning larger areas of mixed-use zoning, especially aligned with transportation plan and the new regional and activity centers, could help increase transit ridership and mode share as well as lowering destination demand for the downtown area.

Commercial and Industrial

- *IF – Industrial Flex – 23-3C-8030(A) Allowed Uses.* Multifamily is a use allowed in IF as a Minor Use Permit. This allows for the potential to place Multi-family units on IF zoned lands without any rezoning necessary. This can have a positive impact to affordability and transportation because more units can be placed on lands that are currently not available without rezoning and the resulting densities, which are larger than normally found in office/warehouse projects, can create better transit supportive densities.
- *IF zoning has FAR of 2:1.* IF zoning seems to be replacing the current Limited Industrial (LI) zoning designations. Base standard FAR on the IF is 2.0 which is double the current 1:1 for LI. This modification should positively increase density.
- *Waterfront Overlay 23-3C-10140.* The Waterfront Overlay remains static and does not envision additional height, and resulting density, to promote additional housing opportunity along the waterfront. The lack of additional supply capability can lead to continuing impacts to affordability and also keep static the conditions of today that thwart transit supportive densities.
- *CR and IF Compatibility Height Stepback.* There is an extra 5 feet of allowed height within the CR and IF Compatibility Height Stepback height restrictions compared with the older setback standards. This should allow greater density and provides more design flexibility including high-ceiling ground floors and residential/office on floors 2, 3, and 4.

Civic, PUD, and Aux Zonings

- *Treatment of Former Title 25 Zones (NCCD Areas).* Draft 3 of CodeNEXT raised concerns that predominately affluent neighborhoods in Central and West Austin were exempted from the new Code and its goals. The Code Rewrite Draft appears to have fewer Neighborhood Conservation Combining Districts (NCCD) F25 neighborhood areas in general, and those that are included are still required to help to meet affordable housing goals by explicitly allowing Accessory Dwelling Units, like similar base zoning areas across the city. Additionally, walkability is encouraged through off-street parking reductions matching similar areas of the city as well. The Code Rewrite Draft reads “(b) Notwithstanding any provision of the ordinances listed in Paragraph (3)(a), development within an NCCD is subject to: (i) Section 23-3D-1030 (Accessory Dwelling Unit - Residential); and (ii) Section 23-3D-2050 (Off-Street Motor Vehicle Parking Reductions)”

Referring a zoning category to what will be an outdated code creates many opportunities for confusion and misalignment of departments and goals. The Workgroup recommends including all zoning regulations into the new document for consistency and clarity. If these NCCD areas are not placed into similar base zoning like the rest of the city during this code rewrite, provisions are included that any future zoning changes in the NCCD areas or T25 areas should be to one of the new zones. “(C) F25 Rezoning Policy. In order to achieve consistency with the current regulations of this Title and minimize reliance on prior regulations, the City’s preferred policy is to: (1) Rezone properties within the F25 Zone to current zones established in this Title.”

- *Planned Unit Developments (PUDs).* The Code Rewrite Draft appears to have a more straight forward process and criteria for PUDs. It is likely that with more clear and predicable base zoning there will be less need for PUDs, in general especially smaller-site PUDs.
- *PUDs and Affordability.* The Code Rewrite Draft also adds an affordable housing goal to TIER ONE minimum requirements PUDs. This may encourage the creation of more affordable housing.

The fee in lieu of meeting Affordable Housing goals within a PUD is set at \$6/square foot. The value of any affordable units actually provided as part of PUDs should greatly exceed \$6/sq ft. This change would appear to be more effective towards achieving the goal of increased affordable housing than the current code provision.

Overlay Zones

- *Downtown Plan Overlay.* Generally, the zoning in the Downtown Area appears to be based on the 2011 Downtown Austin Plan, which was quality planning work but occurred prior to the Imagine Austin Comprehensive Plan and Housing Goals. The development context in downtown has changed significantly in the past nine years. Specifically, there are details that require updating, such as the setback diagram in the medical district where street alignments have changed and a new development context emerged. Setbacks similar to the core of downtown are now more appropriate in the northeast quadrant of downtown.

Additionally, suburban-style compatibility zones don't seem in keeping with the designation of downtown as a Regional Center. Certain compatibility zones seem out of context given more urban development in the immediate vicinity, especially the East and West Rio Grande, MLK, and Lamar compatibility zones. These, now aged and out of context compatibility zones, can have significant impacts on the ability to deliver housing in what should be the area of the city most appropriate for density.

- *Overlays Allowing Evolution of Special Corridors and Transit Planning Areas.* The North Burnet Gateway, East Riverside, and TOD Overlays allow for fine-grained planning through regulating plans to carry through to the proposed code while taking advantage of a more straightforward development process. This process allows for planning to carry through that will facilitate the transition from auto-oriented low density to pedestrian-scaled mixed use corridors and transit-served nodes.
- *University Neighborhood Overlay (UNO).* The University Neighborhood Overlay (UNO) has been very successful in providing market rate housing and affordable housing within walking distance of campus and a frequent transit network. The number of housing units delivered in West Campus has increased dramatically, over 10,000 new rooms, since the passage of UNO in 2004, while at the same time the average car per bedroom has fallen significantly from 0.9 to 0.6 parking spaces per bedroom. (Source: AURA Report - Elizabeth Warner July 27, 2019). West Campus is a unique neighborhood in Austin but certainly there are lessons to be learned from a successful neighborhood overlay that added much-needed market rate and affordable units while improving the urban environment and providing transitions to adjacent neighborhoods.

