

CAUSE NO. D-1-GN-19-008617

FRANCISCA ACUÑA; SUSANA	§	IN THE DISTRICT COURT OF
ALMANZA; JEFFERY L. BOWEN;	§	
WILLIAM BURKHARDT; ALECIA M.	§	
COOPER; ROGER FALK; SETH O.	§	
FOWLER; RANDY HOWARD; MARY	§	
INGLE; PATRICIA KING; FRED I.	§	
LEWIS; BARBARA MCARTHUR;	§	
ALLAN E. MCMURTRY; LAURENCE	§	
MILLER; GILBERT RIVERA; JANE	§	
RIVERA; JOHN UMPHRESS; JAMES	§	
VALADEZ; and ED WENDLER, JR.,	§	
<i>PLAINTIFFS,</i>	§	
	§	
V.	§	TRAVIS COUNTY, TEXAS
	§	
THE CITY OF AUSTIN; THE CITY	§	
COUNCIL OF AUSTIN; THE	§	
HONORABLE AUSTIN MAYOR	§	
KIRK WATSON, IN HIS OFFICIAL	§	
CAPACITY; THE HONORABLE AUSTIN	§	
CITY COUNCIL MEMBERS NATASHA	§	
HARPER-MADISON, VANESSA	§	
FUENTES, JOSÉ VELÁSQUEZ, JOSÉ	§	
“CHITO” VELA, RYAN ALTER,	§	
MACKENZIE KELLY, LESLIE POOL,	§	
PAIGE ELLIS, ZOHAI B “ZO” QADRI,	§	
ALISON ALTER, IN THEIR OFFICIAL	§	
CAPACITIES; AND CITY OF AUSTIN	§	
INTERIM CITY MANAGER, JESUS	§	
GARZA, IN HIS OFFICIAL CAPACITY,	§	
<i>DEFENDANTS</i>	§	201 <sup>ST</sup> JUDICIAL DISTRICT

**PLAINTIFFS’ MOTION TO ENFORCE PERMANENT INJUNCTION**

COME NOW PLAINTIFFS, FRANCISCA ACUÑA; SUSANA ALMANZA; JEFFERY L. BOWEN; WILLIAM BURKHARDT; ALECIA M. COOPER; ROGER FALK; SETH O. FOWLER; RANDY HOWARD; MARY INGLE; PATRICIA KING; FRED I. LEWIS; BARBARA MCARTHUR; ALLAN E. MCMURTRY; LAURENCE MILLER; GILBERT RIVERA; JANE RIVERA; JOHN UMPHRESS; JAMES VALADEZ; and ED WENDLER, JR., and file this Motion to Enforce Permanent Injunction and respectfully show as follows:

## I.

### **INTRODUCTION**

In November 2019, diverse property owners from across Austin sued the City of Austin for failing to provide notice and protest rights to property owners even though the City was proposing to rezone almost every property in Austin. In *Acuña et al. v. City of Austin et al.*, Cause No. D-1-GN-19-008617 (201<sup>st</sup> District Court of Travis County), this Court entered a final judgment on March 18, 2020, against the City, holding that it had violated the law by failing to provide notice and protest rights to Austin property owners and entered a permanent injunction requiring the City in the future to provide notice and protest rights to all property owners when proposing to change the zoning on their or nearby properties. The Court of Appeals unanimously affirmed, on all grounds, in March 2022. *City of Austin v. Acuña*, 651 S.W.3d 474 (Tex. App. —Houston [14<sup>th</sup> Dist.] 2022, no pet.).

The City simply disregarded this Court’s injunction. Less than 3 months after the appellate decision, the City violated this Court’s injunction—despite being told they were doing so by the public and several council members. The City passed on June 9, 2022, a zoning ordinance changing regulations for vertical mixed use zoned properties without notifying thousands of affected property owners—in direct violation of the injunction.

On December 1, 2022, the City Council passed another zoning ordinance, allowing residential uses and other zoning changes in commercially zoned property, without providing notice to tens of thousands of commercial property owners. That same day, the City Council passed a compatibility zoning ordinance that allows greater building heights and reduced setbacks on or near tens of thousands of single-family zoned properties. The City mailed notice to some but not all property owners. The notice was grossly deficient in that it did not even tell recipients that the ordinance affected their or nearby property—in direct contravention of state law and the permanent injunction.

## II.

### NATURE OF THE CASE

1. The City of Austin repeatedly refuses to follow mandatory zoning procedures and to provide statutory protection to city property owners. On March 18, 2020, this Court entered a permanent injunction against the City. *See* Exhibit “A” hereto, a true and correct copy of the Final Judgment. The Final Judgment Provides:

IT IS ORDERED, ADJUDGED, AND DECREED that Defendants be, and hereby are, commanded to send written notice to all property owners in the City of Austin, and surrounding property owners within 200 feet, whose zoning regulations or zoning district boundaries are being changed, at least 10 days before the Planning Commission’s public hearing on those zoning changes, pursuant to §211.007(c); or in the alternative, Defendants may provide the alternative notice by following §211.007(d).

Final Judgment at 3.

2. The Final Judgment was unanimously upheld by the Fourteenth District Court of Appeals in March 2022. *See City of Austin v. Acuña*, 651 S.W.3d 474 (Tex. App.—Houston [14<sup>th</sup> Dist.] 2022, no pet.). The Court of Appeals held unequivocally that there are no exceptions to the state law requirement that zoning changes require proper notice to property owners and recognition of protest rights when the City “proposes changes in the zoning districts, boundaries, regulations, and classifications...” *Id.* at 485.

3. Despite the permanent injunction entered by this Court, and the *Acuña* opinion affirming it, the City Council passed vertical mixed use zoning changes on June 9, 2022, without providing the required statutory notice to affected property owners. *See* Exhibit B, Ordinance No. 20220609-080.

4. Six months later, on December 1, 2022, the City Council passed major zoning changes to commercially zoned properties across the City without providing notice to affected property

owners or recognizing property rights of those affected. *See* Exhibit C, Ordinance No. 20221201-055.

5. Also passed on December 1, 2022, was Ordinance No. 20221201-056. *See* Exhibit D hereto. This Ordinance was passed after grossly inadequate notice being given both under state law and the City’s own ordinances. While some property owners received written notice, the notice was too little to too few.

6. In addition, the City allows for zoning changes without any notice whatsoever through the implementation of its “Affordability Unlocked Ordinance,” passed on May 9, 2019. *See* Exhibit E hereto, Ordinance No. 20190509-027. This ordinance grants broad zoning entitlements if developers submit an application that meets certain affordability housing requirements—including increased density, reduction in minimum lot sizes, greater heights, waiver of floor-area ratios, changes in setbacks and allows 25% commercial uses in residential areas. City staff is allowed to grant such applications without any notice or protest rights for surrounding property owners and with *no council approval*.

### III.

#### **FACTUAL BACKGROUND**

7. City documents indicate that the City Council undertook efforts to change zoning in such a way as to attempt to circumvent this Court’s permanent injunction as well as the *Acuña* opinion.

#### **A. Vertical Mixed Use II Ordinance—Passed June 9, 2022<sup>1</sup>**

8. Ordinance No. 20220609-080 changes zoning regulations on at least 1,675 properties without the Planning Commission providing the statutorily required notice to property owners. *See*

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<sup>1</sup> On June 8, 2022, counsel for Plaintiffs sent a letter to Defendants (with a copy to City Attorney Anne Morgan) detailing the legal issues related to this Ordinance—that zoning changes without proper notice and protest rights violates state law

Exhibit B. It also provides that “staff” can approve applications for the “affordable housing” bonus, resulting in zoning changes without approval of the City Council. *See* Tex. Local Gov’t Code §211.003 which provides that “the governing body of a municipality may regulate [zoning].” Not only was the ordinance passed without proper notice, there is no notice of the zoning changes that occur each time “staff” approves an application submitted pursuant to the Ordinance.

9. The City Council initiated this Ordinance by way of Resolution No. 20211118-052. *See* Exhibit G hereto. The Resolution states that the generation of affordable housing “has been stymied by [existing zoning restrictions].” Exhibit G at page 1. The Resolution also states that the City “would benefit from an expanded...option” that would increase the height restriction from 60 feet to 90 feet. *Id.* In addition to increased height, the Resolution affirmed the commitment to “increase density along transportation corridors.” *Id.* at page 2. Such changes are zoning changes that fall within this Court’s permanent injunction and Chapter 211 of the Texas Local Government Code that requires notice to property owners.

10. Ordinance No. 20220609-080 violated the permanent injunction and is void for failure to follow the statutory notice requirements. *See* Exhibit H, excerpts from the June 9, 2022, Questions and Answers Report at pages 21-22, where staff states that it did not provide notice and protest rights because to do so would be “time and resource intensive to conduct” and with 1675 properties affected could take up to two months to complete.

11. The transcript of the public hearing on June 9, 2022, shows that the draft of this Ordinance contained a provision for notice and protest rights:

It’s part 5. So what part 5 does is that it creates-it specifies what the...public process is for VMU2. . .[T]hat . . .process would be a zoning process essentially which carries with it notice, individual notice, to properties with a certain distance. And also the right to

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and this Court’s permanent injunction. *See* Exhibit F, a true and correct copy of June 8, 2022, letter from Douglas M. Becker to Defendants.

protest... I believe that fundamental fairness and respect for the public requires that people be notified when land use around their homes is being changed...[I]f we strike section five-if the council chooses to strike section 5, what you are saying in effect that these changes go into effect, people have no right to be notified about [the] change near their house and they don't have a right to say anything about it. To me that's fundamentally unfair."

*See* Exhibit I, excerpts from the City Council Regular Meeting Transcript—06/09/022, at 10:55:49 PM-10:58:49 PM, comments by Councilmember Kitchen.

12. To which former Mayor Adler responded:

"My motion is to keep it by right. I move to strike part 5."

*Id.* at 10:59:49 PM.

