

November 4, 2022

Dear Mayor, Mayor Pro-Tem, City Council Members, Planning Commission Members, and Staff,

The Urban Land Institute (ULI) is a member-driven organization focused on shaping the future of the built environment for transformative impact in communities worldwide. The organization 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. ULI does not advocate; we offer fact-based information through research, education, and publishing.

Established 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 has several Strategic Councils that convene public, private, and non-profit entities to discuss and impact local issues. The Affordability Strategic Council focuses specifically on defining and measuring issues affecting affordability in Central Texas, including housing.

In the upcoming weeks, Planning Commission and City Council will consider two land policies with the potential to impact affordability in Central Texas: compatibility standards and residential on commercial zoned properties. The City of Austin has set goals for increasing housing availability, especially affordable housing, through the Strategic Housing Blueprint. ULI Austin provided [feedback on the Strategic Housing Blueprint Implementation Plan](#) and on October 19<sup>th</sup> hosted a panel on the scoring of the Blueprint implementation. The Strategic Housing Blueprint was written with the assumption that the land development code was going to be revised. Without the revisions, it is increasingly difficult to reach the Blueprint's goals. The individual ordinances that affect the land development code, which City Council is considering now and in coming months, will have great impact on the amount of housing stock, including affordable housing, that can be added to Austin, which affects affordability. To that end, the Affordability Strategic Council has compiled the following information to provide Planning Commission and Council Members with a technical perspective on how the proposed ordinances may or may not advance the City's housing goals.

### **Compatibility Standards**

On June 9, Austin City Council passed Resolution No. 20220609-066, directing the City Manager and City staff to draft an amendment to the Land Development Code, Chapter 25-2, Subchapter C, Article 10 (Compatibility Standards). The resolution directs City staff to recommend strategies that increase housing capacity and support transit investments by modifying compatibility regulations and parking requirements along major corridors.

Overall, the ULI Affordability Strategic Council is encouraged by City Council's willingness to revise compatibility standards and support the production of housing along transit corridors. However, we share staff's concerns about the ordinance as written. Primarily, we do not foresee the proposed changes significantly increasing the production of housing.

- ***Distinctions between Medium and Larger Corridors limit the creation of units.*** Today, Light Rail corridors along the proposed Orange and Blue lines are ready for more intensive land use. However, as Austin's growth continues, Medium Corridors (defined by 2016 bond improvements) and Larger Corridors (with

either planned MetroRapid service or classified as Level 5 in the Austin Strategic Mobility Plan) will support increased density as well. Many Medium Corridors already have frequent transit service, such as South Lamar's 803 MetroRapid service. Although transit-oriented development (TOD) is often most strongly associated with light rail, rapid bus service is equally equipped to support TOD. Eliminating this distinction would allow for more transit-supportive growth along corridors with frequent bus service. ULI Austin's report, "[Transit Oriented Development: Opportunities for Affordability and Access in Austin](#)", identifies many additional TOD opportunities at high frequency transit. Transportation is the second largest household expenditure after housing. Increasing affordable housing options on all transportation corridors, regardless of transit type, will have twice the impact by providing housing adjacent to all types of transit. *We recommend combining Medium and Larger Corridors into one typology and applying the proposed Larger development standards to this group.*

- ***The Compatibility setbacks distances in the ordinance are too large to produce substantial new units.*** If a standard block is 300-325 feet wide, then a compatibility distance of 300 feet means that a triggering property could prevent height increases for most properties on the same block. Lowering this threshold will result in more buildable area and therefore more units. *We agree with staff recommendations to change compatibility setbacks to 100' distance and consider a shorter distance for Larger and Medium Corridors. The allowed height should be consistent with other density bonus programs such as VMU/VMU2.*
- ***As written, the height increases are not likely to increase housing.*** The Resolution's proposed incremental approach is very complicated and allows small, often 5' incremental changes in height. The incremental changes will burden staff with complicated review and possibly some confusion in interpretation. Also, the addition of only 5 feet of height, will not provide enough additional height for an additional floor and therefore does not support the production of additional units. With a standard ceiling height of 9 feet and additional mechanical and plumbing above the ceiling and structure depth, the height needed to create another floor, and therefore more units, would ideally be 13 to 15 feet. *We recommend a simplified approach with a single height prescribed at the setback distance. If incremental stepping of height is incorporated, we recommend that such steps be at least 15 feet.*
- ***Required parking, even at 25% and 50% of current standards, limits the number of units that may be built.*** The proposed amendments classify corridors as Light Rail, Larger, or Medium. Light Rail and Larger Corridors are only required to build 25% of required parking, while Medium Corridors still require 50% of off-street parking dictated via code. Required parking occupies valuable, vital space, that may otherwise be devoted to additional housing and adds to the cost of each unit. At present, the Market will likely demand more parking spaces than this, but as Austin grows and Corridors become more walkable and transit-friendly, reduced parking will allow for the creation of more units. *We recommend requiring 25% of Appendix A parking minimums on all corridors and eliminating parking requirements entirely for affordable projects (excepting ADA parking).*
- ***Unit maximums in zoning decrease the number of units built.*** Setbacks, height restrictions and FAR all dictate what can be built on a site. Removing the maximum number of units from all zoning categories on corridors will allow the creation of more units within the same square footage and allow for proven affordable options such as co-housing to be created. *We recommend eliminating maximum unit requirements for sites along corridors.*
- ***Clarify compatibility in anomalous situations.*** In some situations, the current land use of a site and the zoning are at odds. For example, a site zoned SF-3 that is being used as a cemetery should not trigger