- *Capitol View Corridors.* There are no evident changes in the Capitol View Corridors but it may be advantageous to create a process with the code rewrite to change the city corridors and petition the State for changes to the State designation on corridors that have significant negative impact with little public benefit. An example of these are the corridors from IH-35 that will likely be rendered null following improvements to IH-35 in the coming years. Additionally, the Woolridge Square corridor essentially prevents any development on several blocks and provides only a very limited view corridor of significance.

General Zoning and Design Standards

- *23-3C - Compatibility Requirements.* The current development code has a single Compatibility Standard that is triggered by adjacency to Residential Zoning and Residential use of an adjacent property. The Code Rewrite Draft has within each Zoning group a compatibility requirement for properties that are adjacent to Residentially Zoning properties. The compatibility requirement is scaled for each of the different Zoning groups. Residential Use of an adjacent property that is not zoned Residential is no longer a trigger for Compatibility. This will reduce the impact of compatibility and provide for more density and possibly development of more housing units.
- *23-3C – Affordability.* Under the current code affordability bonuses exist in specific bonus programs. The Code Rewrite Draft proliferates Density Bonus throughout each Zoning group with specific increases and requirements based on Zoning Group. This allows a greater opportunity for the use of Affordable Housing Bonuses.
- *23-3C - Design Form.* The requirements for design standards under the current code exist in Subchapter E and applies to all non-residential uses. Under the Code Rewrite Draft, each Zoning Group has specific Building Form requirements, such as Building Frontage and Overall Building Envelope. Also included is Building Placement requirements, Frontages, and Encroachments. This may make the requirements clearer for each zoning type.
- *Alternative Equivalent Compliance is not included.* A code cannot be written to encapsulate every condition for development or redevelopment. Flexibility in applying the rules is important to contextually provide appropriate rules to unique conditions. Alternative Equivalent Compliance has been a significant tool to allow flexibility to meet the intent of the code, while allowing for innovation where the letter of the code is not possible.

Civil, Transportation and Environmental

- *Design Criteria Manuals.* These are discussed in the main section of the paper; however, for review of Civil, Transportation, and Environmental (such as Heritage Trees), the impacts of code changes are difficult to ascertain due to the amount of items referencing the Design Criteria Manuals.
- *Parkland.* The Code Rewrite Draft still requires parkland dedication along corridors and transit priority networks. This requirement negatively affects yield in areas where density is targeted and adversely compromises transportation alternatives by reducing yield potentially to lower than transit supportive

densities. While ULI Austin strongly supports the 10 Minute Walk Campaign, where each person should live within a 10 minute walk of an active park, promoting interaction between those on corridors and the neighborhoods beyond through active parks will have a greater affect of forming communities than project by project parks along corridors.

The Code Rewrite Draft does introduce calculating the number of units and FAR based on the gross site prior to parkland dedication. This change will positively increase yield and supply and, therefore, affordability. The Workgroup did note that the draft is not clear if impervious cover is also calculated prior to parkland dedication.

- *23-8A-1040 Administrative Modifications.* "(1)This section authorizes the director to administratively modify application of this chapter to a proposed development based on the impacts of particular requirements relative to the transportation needs generated by the development." This section could be interpreted as allowing the Austin Transportation Department to change the rules on a development-by-development basis. Clear development processes are extremely important to build more housing and to provide density in areas where needed to support transit per the ASMP. Language that allows for project-by-project interpretation slows down the process and discourages developers from working in Austin.
- *Section 23-8C and Section 23-8C-1010 (A) – Transportation Review and Analysis.* The Workgroup recommends modifying Section 23-8C to complete the objective suggested in Section 23-8C-1010 (A) and include all of the procedures, standards, and requirements for completion of a Transportation Review & Analysis, including impact criteria and nexus standards for all modes of transportation. To do this, the Transportation Impact Analyses should focus less on peak 15-minute period traffic congestion and more on aligning with larger plans and goals, such as the ASMP 50/50 mode split goal, Vision Zero safety goals, active transportation plans and goals, and Capital Metro operating and capital plans. The Code Rewrite should also include clear analysis requirements to be followed by all projects. Specific changes include focusing on Transportation Demand Management (TDM) and using Vehicle Miles Travelled (VMT) as a metric to better align analyses with the city's goals, align cost-sharing requirements with impact of development and not the cost of historical infrastructure, and introduce a person-trip generation model specific to the City of Austin that includes the specific context of the development and location
- *23-8D-1030 Conditions to Development Approval.* (B)Design and Construction Requirements. If a development application requires review under Article 23-8C (Transportation Review and Analysis), the director or the body responsible for acting on the application may require: (1)Delaying or phasing development until construction of municipal transportation infrastructure required to accommodate vehicle trips generated by the development or other transportation improvements necessary to directly serve the development; or (2)Reducing the density or intensity of the development, to the extent necessary to ensure that the capacity of the street network can safely accommodate vehicle trips generated by the proposed development.