13. The City Council then voted 8-2 to remove the notice and protest provision from the Ordinance. *Id.* After the vote to remove the notice and protest right provision, Councilmember Kitchen stated:

I think it's important to stick to what we have heard again and again from the public... which is to notify them when there are proposals that are significantly different than the zoning on the ground. They want the opportunity to participate in them...And I think it's of grave concern to me that we're moving forward potentially with that vote in a way that doesn't allow folks the opportunity to have petition rights.

Exhibit I, at 11:00:54 PM-11:01:55 PM.

To which former Mayor Adler responded:

Let's move on.

*Id.* at 11:01:55 PM.

14. The City staff report on this Ordinance details the numerous zoning regulations that would be subject to change through the VMU2 Ordinance. *See* Exhibit J, Code Amendment Review Sheet, at page 2 of 18. Those zoning regulations included residential uses, unlimited FAR (floor to

area ratio), waiver of site dimensional requirements, a 60% reduction in parking requirements, and a 30 foot increase in height restrictions. *Id.*

15. All of those changes fall within the permanent injunction and Chapter 211 of the Texas Local Government Code and are subject to the statutory notice and protest rights provisions.

**B. Residential in Commercial Development Program—Passed December 1, 2022**

16. The City Council passed Ordinance No. 20221201-055 allowing residential use in property previously zoned commercial on December 1, 2022. *See* Exhibit C. In passing this Ordinance, the City changes zoning regulations to allow residential uses for 8885 commercially zoned properties<sup>2</sup> (among other changes) with no notice provided by the Planning Commission to property owners. According to the December 1, 2022, Staff Ordinance Amendment Review sheet, “The proposed amendment will create an affordable housing bonus program to allow commercially zoned properties with no existing residential entitlements to develop projects with residential units in return for on-site affordable units.” *See* Exhibit H, at page 1 (emphasis added).

17. This Ordinance was initiated by the City Council in Resolution No. 20211209-056, which began:

WHEREAS, under the Land Development Code, residential development is not currently allowed in many of the commercial zoning districts in Austin; and

WHEREAS, City Council adopted the Austin Housing Strategic Blueprint (the Blueprint) in 2017 which called for 135,000 housing units by 2028, with 60,000 of those units at or below 80 percent of the median family income (MFI); and

WHEREAS, in the proposed Land Development Code Revision, residential uses were allowed in more zoning districts than in current city code;

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<sup>2</sup> The City’s Housing and Planning report as to this Ordinance acknowledged that the Ordinance could effect 8885 commercial properties. *See* Exhibit K at page 10.

...

See Exhibit L.

18. The agenda language for the December 1, 2022, meeting for this Ordinance shows it amounted to a zoning change:

Conduct a public hearing and consider an ordinance amending City Code Title 25 to allow residential uses on commercially zoned property under certain circumstances.

See Exhibit M, excerpts from City Council Agenda for December 1, 2022.

19. Likewise, the Ordinance Amendment Review Sheet (Council) shows this Ordinance changed zoning:

Description: Consider an amendment to Title 25 with the City Code to create an affordable housing bonus program and allow residential development on commercially zoned properties:

...

Summary of proposed code amendment

The proposed amendment will create an affordable housing bonus program to allow commercially zoned properties with no existing residential entitlements to develop projects with residential units in return for on-site affordable units.

...

See Exhibit N, at page 1.

20. The permanent injunction and Chapter 211 of the Texas Local Government Code apply to these zoning changes.

**C. Compatibility Ordinance-Passed December 1, 2022**

21. Ordinance No. 20221201-056 affects more property owners than the other three ordinances addressed herein. See Exhibit D. Before amendments added at the time it was enacted



by the City Council, staff estimated it would rezone 6940 acres. *See* Exhibit O, excerpts from staff's Questions and Answers Report, dated December 1, 2022, at pages 1-3.

22. The stated purpose of the Ordinance was to increase housing capacity on certain roadways by relaxing compatibility regulations and reducing parking minimums. *See* Exhibit D at page 1.

23. "Compatibility" means a land use that is designed to be able to exist or occur without conflict with its surroundings—in terms of its uses, scale, height, and location on its site. Compatibility standards govern the height and setback of big building near residential areas, providing existing neighborhoods with buffers from large, multistory developments.

24. This Ordinance was initiated by the City Council through Resolution No. 20220609-066, which provided:

The City Council initiates the following amendments to City Code Title 25 (Land Development Code) to increase housing capacity and support transit investments on corridors by relaxing compatibility regulations and reducing parking minimums. It is Council's intent that these amendments apply to a property that is front-facing or side-facing a corridor. It is Council's intent that these amendments apply when the property's existing compatibility or parking regulars are more restrictive.

*See* Exhibit L, at page 2.

25. Prior to enactment of this Ordinance, structures 60-120 feet tall could not be built within 300 feet of single-family homes or townhomes; structures more than 120 feet tall could not be built within 540 feet of single-family homes or townhomes. The Ordinance allows an 80% reduction in those distances.

26. This Ordinance was passed in violation of the permanent injunction and the notice provisions of Texas Local Government Code, Chapter 211. First, notice of the Planning Commission

hearing held on November 8, 2022, failed to adequately inform property owners of what was going to be considered at the hearing. The notice stated:

A public hearing will be held to consider proposed amendments to Austin's Land Development Code.

**Proposed Amendment:**

Consider amendments to Title 25 of the City Code to modify compatibility standards and parking requirements on certain roadways.

...

*See Exhibit P.*

27. The notice failed to apprise impacted property owners that their property (or nearby property) was being considered for rezoning. There was no notice that the amendment might allow greater heights and less setbacks. There was no reference to an online source to review the draft ordinance.

The notice sent violated not only state law, but also the City's own notice requirements.

The City's notice requirement includes:

Notice provided under this section must

- (1) generally describe the subject matter of the public hearing;
- (2) identify the applicant and the location of the subject property;

...

Ord. 25-1-132(a).

28. The notice sent failed to meet these requirements and violated the permanent injunction.

29. Second, the notice was not sent to all property owners who could be affected. This Ordinance is void for failure to provide the statutorily required notice to affected property owners.

**D. Affordability Unlocked—Passed May 9, 2019**

30. Ordinance No. 20190509-027 allows property to be rezoned without any notice to property owners. *See Exhibit E.*

31. The City Council initiated this Ordinance by Resolution No. 20190221-027, wherein it acknowledged that the goal was to make changes outside of the statutory zoning process:

WHEREAS, the City Council approves many zoning cases for affordable housing development; however, some restrictions that may result in additional affordable housing units cannot be waived in a zoning case; and

WHEREAS, the rezoning process may be costly, time consuming, and many ultimately limit the number of family-friendly units in an affordable housing development and allowing affordable housing to be built by-right without rezoning may benefit the City's affordable housing stock;

...

*See Exhibit Q, at page 2.*

32. The Resolution further states:

...

This program would be available for a residential development or redevelopment irrespective of whether the proposed development or redevelopment requires a zoning change or other discretionary action from a City commission or the Council. It is the intent of the Council for this program to be accessed without requesting a further discretionary action by the Council.

...

*See Exhibit Q, at page 5.*

33. According to the Resolution, the City Council intended for the program to allow multiple changes to zoning regulations including waiver of compatibility standards for height and setbacks required by the base zoning district; allow building height to be 1.25 times the base zoning district height restrictions; reduce front yard and rear setbacks by 50%; allow density to be 1.5 times

the base zoning district's density limits or allow six units, whichever is greater; waive maximum floor-to-area ratio (FAR); waive common wall, roof, front porch and other restrictions specific to duplexes; and others. *See* Exhibit Q at pages 7-8.

34. This Ordinance provides that applications are to be submitted to "staff" for approval with no further action of the City Council. Zoning changes may only be made by the governing body. *See* Tex. Local Gov't Code §211.003. Allowing staff to make these zoning changes violates state law and results in zoning changes without notice to surrounding property owners in violation of the permanent injunction.

#### IV.

#### CONCLUSION

Texas has always revered property rights. To protect these rights, state law requires local governments to notify all property owners, big or small, before affecting their property interests. Notice is fundamental to governmental accountability because it ensures Texans have an opportunity to be heard and defend their property rights.

The City of Austin refuses to abide by these laws and respect these fundamental Texas values, despite being ordered in 2020 to do so. Plaintiffs seek to enforce the permanent injunction against the City of Austin and its officials from continuing repeatedly to violate state laws that protect property owners. The City has an illegal practice of repeatedly failing to notify property owners that it is changing the zoning on their and nearby property. The City should suffer appropriate sanctions for its actions.

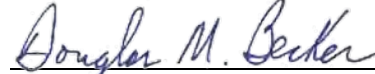
WHEREFORE, PREMISES CONSIDERED, Plaintiffs respectfully pray that Defendants be held in civil contempt for violation of the permanent injunction; that the Court sanction Defendants by (1) imposing a fine against them until they purge the contempt by voiding the ordinances addressed herein; and (2) awarding Plaintiffs their reasonable and necessary attorney's fees and costs incurred

in enforcing the Court's permanent injunction; and such further relief to which Plaintiffs may show themselves justly entitled.

Respectfully submitted,

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By:



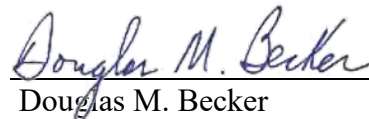
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*Attorneys for Plaintiffs*

### **CERTIFICATE OF SERVICE**

I certify that on March 6, 2023, a true copy of *Plaintiffs' Motion to Enforce Permanent Injunction* was served on counsel for Defendants in accordance with Texas Rule of Civil Procedure 21a via e-service through the Texas E-file system.