compatibility limitations. Including direction in the ordinance for such situations provides clarity and consistency across the city. *We recommend that in situations where the zoning and use of a property are at odds, that the less restrictive of the zoning or use are used for considering compatibility for surrounding properties.*

- ***The current proposal's density bonus for affordable units is not defined.*** Additional detail is needed to clarify the resolution's proposed affordability bonus. Density Bonus programs that are correctly calibrated have been proven to increase the number of affordable units and reduce reliance on public subsidy to create those units. For example, San Diego's Affordable Homes Bonus Program provides a 50% increase in the number of units for projects that set aside 11% of units as affordable. In its first four years, the program created hundreds of deed-restricted homes with no subsidy. Aligning the proposed compatibility ordinance with ordinances that have already passed provides consistency and clarity and will in turn encourage participation. The recently passed VMU2 ordinance requires either 12% of units at 60 % MFI or 10% of units at 50% MFI for rental properties, and 12% of units at 80% MFI for owner-occupied units. Properties utilizing a fee-in-lieu option are only eligible if and when fees are recalibrated annually to match on-site construction costs. All income-restricted, affordable units, whether participating in a City program (i.e., S.M.A.R.T. Housing) or privately set-aside by a developer (and formalized via restrictive covenant), are eligible for these bonuses. *We recommend that the density bonus program for this ordinance follow the existing VMU/VMU2 program.*

### **Residential on Commercial Zoned Properties**

In December 2021, City Council passed Resolution No. 20211209-056 that directed the City Manager and City staff to draft an amendment to the Land Development Code, Chapter 25-2, to create a bonus program that would allow commercially zoned properties with no existing residential entitlement to develop residential units in return for providing on-site affordable units.

As drafted, staff estimates the proposed amendment will open approximately 7,474 commercially zoned properties for residential use. The ULI Affordability Strategic Council recognizes the significant impact this policy could have on increasing the production of affordable housing, and in meeting the Strategic Housing Blueprint's goals. However, we have identified a few key points for your consideration:

- ***MU zoning does not provide the crucial VMU development entitlements that will maximize additional units.*** As currently drafted, staff's recommendation is to add MU zoning to commercial districts by-right to allow residential use in exchange for 10% affordable units. While this offers developers the benefit of not rezoning the property, it lacks the additional entitlements provided under the popular VMU program that are likely to encourage developer participation as well as achieve a higher unit yield. VMU offers additional benefits such as reduced parking, no FAR limit, no building coverage limit, and no minimum site area requirements, which increases the number of units that can be built. If the program mirrored VMU entitlements, developers would be much more likely to opt into this program and therefore build more affordable and market rate units. Additionally, the compatibility requirements for the proposed compatibility ordinance reviewed above would still apply, ensuring context appropriate results for those projects on corridors vs those in neighborhoods. *We recommend modifying the ordinance to add VMU zoning, instead of MU zoning, to commercial districts by-right. VMU2 could also be added as an option for corridors.*
- ***Not permitting residential within 500' of a highway limits the possibility of additional units.*** The proposed ordinance does not apply to commercial properties within 500' of a highway. While locating

housing by transit is preferred, we encourage the possibility of adding units on any commercial property. Momark's Tyndall at Robertson Hill Condominiums is an example of a successful development that is located directly by a highway. Additionally, as more units are added along highways, in the future there may be sufficient density of units to support transit along the same corridor. To alleviate any concern about air pollution near roadways, there is also evidence that air quality is improving, and will continue to improve in the future. The [EPA report, "Applying TEAM in Regional Sketch Planning: A Case Study in Austin, Texas"](#) predicts that more electric vehicles, cleaner burning fossil fuel vehicles, and more use of mass transit will offset increasing population. *We recommend removing the proximity to highway limitation for application of this ordinance.*

In summary, we are encouraged by the ordinances before Planning Commission and City Council but believe that the above considerations and recommendations to the drafted language would better align the policies with the Strategic Housing Blueprint goals. Thank you in advance for your consideration of these suggestions, and for your leadership on this important issue. Please contact Paulette Gibbins, Executive Director of ULI Austin with any questions.

Thank you,

A handwritten signature in blue ink, appearing to read "Stephen Coulston".

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