This requirement does not seem reasonable as it could be interpreted to halt downtown development since capacity for additional vehicles during peak hours may not be able to be added. This is also an elimination of by-right zoning and creates uncertainty since development applicants cannot calculate yield until Austin Transportation Department (ATD) makes a determination regarding capacity. Given that ATD is striving for a

50/50 mode split as stated in the ASMP, density should be especially supported in areas that already have density and could support more significant and frequent transit. If safe access to/from the site, ATD should be included in discussions on phasing, density, or intensity of development. Appeal procedures should also be made clear within this section if it is to remain.

Site Planning and Permitting

- *Design Criteria Manuals.* These are discussed in the main section of the paper and have a great impact on policy related to this section.
- *Limited Site Plan Review – 23-6B-3* – It is promising that an avenue is being created for the potential to get housing on the ground quicker. But the actual permit process is undefined and the parameters associated with that review is unknown. Nonetheless, this has the potential to be a properly tailored application process to facilitate small and mid-scale development. Clarifying the process now will help determine the full potential effectiveness of this change.

Site Plan review – 23-6B-2 - Again, details are missing. However, the intent will be to have the processes scalable to the proposed project. The current process is too restrictive for smaller developments and a more size appropriate set of standards equating to a differing level of review will provide for more housing to be in place quickly.

- *Subdivision – 23-5B* - As these are highly regulated by Local Government Code, there is little to add / delete to help the affordability or transportation needs for Austin. Much of this is exactly as the current code today and after the reworking of some matters associated with HB 3167. One positive change is that the Code Rewrite Draft reiterated state law for some of the processes for subdivisions. This should help clarify purpose and intent, which should eliminate reviewer confusion. While this addition provides clarity, it will be important to have a process set up to update the code as state laws change.

Administration and Procedures

- *Role of Neighborhood Plan Contact Teams (NPCTs).* NPCTs are discussed in detail in the main body of the document.
- *Administrative Approvals.* In the ULI CodeNEXT Process and Culture position paper from 2017 the authors identified the benefits of the Code rewrite granting staff the authority to make more decisions on minor modifications and waivers, instead of requiring Board/Commission approval. Subchapter E of existing code provided for a system of “Minor Modifications” and “Alternate Equivalent Compliance”, which, although limited in scope, provides some precedence for this concept.

The Code Rewrite Draft carries over these modest allowances for administrative approvals; however, the opportunity exists in the new code to allow for a greater degree of flexibility given to staff to make decisions in manners that require creative solutions to address structures conflicting on lots with unique slopes, size, shape, and vegetation. For example, the 10% threshold that is allowed in alternative equivalent compliance

could be permitted in all zoning categories and be allowed to modify height, setbacks, impervious cover, or floor area ratio where there is need. The purpose is to allow for cases that have no material affect or impact on neighboring properties that still meet relevant building and fire code and allow for staff to work with an applicant especially in complex development environments that exist with “missing middle” housing types. The benefit would be to provide an appropriate threshold by which minor issues could be processed administratively to not bog down the Board of Adjustment. This could also serve to help meet housing goals and work creatively to save existing trees - meeting two goals with one policy tool. This would ultimately result in a more efficient use of time and resources for staff and applicants helping with affordability issues.

- *Design Criteria Manuals and Administrative Criteria Manual.* The Design Criteria Manuals are discussed in detail in the main body of this paper.

The Administrative Criteria Manual, like the other technical criteria manuals, will be created and adopted by rule following the approval of the new Land Development Code. The Code Rewrite Draft suggests this manual will “provide guidance for Austin residents seeking to better understand the Land Development Code and how it applies to development throughout the City.” However, even without having the details, this is a potentially positive addition for two reasons.

First, this is the opportunity to address many of the systematic and procedural issues raised by the “Planning and Development Review Department Workflow Organizational Assessment” in 2015, colloquially known as the Zucker Report. The report identified systemic problems in the ‘culture’ of the land development process, especially in customer service, staff ability to make judgment calls, and lack of strong project management and leadership in project review teams.

Second, this manual has the opportunity to be a valuable resource to help make the development process more efficient by making the process and outcomes clear for both staff and applicants. The ULI Austin Comments on the City Council Direction leading to this Code Rewrite Draft, includes recommendations concerning developing guidelines for departments and increasing inter-department coordination to make the development process more efficient for both staff and applicants.

- *Optimizing “Missing Middle”.* While there is regulation in the Code Rewrite Draft to allow missing middle housing, there are administrative detail changes that could increase the feasibility of missing middle development actually getting built. These are described in more detail in the main body of this paper.
- *23-2C-1060 Project Assessment.* There is not much different in the substance of the project assessment from the existing code but the Code Rewrite Draft does seem to have a higher degree of encouragement for Project Assessments with applicants. Project Assessments can lead to a more collaborative application process, that could result in more efficient use of time and resources by staff and applicant, which ultimately can help with affordability and getting units built.