Anne L. Morgan, City Attorney  
City of Austin Law Department  
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Douglas M. Becker

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A	March 18, 2020	Final Judgment
B	June 9, 2022	Ordinance No. 20220609-080
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D	December 1, 2022	Ordinance No. 20221201-056
E	May 9, 2019	Ordinance No. 20190509-027
F	June 8, 2022	Letter from Douglas M. Becker to Defendants
G	November 18, 2021	Resolution No. 20211118-052
H	June 9, 2022	Excerpts from Questions and Answers Report
I	June 9, 2022	Excerpts from City Council Regular Meeting Transcript
J	March 17, 2022	Code Amendment Review Sheet
K	December 1, 2022	Housing & Planning Code Amendment: Residential in Commercial
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O	December 1, 2022	Excerpts from Questions and Answers Report
P	October 28, 2022	Written Notice for November 9, 2022, Planning Commission Meeting
Q	February 21, 2019	Resolution No. 20190221-027

MAR 18 2020 JG

CAUSE No. D-1-GN-19-008617

At 4:58 P.M.  
Velva L. Price, District Clerk

**FRANCISCA ACUNA, et al.,**  
***Plaintiffs***

**v.**

**THE CITY OF AUSTIN, TEXAS, et al.**  
***Defendants***

§ IN THE DISTRICT COURT

§

§

§ TRAVIS COUNTY, TEXAS

§

§

§ 201st JUDICIAL DISTRICT

**FINAL JUDGMENT**

On March 11, 2020, this case was called for trial. Plaintiffs, Francisca Acuña, Susana Almanza, Jeffery L. Bowen, William Burkhardt, Alecia M. Cooper, Roger Falk, Seth O. Fowler, Randy Howard, Mary Ingle, Patricia King, Fred I. Lewis, Barbara McArthur, Allan E. McMurtry, Laurence Miller, Gilbert Rivera, Jane Rivera, John Umphress, James Valadez, and Ed Wendler, Jr., appeared through their counsel of record, Douglas M. Becker and Monte L. Swarengen, and announced ready for trial. Defendants, the City of Austin, the City Council of Austin, the Honorable Austin Mayor Steve Adler, in his official capacity, the Honorable Austin City Council Members Natasha Harper-Madison, Delia Garza, Sabino Renteria, Gregorio Casar, Ann Kitchen, Jimmy Flannigan, Leslie Pool, Paige Ellis, Kathie Tovo, and Alison Alter, in their official capacities, and the Honorable Austin City Manager, Spencer Cronk, in his official capacity, appeared through their counsel of record, Jane Webre and Mary Byars, and announced ready for trial.

All matters in controversy, legal and factual, were submitted to the Court for its determination. The Court received the evidence and heard the arguments of counsel. Michelle Williamson, Court Reporter for the 345<sup>th</sup> District Court, made a record of the proceedings.

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**EXHIBIT A**

## **Declaratory Relief**

### **The Court FINDS:**

1. Defendants violated Sections 211.006 and 211.007 of the Texas Local Government Code in their attempt to adopt a comprehensive revised Land Development Code by (a) failing to provide statutorily-required notice of the Planning Commission's public hearing to Plaintiffs as to the changes in zoning of Plaintiffs' property and nearby property in the City of Austin; and (b) failing to recognize Plaintiffs' protest rights.

2. Defendants' actions described above constitute *ultra vires* acts that contravene state law, entitling Plaintiffs to relief against Defendants.

### **The Court DECLARES:**

1. Defendant City of Austin must send written notice to all property owners whose property is having its zoning changed, and to property owners within 200 feet of such property at least 10 days before the Planning Commission's public hearing to change the zoning of their property or nearby properties; or the City of Austin, upon a two-thirds vote of the City Council, may prescribe alternative notice of the time and place of a public hearing held jointly by the Austin City Council and the Austin Planning Commission pursuant to Texas Local Government Code 211.007(d).

2. The City Council's votes on first and second reading of the revised Land Development Code are void for failure to give the required statutory notice of the Planning Commission's public hearing.

3. Plaintiffs have protest rights pursuant to § 211.006(d) of the Texas Local Government Code as to any change in the zoning regulations or zoning district boundaries as to their property and any property within 200 feet of their property;



4. Defendants must not tell property owners that protest rights are not applicable to their property because of the Land Development Code revision; and

5. Defendants must affirmatively inform property owners and surrounding property owners of their protest rights.

**Injunctive Relief**

IT IS ORDERED, ADJUDGED, AND DECREED that Defendants be, and hereby are, commanded to send written notice to all property owners in the City of Austin, and surrounding property owners within 200 feet, whose zoning regulations or zoning district boundaries are being changed, at least 10 days before the Planning Commission's public hearing on those zoning changes, pursuant to § 211.007(c); or in the alternative, Defendants may provide the alternative notice by following § 211.007(d).

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that Defendants be, and hereby are, commanded to desist and refrain from:

1. Refusing to recognize and accept Plaintiffs' protest rights pursuant to Texas Local Government Code § 211.006(d) as to any change in the zoning regulations or zoning district boundaries of Plaintiffs' property or any property within 200 feet of Plaintiffs' property; and

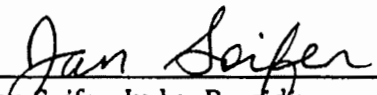
2. Refusing to require a three-fourths majority vote of all City Council Members to adopt any zoning change for any property that has been protested by the owners of at least 20% of the relevant property, pursuant to Texas Local Government Code § 211.006(d), in order for such change to be effective.

The Clerk shall forthwith, when so requested by Plaintiffs, issue a writ of injunction in conformity with the law and the terms of this judgment.

All relief sought by any party but not herein expressly given is denied.

This Final Judgment disposes of all issues and claims between the parties and is intended to be a final and appealable judgment.

SIGNED on March 18, 2020.

  
Jan Soifer, Judge Presiding

**ORDINANCE NO. 20220609-080**

**AN ORDINANCE AMENDING CITY CODE CHAPTER 25-2, SUBCHAPTER E  
RELATING TO VERTICAL MIXED USE BUILDINGS.**

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

**PART 1.** Section 4.3.2 of City Code Chapter 25-2, Subchapter E is amended to add a new Subsection 4.3.2.D. and a new Subsection 4.3.2.E. to read as follows:

**4.3.2. Where Allowed.**

- D.    In this article, VMU building includes VMU1 building and VMU2 building except as otherwise defined.
- E.    In this article, light rail line means the light rail depicted on Exhibit A attached to Resolution No. 20200807-003 (*Project Connect Contract with the Voters*). A site is located along a light rail line when the site is located on one of the following streets:

  - 1.    Center Ridge Drive between North I.H.-35 Frontage Road and Center Line Pass;
  - 2.    North Lamar Boulevard between West Guadalupe Street and the south curb of West Howard Lane;
  - 3.    West Guadalupe Street between Guadalupe Street and North Lamar Boulevard;
  - 4.    Guadalupe Street between 45<sup>th</sup> Street and West Cesar Chavez Street;
  - 5.    West Riverside Drive between South 1<sup>st</sup> Street and South Congress Avenue;
  - 6.    South Congress Avenue between Riverside Drive and Ralph Ablanedo Drive;
  - 7.    East State Highway 71 Frontage Roads between Spirit of Texas Drive and South U.S. Highway 183;
  - 8.    Riverside Drive between South U.S. Highway 183 and South Congress Avenue;

9. Trinity Street between its terminus south of Cesar Chavez and East 4<sup>th</sup> Street; and

10. 4<sup>th</sup> Street between Trinity Street and Guadalupe Street.

**PART 2.** Section 4.3.3.D. of City Code Chapter 25-2, Subchapter E is amended to read as follows:

D. **Compatibility and Neighborhood Standards.** Except as provided in this section, all [AH] VMU buildings are subject to the compatibility standards of Chapter 25-2, Article 10 if applicable.

~~[In case of conflict between the compatibility standards and this Subchapter, the compatibility standards shall control.]~~

1. The height limitations imposed by Sections 25-2-1062 (*Height Limitations And Setbacks For Small Sites*) and 25-2-1063 (*Height Limitations And Setbacks For Large Sites*) apply only to a VMU building or portion of a VMU building that is located:

a. within 100 feet from a property zoned urban family residence (SF-5) or more restrictive; or

b. within 100 feet from a property that contains a use permitted in a SF-5 or more restrictive zoning district is located; and

c. on a site that is located along a light rail line.

2[+]. A VMU building that is located on a site that is adjacent to an urban family residence (SF-5) or more restrictive zoning district, or is adjacent to a property which contains a use permitted in an SF-5 or more restrictive zoning district, other than a dwelling permitted by Section 25-2-894 (*Accessory Uses for a Principal Commercial Use*) must comply with the following Table D (*Neighborhood Design Standards*).

**PART 3.** Section 4.3.3.E. of City Code Chapter 25-2, Subchapter E is amended to read as follows:

E. **Height, Dimensional and Parking Requirements.**

1. VMU building[s] height[are subject to the height restrictions as provided in other sections of this Code].

- a. A VMU1 building is subject to the height restrictions as provided in other sections of this Code.
  - b. A VMU2 building may exceed the maximum building height in the base zoning district by a maximum of 30 feet, subject to the compatibility standards of Section 4.3.3.D.
- 2. Except as provided in Section 4.3.5., a VMU building that meets the affordability requirements in subsection F below is not subject to certain dimensional standards applicable in the base zoning district. These standards include the following:
  - 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.
- 3. Parking.
  - a. Except as provided in Section 4.3.3.E.3.b., for ~~[For]~~ all uses in a VMU building, the minimum off-street parking requirement shall be 60 percent of that prescribed by Appendix A (*Tables of Off-Street Parking and Loading Requirements*). This reduction may not be used in combination with any other parking reduction. Only the parking requirements for commercial uses are subject to modification through the opt-in/opt-out process in Section 4.3.5.

- b. For all uses in a VMU building, the minimum off-street parking requirement shall be 25 percent of that prescribed by Appendix A (Tables of Off-Street Parking and Loading Requirements) and may be used in combination with other parking reductions if the VMU building is located on a site that is located along a light rail line.

**PART 4.** Section 4.3.3.F. of City Code Chapter 25-2, Subchapter E is amended to read as follows:

- F. **[Affordability Requirements] Exemption and Bonus Requirements.** To be eligible for the dimensional or parking standards exemptions, or building height bonus if applicable, in Subsection E of this section, the residential units in a VMU building shall meet the following [affordability] requirements, which shall run with the land. This ordinance does not amend or repeal graphics or pictures that are used to illustrate various code requirements in the published version of Chapter 25-2, Subchapter E (Design Standards and Mixed Use).

- 1. Affordability Requirements for Owner-Occupied Units.

- a. A building qualifies as a VMU1 building when a minimum of 10 percent of the residential units within the building are reserved as affordable, for at least 99 years from the date of initial sale, for ownership and occupancy by households earning 80 percent or less of the current Austin-Round Rock Metropolitan Statistical Area Medium Family Income as determined by the Director of the Housing and Planning Department. ~~[Five percent of the residential units in the VMU building shall be reserved as affordable, for not less than 99 years from the date a certificate of occupancy is issued, for ownership and occupancy by households earning no more than 80 percent of the current Annual Median Family Income for the City of Austin Metropolitan Statistical Area as determined by the Director of Neighborhood Housing and Community Development Department.]~~
- b. A building qualifies as a VMU2 building when a minimum of 12 percent of the residential units within the building are reserved as affordable, for at least 99 years from the date of initial sale, for ownership and occupancy by households earning 80 percent or less of the current Austin-Round Rock Metropolitan Statistical Area Medium Family Income as

determined by the Director of the Housing and Planning Department. [~~In addition, five percent of the residential units in the VMU building shall be reserved, for not less than 99 years from the date a certificate of occupancy is issued, for ownership and occupancy by households earning no more than 100 percent of the Annual Median Family Income.~~]

- c. The city in its sole discretion may elect to subsidize [~~an~~] additional [~~ten percent of the~~] for-sale residential units in the building, at an affordability level consistent with criteria and procedures established by the Director of the Housing and Planning Department.

2. Affordability Requirements for Rental Units.

- a. A building qualifies as a VMU1 building when a minimum of 10 percent of the residential units within the building are reserved as affordable, for at least 40 years from the date of issuance of the certificate of occupancy, for lease and occupancy by households earning 60 percent or less of the current Austin-Round Rock Metropolitan Statistical Area Medium Family Income as determined by the Director of the Housing and Planning Department. [~~Ten percent of the residential units in the VMU building shall be reserved as affordable, for a minimum of 40 years following the issuance of the certificate of occupancy, for rental by households earning no more than 80 percent of the Annual Median Family Income.~~]
- b. For a site located along a light rail line, a building qualifies as a VMU2 building:
  - (i) When a minimum of 15 percent of the residential units within the building are reserved as affordable, for at least 40 years from the date of issuance of the certificate of occupancy, for lease and occupancy by households earning 60 percent or less of the current Austin-Round Rock Metropolitan Statistical Area Medium Family Income as determined by the Director of the Housing and Planning Department; or

- (ii) When a minimum of 12 percent of the residential units within a VMU building are reserved as affordable, for at least 40 years from the date of issuance of the certificate of occupancy, for lease and occupancy by households earning 50 percent or less of the current Austin-Round Rock Metropolitan Statistical Area Medium Family Income as determined by the Director of the Housing and Planning Department.
- c[b]. For a site that is not located along a light rail line, a building qualifies as a VMU2 building:
  - (i) When a minimum of 12 percent of the residential units within the building are reserved as affordable, for at least 40 years from the date of issuance of the certificate of occupancy, for lease and occupancy by households earning 60 percent or less of the current Austin-Round Rock Metropolitan Statistical Area Medium Family Income as determined by the Director of the Housing and Planning Department; or
  - (ii) When a minimum of 10 percent of the residential units within a VMU building are reserved as affordable, for at least 40 years from the date of issuance of the certificate of occupancy, for lease and occupancy by households earning 50 percent or less of the current Austin-Round Rock Metropolitan Statistical Area Medium Family Income as determined by the Director of the Housing and Planning Department.
- d. As part of the one-time opt-in/opt-out process described in Section 4.3.5., an applicable neighborhood association or neighborhood planning team may request that the affordable rental units be available for renters earning a lower percentage of the annual median family income, to as low as 60 percent of the median family income. VMU projects that file zoning or site plan applications after the effective date of the first interim VMU ordinance and prior to September 1, 2006, will not be subject to this neighborhood affordability customization; and instead shall set aside affordable rental units as required by subsection 2.a. above or provide for affordable units as otherwise agreed to by an applicable neighborhood prior to



September 1, 2006, provided that VMU projects are allowed on the applicable site following the completion of the opt-in/opt-out process.

e[e]. The city may elect to subsidize ~~[an]~~ additional ~~[ten percent of the]~~ residential units in the building for rental purposes for residents at any level of affordability pursuant to criteria and procedures established by the Director of the Housing and Planning Department.

3. Affordability Definition. ~~[For purposes of this subsection, a unit is affordable for purchase or rental if the household is required to spend no more than 30 percent of its gross monthly income on utilities and mortgage or rental payments for the unit as determined by the City's Neighborhood Housing and Community Development Department, based on the current Annual Median Family Income for the Austin Metropolitan Statistical Area.]~~
- a. For purposes of this subsection, a unit is affordable for purchase when the unit is sold to an income-eligible household for an amount not to exceed the corresponding sales prices published annually by the Director of the Housing and Planning Department; and
- b. When determining the maximum affordable sales price, the Director of Housing and Planning Department may include an assumption that a homeowner will be required to pay an ownership association fee.
- c. For purposes of this subsection, a unit is affordable when the unit is leased to an income-eligible household for an amount not to exceed the corresponding rental prices published annually by the Director of the Housing and Planning Department.
4. Certification
- a. In this section, director means the director of the Housing and Planning Department.
- b. The director is responsible for certifying whether a proposed development meets the exemption and bonus requirements.

- c. The applicant shall submit an application to the director demonstrating the proposed development meets the exemption and bonus requirements.
- d. Before the director may certify the proposed development, the applicant shall execute:
  - (i) an agreement to preserve the minimum exemption and bonus requirements for the VMU building; and
  - (ii) a document for recording in the real property records providing notice of or preserves the exemption and bonus requirements for the VMU building.
- e. The form of the document described in Section 4.3.3.F.4.d. must be approved by the city attorney.
- f. If the director certifies a proposed development under this section, the accountable official is authorized to process a development application for a VMU building.
- g. The applicant for a housing development shall pay all fees, provide documentation, and fulfill any pre-occupancy requirements prior to the issuance of a certificate of occupancy for the VMU building.

5. General Provisions.

- a. In this section, the director means the Director of the Housing and Planning Department.
- b. The agreement required in Section 4.3.3.F.4.d. must, at a minimum:
  - (i) Prohibit discrimination on the basis of an individual's source of income as defined in Section 5-1-13 (Definitions);
  - (ii) Require dispersion of affordable units throughout the residential units;
  - (iii) Require equal access and use of on-site amenities, common areas, and parking facilities;

- (iv) Require shared access routes for affordable units and market-rate units;
  - (v) Require that affordable units include interior components that are functionally equivalent to market-rate units; and
  - (vi) Require the applicant to incorporate lease provisions related to a tenant's right to organize that are consistent with 24 C.F.R. 245.100, the lease addendum required as a condition to receive city of Austin Housing Finance Corporation funds, or City Code requirement.
- c. Unless otherwise approved by the director, the bedroom count for affordable units shall be comparable to the bedroom count for market rate units. At the discretion of the director, two-bedroom or three-bedroom affordable units may count as two or three, one-bedroom (efficiency) affordable units. If the number of units required in this section include less than a whole unit, the unit number is rounded up to the nearest whole unit.
- d. Affordable rental units locations may be rotated within the building, provided that the total number of required affordable units remains in compliance with the affordability requirements for the affordability period.
- e. Simultaneous Availability of Affordable Units.
  - (i) In a single-phase housing development, affordable units must be available for occupancy concurrently with the market-rate units.
  - (ii) For a multi-phase housing development, an applicant must submit a development phasing plan that demonstrates how the market rate units and the affordable units will be made available concurrently. This plan must be included as an attachment to the agreement described in Section 4.3.3.F.4.d.
- f. An applicant for a VMU building shall prepare and follow an affirmative marketing and outreach plan for the duration the affordable period, in a form consistent with the U.S. Department of Housing and Urban Development regulations and approved by the Director of the Housing and Planning Department.

g. An affordable unit may not be used as a Type 2 or Type 3 short-term rental (STR).

6. Affordability Post-Construction Compliance and Penalty.

a. In this section, director means the Director of the Housing and Planning Department.

b. For a rental development, the owner of a VMU building with affordable for lease units shall provide the director with information that allows the director to verify compliance with the affordability requirements. The information shall be provided on an annual basis and on a form approved by the director.

c. If, for any reason, the director is unable to confirm the VMU building affordability requirements were met during any 12-month period, the preceding 12 months may not be used to satisfy the VMU building affordability period.

d. For an ownership affordable unit, each homebuyer at the time of purchase shall execute a resale restriction agreement in a form approved by the city attorney for recording in the real property records.

e. A person commits an offense if the person fails to comply with the requirement in subsection (b). A culpable mental state is not required, and need not be proved. A person commits a separate offense for each day the person fails to provide the documentation. Each offense is punishable by a fine not to exceed \$500.

7 [4]. Fee for Upper-Level Nonresidential Space. The developers of VMU buildings that contain nonresidential uses above the ground-floor shall pay a fee as set by the City Council for all climate-controlled nonresidential space above the ground floor. At the same time that it sets the amount of the fee, the City Council shall also identify a means by which fees paid pursuant to this section shall be reserved only for expenditure within the area of the City from which they were collected.

8 [5]. Monitoring and Enforcement. The City shall develop procedures to monitor and enforce this Section.

**PART 5.** The City Manager is directed to analyze the following direction and report to Council on the feasibility of the following approach by November 3, 2022.

The affordability level of affordable units required by VMU2 should be tied to 60% of the Travis County MFI OR 80% of the MFI for the census block group (or census tract if block group data is not available) that the parcel in question is on, whichever is lower. This defines affordability based on what is affordable to the neighborhood and takes into account equity issues. This will achieve the following:

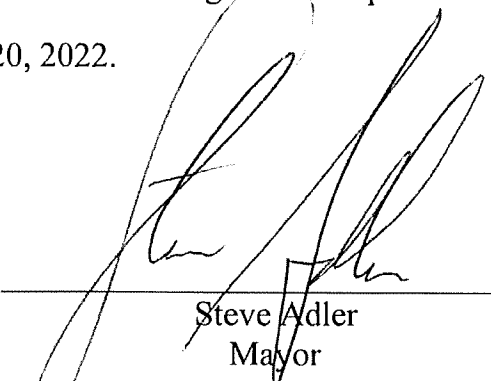
- a) When VMU2 is used in an area in which the MFI is lower than the Travis County-wide MFI, any affordable housing included will be affordable to the existing residents in the neighborhood. This will mitigate impacts of displacement and ensure some existing, long-time residents can continue to afford their neighborhood.
- b) Affordable housing will be included in higher-income neighborhoods at a rate that is more affordable than current units available in that neighborhood.
- c) When units are built in a neighborhood that are "affordable" based on Travis County but not local affordability, these units contribute to gentrification and displacement in the neighborhood. This will mitigate that impact.

**PART 6.** This ordinance takes effect on June 20, 2022.

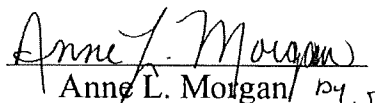
**PASSED AND APPROVED**

\_\_\_\_\_, June 9 \_\_\_\_\_, 2022

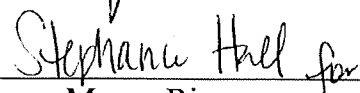
§  
§  
§

  
\_\_\_\_\_  
Steve Adler  
Mayor

**APPROVED:**

  
\_\_\_\_\_  
Anne L. Morgan  
City Attorney

**ATTEST:**

  
\_\_\_\_\_  
Myrna Rios  
City Clerk

**ORDINANCE NO. 20221201-055**

**AN ORDINANCE AMENDING TITLE 25 OF THE CITY CODE TO CREATE AN AFFORDABLE HOUSING DEVELOPMENT INCENTIVE PROGRAM THAT ALLOWS RESIDENTIAL USES IN CERTAIN COMMERCIAL ZONING DISTRICTS; CREATING AN OFFENSE; AND ESTABLISHING A PENALTY.**

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

**PART 1.** Article 15 (*Housing*) of City Code Chapter 25-1, is amended to add a new Division 5 to read as follows:

***Division 5. Residential Uses in Commercial Districts Incentive Program***

**§ 25-1-751 PURPOSE, APPLICABILITY, SHORT TITLE, AUTHORITY AND CONFLICT.**

- (A) The purpose of this division is to establish a voluntary incentive program that allows residential uses in commercial districts.
- (B) This division applies within the zoning jurisdiction.
- (C) This division may be cited as “Residential in Commercial Development Program”.
- (D) The director may adopt, implement, and enforce:
  - (1) program guidelines; and
  - (2) administrative rules in accordance with Chapter 1-2 (*Administrative Rules*).
- (E) A provision of this title that is specifically applicable to a residential-commercial development governs over a conflicting provision of this title.

**§ 25-1-752 DEFINITIONS.**

- (A) In this division,
  - (1) CREATIVE SPACES means a use described in Subsection (B).
  - (2) CREATIVE SPACE OPERATOR means a person who owns or manages a creative space.
  - (3) MARKET RATE UNIT means a rental or ownership dwelling unit that is not an affordable unit.

- (4) MFI means median family income for the Austin-Round Rock metropolitan statistical area.
- (B) A creative space includes a use described in Chapter 25-2 (*Zoning*) that allows one or more of the following occupancies:
  - (1) library, museum, or art gallery;
  - (2) performance venue/theater;
  - (3) art, dance, martial arts, or studios for performing art, music, or visual art;
  - (4) art workshop;
  - (5) live music venue; or
  - (6) artist live/work space.

**§ 25-1-753 ELIGIBILITY.**

- (A) A proposed development is eligible for this program if the development meets the requirements in this division; and
  - (1) is new construction; and
  - (2) redevelops the site without existing creative spaces or multi-family structures; or
  - (3) complies with the requirements in Subsection (C); and
  - (4) dedicates no more than 25 percent of the proposed development's gross floor area towards commercial uses.
- (B) A creative space is existing if the space has operated for at least 10 years.
- (C) Redevelopment of a Site with Existing Spaces and Structures.
  - (1) A proposed development that will require the applicant to redevelop existing creative spaces is eligible for this program if:
    - (a) the proposed development:
      - (i) meets the standards imposed in this subsection; and

- (ii) replaces all existing creative spaces that were operating the previous 12 months with creative spaces of comparable size; and
  - (b) the applicant provides current creative space operators with:
    - (i) notice and information about the proposed development on a form approved by the director; and
    - (ii) relocation benefits that are consistent with the Federal Uniform Relocation Assistance and Real Acquisition Policies Act of 1970, 42 U.S.C. 4601, *et seq.*; and
  - (c) the applicant grants a creative space operator the option to lease a creative space of comparable size and affordability following the completion of redevelopment.
- (2) A proposed development that will require the applicant to redevelop or rebuild an existing multi-family structure is eligible for this program if:
- (a) the existing multi-family structure requires extensive repairs for which costs will exceed 50 percent of the market value, as determined by the building official; and
  - (b) the proposed development will replace all existing units that were affordable to a household earning 80 percent MFI or below in the previous 12 months and have at least as many bedrooms as those units; and
  - (c) the applicant provides current tenants with:
    - (i) notice and information about the proposed development on a form approved by the director; and
    - (ii) relocation benefits that are consistent with Federal Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, 42 U.S.C. 4601, *et seq.*; and
  - (d) the applicant grants current tenants the option to lease a unit of comparable affordability and size following completion of redevelopment.



## **§ 25-1-754 AFFORDABILITY REQUIREMENTS.**

- (A) For a development with rental dwelling units, at least 10 percent of the rental dwelling units must serve households whose incomes are 60 percent MFI or below.
- (B) For a development with owner-occupied dwelling units, at least 10 percent of the owner-occupied dwelling units must serve households whose incomes are 80 percent MFI or below.
- (C) If the number of units required in this section includes less than a whole unit, the unit number is rounded up to the nearest whole unit.
- (D) The minimum affordability period for rental dwelling units is 40 years following the last certificate of occupancy required for the development.
- (E) The minimum affordability period for owner-occupied dwelling units is 99 years following the issuance of a certificate of occupancy for the owner-occupied dwelling unit.
- (F) In a multi-phased development, the director may begin the minimum affordability period upon the issuance of the last certificate of occupancy for each phase.
- (G) Unless otherwise approved by the director, the bedroom count for affordable units shall be comparable to the bedroom count for market rate units. At the discretion of the director, two-bedroom or three-bedroom affordable units may count as two or three, one-bedroom (efficiency) affordable units.
- (H) Simultaneous Availability of Affordable Units.
  - (1) In a single-phase housing development, affordable units must be available for occupancy concurrently with the market-rate units.
  - (2) For a multi-phase housing development, an applicant must submit a development phasing plan that demonstrates how the market rate units and the affordable units will be made available concurrently. This plan must be included as an attachment to the agreement described in Section 25-1-755 (*Certification*).
- (I) Affordable rental units may be rotated within the structure, provided that the total number of required affordable units remains in compliance with the affordability requirements for the affordability period.

- (J) An applicant shall prepare and follow an affirmative marketing and outreach plan for the duration of the affordable period, in a form consistent with the U.S. Department of Housing and Urban Development regulations and approved by the director

**§ 25-1-755 CERTIFICATION.**

- (A) The director is responsible for certifying whether a proposed development satisfies the exemption and bonus requirements.
- (B) The applicant shall submit an application to the director demonstrating the proposed development satisfies the requirements in this division.
- (C) If the director certifies that a proposed development meets the requirements of this division, the accountable official is authorized to process a development application consistent with provisions applicable to a commercial-residential development.
- (D) Before the director may certify that a proposed development meets the requirements of this division, the applicant shall execute:
  - (1) an agreement to preserve the minimum affordability period and related requirements imposed by this division; and
  - (2) a document for recording in the real property records that provides notice of or preserves the minimum affordability requirements imposed by this division.
- (E) The form of the agreement and document described in Subsection (D) must be approved by the city attorney.
- (F) The applicant shall pay all fees, provide documentation, and fulfill any pre-occupancy requirements prior to the issuance of a certificate of occupancy.
- (G) The agreement required in Subsection (D) must, at a minimum:
  - (1) prohibit discrimination on the basis of an individual's source of income as defined in Section 5-1-13 (*Definitions*);
  - (2) require dispersion of affordable units throughout the residential units;
  - (3) require equal access and use of on-site amenities, common areas, and parking facilities;
  - (4) require shared access routes for affordable units and market-rate units;

- (5) require that affordable units include interior components that are functionally equivalent to market-rate units;
- (6) require the applicant to incorporate lease provisions that are consistent with a tenant's right to organize under 24 C.F.R. 245.100, the lease addendum required as a condition to receive City of Austin Housing Finance Corporation funds, or City Code requirement; and
- (7) address obligations related to redeveloping a site with existing spaces and structures.

**§ 25-1-756 POST-CONSTRUCTION REQUIREMENTS AND PENALTY.**

- (A) For a development with rental dwelling units, the property owner or the property owner's agent shall provide the director with information that allows the director to verify compliance with the affordability requirements. The information shall be provided on an annual basis and on a form approved by the director.
- (B) If, for any reason, the director is unable to confirm that the affordability requirements were met during any 12-month period, the preceding 12 months may not be used to satisfy the minimum affordability requirements in Section 25-1-754 (*Affordability Requirements*).
- (C) For an ownership affordable unit, each homebuyer at the time of purchase shall execute a resale restriction agreement in a form approved by the city attorney for recording in the real property records.
- (D) A person commits an offense if the person fails to comply with the requirement in Subsection (A). A culpable mental state is not required and need not be proved. A person commits a separate offense for each day the person fails to provide the documentation. Each offense is punishable by a fine not to exceed \$500.

**PART 2.** Division 2, Article 2, Subchapter C of City Code Chapter 25-2 (*Zoning*) is amended to add a new Section 25-2-519 to read as follows:

**§ 25-2-519 COMMERCIAL-RESIDENTIAL DEVELOPMENT.**

- (A) In this section,
  - (1) **COMMERCIAL-RESIDENTIAL DEVELOPMENT** means a development certified under Section 25-1-755 (*Certification*) and participating in the Residential in Commercial Development Program.

- (2) LIGHT RAIL LINE means a street that is described in 4.3.2.E. (Where Allowed) of Subchapter E (*Design Standards and Mixed Use*) as a site located along a light rail line.
  - (3) TRANSIT CORRIDOR means a roadway that is defined in Article 5 (*Definitions*) of Subchapter E (*Design Standards and Mixed Use*) as a core transit corridor or a core transit corridor, future.
- (B) Except as provided in Subsection (C), a commercial-residential development is a permitted use under Section 25-2-491 (*Permitted, Conditional, and Prohibited Uses*) in the following commercial 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).
- (C) A commercial-residential development is prohibited when the property is:
  - (1) zoned "V"; or
  - (2) subject to a regulating plan that does not allow residential uses on the property.
- (D) Standards.
  - (1) A commercial-residential development is not subject to certain dimensional standards applicable in the base zoning district. These standards include:
    - (a) minimum site area requirements (if applicable);
    - (b) minimum street side yard setback and interior yard setback; and
    - (c) except when the right-of-way is less than 60 feet in width, the minimum front yard setback for a building with three or more stories in height shall be 30 feet from the centerline of the street to ensure adequate Fire Department access.

- (2) Except as provided in Subsection (D)(3), the minimum off-street parking requirement for a commercial-residential development is 60 percent of that prescribed by Appendix A (*Tables of Off-Street Parking and Loading Requirements*). This reduction may not be combined with any other parking reduction, except as provided in the Corridor Overlay (COR) District.
- (3) The minimum off-street parking requirement for a commercial-residential development is 25 percent of that prescribed by Appendix A (*Tables of Off-Street Parking and Loading Requirements*) if the commercial-residential development is located along a light rail line.
- (4) A building that is constructed on the edge of the commercial-residential development and that edge faces a transit corridor shall include a ground floor commercial use.
- (5) A building that is adjacent to an urban family residence (SF-5) or more restrictive zoning district must comply with Table A (*Commercial-Residential Developments - Neighborhood Design Standards*).

**TABLE A: COMMERCIAL-RESIDENTIAL DEVELOPMENTS – NEIGHBORHOOD DESIGN STANDARDS**

<b>Required Elements for the Facade</b>	<b>Description</b>
Design and place windows to maintain privacy for both adjoining property owners and residents of the project.	Window location, size and placement should take into account views into and from neighboring single-family properties so as to provide privacy.
Windows facing single family shall have visual transmittance (VT) of 0.6 or higher to minimize reflectivity.	
Provide visual screening for decks, patios, and public spaces.	
For a parking structure: Screen vehicle lights from view of adjacent triggering zoning or use.	
No amplified music in outdoor commercial or retail areas on the side of property adjacent to SF-5 or more restrictive zoning or use.	Applies only to side of property adjacent to SF-5 or more restrictive zoning or use.

Prohibit trash pickup and commercial deliveries between 10 p.m. and 7 a.m.	Prohibition must be noted on the site plan.
A commercial-residential development must also comply with at least one of the following neighborhood design standards:	
<i>Menu of Options</i>	<i>Description</i>
Ensure that the facade of a parking structure facing SF-5 or more restrictive zoning or use, breaks down the horizontal plane of the parking structure through the use of either: 1) Screening with materials sympathetic to those used on one or more buildings within a commercial-residential development, or 2) Creating openings on each floor that generally conform to the size and proportion of the windows on one or more buildings within a commercial-residential development and the use of materials sympathetic to those used on one or more buildings within a commercial-residential development.	Director shall require elevation identifying materials as part of the Site Plan process.
Enclose dumpsters within building or parking structure.	
Enclose mechanical equipment within building or parking structure.	
Mitigate traffic impact on streets through measures such as signage, traffic calming, or signalization.	Improvements must be approved by the Director of Public Works or Transportation, as applicable.
Reserve and design five percent of parking spaces for large vehicles.	

- (6) Except as provided in Subsection (D)(7), a commercial-residential development must comply with the height restrictions applicable to the base zoning district.

- (7) A commercial-residential development that includes commercial uses on the ground floor may exceed the height restrictions applicable to the base zoning district by five feet provided the ground floor uses are not part of a live/work unit.
- (8) A commercial-residential development may exceed the base zoning district's floor area ratio (FAR) as follows:
  - (a) The maximum FAR for a corridor site zoned CS, CS-1, GR, or GO is the base zoning district FAR multiplied by two.
  - (b) The maximum FAR for a corridor site zoned LR or LO is the base zoning district FAR multiplied by 1.5.
- (9) A commercial-residential development that is not zoned LR or LO may exceed maximum building coverage.
- (E) Within a commercial-residential development, short-term rental (STR) use may not:
  - (1) occur in an affordable dwelling unit; or
  - (2) exceed 15 percent of the dwelling units.
- (F) Other Density Bonus Programs.
  - (1) If a commercial-residential development is also eligible to utilize a separate density bonus program that grants density bonuses for the provision of on-site affordable dwelling units or for the payment of a fee-in-lieu for affordable housing, then the commercial-residential development may comply with the least restrictive site development requirements if all affordable dwelling units are provided on-site.
  - (2) Except as provided in Subsection (F)(3), the total number of affordable dwelling units provided on-site must equal or exceed the number of on-site affordable dwelling units required by the Residential in Commercial Development Program plus the number of on-site units required by the other density bonus program.
  - (3) If a commercial-residential development utilizes Section 25-2-769.06 (*Affordable Housing Bonuses*), the total number of affordable dwelling units provided on-site must equal or exceed the number of on-site affordable dwelling units required by the Residential in Commercial Development Program.

**PART 3.** The City Manager is directed to analyze participation in this program, including assessing its impact on expanding housing capacity and creating affordable housing units, and report to Council on an annual basis.

**PART 4.** This ordinance takes effect on December 12, 2022.

**PASSED AND APPROVED**

December 1, 2022 §  
§  
§  
Steve Adler  
Mayor  
APPROVED: Anne L. Morgan  
City Attorney  
ATTEST: Myrna Rios  
City Clerk



**ORDINANCE NO. 20221201-056**

**AN ORDINANCE AMENDING CHAPTER 25-2 OF THE CITY CODE TO CREATE AN OVERLAY DISTRICT ON PROPERTY THAT FRONT-FACES OR SIDE-FACES CERTAIN ROADWAYS; AMENDING SECTION 25-6-471 OF THE CITY CODE RELATING TO OFF-STREET PARKING FACILITIES; AND CREATING AN OFFENSE AND PENALTY.**

**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 to read as follows:

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

(21) corridor overlay .... COR

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

**§ 25-2-181 CORRIDOR OVERLAY (COR) DISTRICT PURPOSE AND BOUNDARIES.**

- (A) The purpose of the corridor overlay (COR) district is to increase housing capacity and support transit investments on certain roadways by relaxing compatibility regulations and reducing parking minimums.
- (B) The boundaries of the COR district are identified in Section 25-2-769.03 (*Corridor Roadways*).

**PART 3.** Article 3, Subchapter C of City Code Chapter 25-2 (*Zoning*) is amended to add a new Division 13 to read as follows:

**Division 13. Corridor Overlay**

**§ 25-2-769.01 APPLICABILITY AND CONFLICT.**

- (A) This division applies to a site within the zoning jurisdiction that can be developed with at least one residential use and front-faces or side-faces a roadway that qualifies as light rail line, medium corridor, or larger corridor.
- (B) This division governs over a conflicting provision of this title or other ordinance unless the conflicting provision is less restrictive.

## **§ 25-2-769.02 DEFINITIONS.**

In this division, the following definitions apply:

- (1) CORRIDOR means a roadway that qualifies as a larger corridor, light rail line, or medium corridor.
- (2) CORRIDOR SITE means a site that is front-facing or side-facing a corridor.
- (3) LARGER CORRIDOR means a roadway described in Section 25-2-769.03(C).
- (4) LIGHT RAIL LINE means a roadway described in Section 25-2-769.03(A).
- (5) MEDIUM CORRIDOR means a roadway described in Section 25-2-769.03(B).
- (6) TRIGGERING PROPERTY means a property zoned SF-5 or more restrictive and contains only residential uses.

## **§ 25-2-769.03 CORRIDOR ROADWAYS.**

- (A) A site is located along a light rail line when the site front-faces or side-faces one of the streets set out in Exhibit A to Ordinance No. 20221201-056.
- (B) A site is located along a medium corridor when the site front-faces or side-faces one of the streets set out in Exhibit B to Ordinance No. 20221201-056.
- (C) A site is located along a larger corridor when the site front-faces or side-faces one of the streets set out in Exhibit C to Ordinance No. 20221201-056.

## **§ 25-2-769.04 COMPATIBILITY AND SETBACK REQUIREMENTS.**

- (A) A corridor site is not subject to Section 25-2-1062 (*Height Limitations And Setbacks For Small Sites*) or Section 25-2-1063 (*Height Limitations And Setbacks For Large Sites*) except as provided in this division.
- (B) A corridor site is subject to Section 25-2-1062 (*Height Limitations And Setbacks For Small Sites*) when:
  - (1) the site is 20,000 square feet or less; and
  - (2) the site includes a street frontage that is 100 feet or less; and
  - (3) a triggering property is on the same side of the corridor as the site; and
  - (4) one of the following applies:

- (a) the site is located on a light rail line or larger corridor and includes a structure or a portion of a structure within 200 feet of a triggering property; or
  - (b) the site is located on a medium corridor and includes a structure or a portion of a structure within 300 feet of a triggering property; and
- (5) one of the following applies:
  - (a) the site includes a residential use developed in accordance with site development standards that apply to MF-1 or less restrictive zoning district; or
  - (b) the site includes 17 or more residential units; or
  - (c) the site includes non-residential uses; or
  - (d) the site includes a structure or a portion of a structure that will exceed 35 feet in height within 200 feet of a triggering property and is located on a light rail line or larger corridor; or
  - (e) the site includes a structure or a portion of a structure that will exceed 35 feet in height within 300 feet of a triggering property and is located on a medium corridor.
- (C) A corridor site is subject to Section 25-2-1063 (*Height Limitations And Setbacks For Large Sites*) when:
  - (1) one of the following applies:
    - (a) the site exceeds 20,000 square feet; or
    - (b) the site includes a street frontage that exceeds 100 feet; and
  - (2) a triggering property is on the same side of the corridor as the site; and
  - (3) one of the following applies:
    - (a) the site is located on a light rail line or larger corridor and includes a structure or a portion of a structure within 200 feet of a triggering property; or
    - (b) the site is located on a medium corridor and includes a structure or a portion of a structure within 300 feet of a triggering property; and
  - (4) one of the following applies:

- (a) the site includes a residential use developed in accordance with site development standards that apply to MF-1 or less restrictive zoning districts; or
  - (b) the site includes 17 or more residential units; or
  - (c) the site includes non-residential uses; or
  - (d) the site includes a structure or a portion of a structure that will exceed 35 feet in height within 200 feet of a triggering property and is located on a light rail line or larger corridor; or
  - (e) the site includes a structure or a portion of a structure that will exceed 35 feet in height within 300 feet of a triggering property and is located on a medium corridor.
- (D) In this division, height limitations in Section 25-2-1062 (*Height Limitations And Setbacks For Small Sites*) and Section 25-2-1063 (*Height Limitations And Setbacks For Large Sites*) only apply to the portion of a structure that is located:
  - (1) within 200 feet of the triggering property for a site located on a light rail line or larger corridor; or
  - (2) within 300 feet of the triggering property for a site located on a medium corridor.
- (E) For a corridor site with at least one residential use and 15 percent or less short-term rental (STR) uses, a setback required by Section 25-2-1062 (*Height Limitations And Setbacks For Small Sites*) and Section 25-2-1063 (*Height Limitations And Setbacks For Large Sites*) may include a structure if the structure complies with this subsection.
  - (1) The structure cannot exceed 35 feet in height.
  - (2) The structure cannot be used as a dwelling, multi-level parking facility, or for refuse collection.
  - (3) The structure cannot include enclosed walls or a roof except for screening and walls that are part of stormwater or other critical infrastructure.
  - (4) The structure cannot include industrial or larger commercial HVAC systems.
- (F) For a corridor site with at least one residential use and 15 percent or less short-term rental (STR) uses, the height limitation for a structure is:

- (1) 35 feet, if the structure is 50 feet or less from a triggering property; or
- (2) 45 feet, if the structure is more than 50 feet and not more than 100 feet from a triggering property; or
- (3) 45 feet plus one foot for each 10 feet of distance in excess of 100 feet from the triggering property, if the structure is more than 100 feet but not more than 200 feet from a triggering property and the site is located on a light rail line or larger corridor; or
- (4) 45 feet plus one foot for each 10 feet of distance in excess of 100 feet from the triggering property, if the structure is more than 100 feet but not more than 300 feet from a triggering property and the site is located on a medium corridor.

**§ 25-2-769.05 RESERVED.**

**§ 25-2-769.06 AFFORDABLE HOUSING BONUSES.**

- (A) A development is eligible for the bonuses in this section if the requirements in this section are satisfied.
- (B) In this section,
  - (1) DIRECTOR means the director of the Housing and Planning Department.
  - (2) MARKET RATE UNIT means a rental or ownership dwelling unit that is not an affordable unit.
  - (3) MFI means median family income for the Austin-Round Rock metropolitan statistical area.
- (C) A proposed development that will require the applicant to redevelop or rebuild an existing multi-family structure is eligible for this program if:
  - (1) the existing multi-family structure requires extensive repairs for which costs will exceed 50 percent of the market value, as determined by the building official;
  - (2) the proposed development will replace all existing units that were affordable to a household earning 80 percent MFI or below in the previous 12 months and have at least as many bedrooms as those units;
  - (3) the applicant provides current tenants with:

- (a) notice and information about the proposed development on a form approved by the director; and
    - (b) relocation benefits that are consistent with Federal Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, 42 U.S.C. 4601, *et seq.*; and
  - (4) the applicant grants current tenants the option to lease a unit of comparable affordability and size following completion of redevelopment.
- (D) Minimum Affordability Requirements.
- (1) For a development with rental dwelling units, at least 10 percent of the rental dwelling units must serve households whose incomes are 60 percent MFI or below.
  - (2) For a development with owner-occupied dwelling units, at least 10 percent of the owner-occupied dwelling units must serve households whose incomes are 80 percent MFI or below.
  - (3) If the number of units required in this section includes less than a whole unit, the unit number is rounded up to the nearest whole unit.
  - (4) The minimum affordability period for rental dwelling units is 40 years following the last certificate of occupancy required for the development.
  - (5) The minimum affordability period for owner-occupied dwelling units is 99 years following the issuance of a certificate of occupancy for the owner-occupied dwelling unit.
  - (6) In a multi-phased development, the director may begin the minimum affordability period upon the issuance of the last certificate of occupancy for each phase.
  - (7) Unless otherwise approved by the director, the bedroom count for affordable units shall be comparable to the bedroom count for market rate units. At the discretion of the director, two-bedroom or three-bedroom affordable units may count as two or three, one-bedroom (efficiency) affordable units.
  - (8) Simultaneous Availability of Affordable Units.
    - (a) In a single-phase housing development, affordable units must be available for occupancy concurrently with the market rate units.

- (b) For a multi-phase housing development, an applicant must submit a development phasing plan that demonstrates how the market rate units and the affordable units will be made available concurrently. This plan must be included as an attachment to the agreement described in Subsection (E).
- (9) Affordable rental units may be rotated within the structure, provided that the total number of required affordable units remains in compliance with the affordability requirements for the affordability period.
- (10) An applicant shall prepare and follow an affirmative marketing and outreach plan for the duration the affordable period, in a form consistent with the U.S. Department of Housing and Urban Development regulations and approved by the director.
- (11) For a corridor site that is certified under Subsection (E), short-term rental (STR) use may not:
  - (a) occur in an affordable dwelling unit; or
  - (b) exceed 15% of the dwelling units.
- (E) Certification.
  - (1) The director is responsible for certifying whether a proposed development satisfies the exemption and bonus requirements.
  - (2) The applicant shall submit an application to the director demonstrating the proposed development satisfies the requirements of this section.
  - (3) If the director certifies that a proposed development satisfies the requirements of this section, the accountable official is authorized to process a development application consistent with this section.
  - (4) Before the director may certify the proposed development, the applicant shall execute:
    - (a) an agreement to preserve the requirements in this section; and
    - (b) a document for recording in the real property records providing notice of or preserves the requirements in this section.
  - (5) The form of the agreement and document described in Subsection (E)(4) must be approved by the city attorney.

- (6) The applicant shall pay all fees, provide documentation, and fulfill any pre-occupancy requirements prior to the issuance of a certificate of occupancy.
- (7) The agreement required in Subsection (E)(4) must, at a minimum:
  - (a) prohibit discrimination on the basis of an individual's source of income as defined in Section 5-1-13 (*Definitions*);
  - (b) require dispersion of affordable units throughout the residential units;
  - (c) require equal access and use of on-site amenities and common areas;
  - (d) require equal access to parking facilities if rent and parking facilities are bundled;
  - (e) require shared access routes for affordable units and market-rate units;
  - (f) require that affordable units include interior components that are functionally equivalent to market-rate units;
  - (g) require the applicant to incorporate lease provisions that are consistent with a tenant's right to organize under 24 C.F.R. 245.100, the lease addendum required as a condition to receive City of Austin Housing Finance Corporation funds, or City Code requirement; and
  - (h) address obligations related to redeveloping an existing multi-family structure.
- (F) Affordability Post-Construction Compliance and Penalty.
  - (1) For development with rental dwelling units, the owner shall provide the director with information that allows the director to verify compliance with the affordability requirements. The information shall be provided on an annual basis and on a form approved by the director.
  - (2) If, for any reason, the director is unable to confirm that the affordability requirements were met during any 12-month period, the preceding 12 months may not be used to satisfy the affordability period.
  - (3) For an ownership affordable unit, each homebuyer at the time of purchase shall execute a resale restriction agreement in a form approved by the city attorney for recording in the real property records.
  - (4) A person commits an offense if the person fails to comply with the requirement in Subsection (F)(1). A culpable mental state is not required



and need not be proved. A person commits a separate offense for each day the person fails to provide the documentation. Each offense is punishable by a fine not to exceed \$500.

(G) Bonuses.

- (1) This subsection governs over a conflicting provision of this division.
- (2) For a site located on a light rail line or a larger corridor and except as provided in Subsection (G)(4), the requirements in Section 25-2-769.04 (*Compatibility and Setback Requirements*) apply only to a structure located within 100 feet of a triggering property.
- (3) For a site located on a medium corridor and except as provided in Subsection (G)(4), the maximum height for a structure is:
  - (a) 65 feet if the structure is located at least 150 feet from a triggering property; or
  - (b) 90 feet if the structure is located at least 250 feet from a triggering property.
- (4) The requirements in Section 25-2-769.04 (*Compatibility and Setback Requirements*) apply only to a structure located within 150 feet of a triggering property when the corridor site and triggering property share a portion of both the rear and side lot lines.

(H) Fee-In-Lieu.

- (1) An applicant may pay a fee-in-lieu of on-site affordable units if:
  - (a) the fee-in-lieu of on-site affordable units is sufficient to construct the number of dwelling units that would have been required on-site; and
  - (b) the director authorizes the applicant to pay a fee-in-lieu.
- (2) The director may authorize an applicant to pay a fee-in-lieu after the fee-in-lieu per dwelling unit is set by separate ordinance.
- (3) The director may adopt administrative rules in accordance with Chapter 1-2 (*Administrative Rules*) to implement this subsection.

(I) Other Density Bonus Programs. If a Corridor Overlay (COR) District development is also eligible to utilize a separate density bonus program that grants density bonuses for the provision of on-site affordable dwelling units or for the

payment of a fee-in-lieu of affordable housing, then the Corridor Overlay (COR) district development may comply with the least restrictive site development requirements if the development meets the higher affordability requirement among the two programs.

**PART 4.** City Code Section 25-6-471 (*Off-Street Parking Facility Required*) is amended to amend Subsection (I) to add a new definition for “Corridor Development”; and to add new Subsections (K) and (L) to read as follows:

(I) In this section,

- (1) ACCESSIBLE SPACE means a parking space for an individual with a disability that complies with the Americans with Disabilities Act (ADA) and Fair Housing Act Amendments (FHAA), as appropriate;
- (2) CORRIDOR DEVELOPMENT means a development that includes 15 percent or less short-term rental (STR) uses and is subject to Division 13 (*Corridor Overlay*) of Chapter 25-2, Subchapter C; and
- (3) [~~(2)~~] QUALIFYING DEVELOPMENT means a development certified under Section 25-1-724 (*Certification*) and participating in the Affordability Unlocked Bonus Program.

(K) This subsection applies to a corridor development that includes at least one residential use and is located more than 300 feet from a private or public primary or secondary educational facility.

- (1) A term defined by Section 25-2-769.02 (*Definitions*) has the same meaning in this subsection.
- (2) A corridor development must provide accessible spaces as set forth in Subsection (J).
- (3) The required off-street parking for a corridor development that is located on a larger corridor is 25 percent of the parking required for the use under Appendix A (*Tables of Off-Street Parking and Loading Requirements*).
- (4) The required off-street parking for a corridor development that is located on a medium corridor is 50 percent of the parking required for the use under Appendix A (*Tables of Off-Street Parking and Loading Requirements*).
- (5) Except as provided in Subsection (L), the required off-street parking for a corridor development that is located on a light rail line is 25 percent of the parking required for the use under Appendix A (*Tables of Off-Street Parking and Loading Requirements*).

(L) This subsection applies to a corridor development that is located on a light rail line and consists of at least 75 percent residential uses.

- (1) A term defined by Section 25-2-769.02 (*Definitions*) has the same meaning in this subsection.
- (2) A corridor development subject to this subsection must provide accessible spaces as set forth in Subsection (J).
- (3) A corridor development subject to this subsection is not required to provide required off-street parking.


**PART 5.** The City Manager is directed to identify strategies for affordable housing programs to mitigate displacement risks due to disparities in income levels across the city in areas at risk of gentrification in which the local MFI is lower than the Travis County-wide MFI.

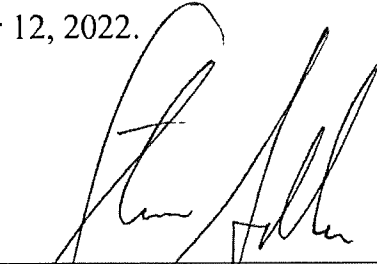
**PART 6.** The City Manager is directed to do a city-wide analysis of the impact of current compatibility standards and potential changes to those standards, especially in high opportunity areas and to help meet strategic housing blueprint goals. The City Manager is also directed to provide these findings no later than May 1, 2023 and shall provide an update to Council regarding the approach and methodology being used to perform the analysis at least 90 days before presenting the findings to Council.

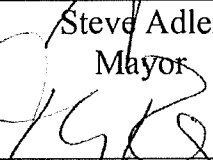
**PART 7.** This ordinance takes effect on December 12, 2022.

**PASSED AND APPROVED**

December 1, 2022 §  
§  
§

**APPROVED:**   
Anne L. Morgan  
City Attorney

**ATTEST:**   
Steve Adler  
Mayor

  
Myrna Rios  
City Clerk

STREET NAME	SEGMENT	CORRIDOR TYPE
Center Ridge Drive	Between North I.H.-35 Frontage Road and Center Line Pass	Light Rail
North Lamar Boulevard	Between West Guadalupe Street and the south curb of West Howard Lane	Light Rail
West Guadalupe Street	Between Guadalupe Street and North Lamar Boulevard	Light Rail
Guadalupe Street	Between 45th Street and West Cesar Chavez Street	Light Rail
West Riverside Drive	Between South 1st Street and South Congress Avenue	Light Rail
South Congress Avenue	Between Riverside Drive and Slaughter Lane	Light Rail
East State Highway 71 Frontage Roads	Between Spirit of Texas Drive and South U.S. Highway 183	Light Rail
Riverside Drive	Between South U.S. Highway 183 and South Congress Avenue	Light Rail
Trinity Street	Between its terminus south of Cesar Chavez and East 4th Street	Light Rail
4th Street	Between Trinity Street and Guadalupe Street	Light Rail

STREET NAME	SEGMENT	CORRIDOR TYPE
E 11th ST	Between Branch ST & Navasota ST	Medium Corridor
E 12th ST	Between N IH 35 SVRD NB & Poquito ST	Medium Corridor
W 35th ST	Between N Mopac EXPY NB & W 38th ST	Medium Corridor
W 38th ST	Between W 35th ST & Guadalupe ST	Medium Corridor
North Loop BLVD	Between N Lamar BLVD & Avenue F	Medium Corridor
E 53rd ST	Between Avenue F & Bruning AVE	Medium Corridor
Bruning AVE	Between E 53RD ST & Airport BLVD	Medium Corridor
E 51st ST	Between Airport BLVD & Berkman DR	Medium Corridor
Airport BLVD	Between N Lamar BLVD & E Highland Mall BLVD	Medium Corridor
Airport BLVD	Between E 45th ST & Manor RD	Medium Corridor

STREET NAME	SEGMENT	CORRIDOR TYPE
Airport BLVD	Between Oak Springs Dr & Levander Loop	Medium Corridor
Lake Austin BLVD	Between Exposition BLVD & Mopac EXPY	Medium Corridor
W 6th ST	Between Mopac EXPY & N Lamar BLVD	Medium Corridor
W 5th ST	Between Mopac EXPY & N Lamar BLVD	Medium Corridor
W 5th ST	Between Guadalupe ST & Lavaca ST	Medium Corridor
W Anderson LN	Between N Mopac EXPY & N Lamar BLVD	Medium Corridor
Braker LN	Between Jollyville RD & Dawes PL	Medium Corridor
Medical PKWY	Between W 45th ST & Marathon BLVD	Medium Corridor
Dessau RD	Between E Howard LN & E Rundberg LN	Medium Corridor
Cameron RD	Between E Rundberg LN & E 51st ST	Medium Corridor

STREET NAME	SEGMENT	CORRIDOR TYPE
E 7th ST	Between N IH 35 & Levander Loop	Medium Corridor
E Cesar Chavez	Between N IH 35 & Levander Loop	Medium Corridor
Harris Branch PKWY	Between E Howard LN & E US 290	Medium Corridor
Howard LN	Between Wells Branch PKWY & N SH 130	Medium Corridor
Jollyville RD	Between Barrington Way & Great Hills TRL	Medium Corridor
Arboretum BLVD	Between Great Hills TRL & N Capital of Texas HWY	Medium Corridor
Loyola LN	Between Manor RD & Crystalbrook DR	Medium Corridor
Decker Lake RD	Between Decker LN & City Limits	Medium Corridor
Manor RD	Between N IH 35 & E Dean Keeton ST	Medium Corridor
Manor RD	Between Berkman DR & E 51st ST	Medium Corridor

STREET NAME	SEGMENT	CORRIDOR TYPE
Springdale RD	Between Pecan Brooks DR & City Limits	Medium Corridor
E Martin Luther King JR BLVD	Between N Lamar BLVD & City Limits	Medium Corridor
Parmer LN	Between Lakeline BLVD & E US 290	Medium Corridor
S Pleasant Valley RD	Between E William Cannon DR & Onion Creek DR	Medium Corridor
S Pleasant Valley RD	Between E Oltorf ST & current terminus south of Oltorf ST	Medium Corridor
Old Lockhart RD / Bradshaw RD	Between FM 1327 & E Slaughter LN	Medium Corridor
Riverside DR	Between S Lamar BLVD & S 1st ST	Medium Corridor
Riverside DR	Between S Congress AVE & Blue Line	Medium Corridor
Rundberg LN	Between current terminus west of Burnet RD & Cameron RD	Medium Corridor
Ferguson LN	Between Cameron RD & City Limits	Medium Corridor



STREET NAME	SEGMENT	CORRIDOR TYPE
Slaughter LN	Between Goodnight Ranch BLVD & Brodie LN	Medium Corridor
S Congress AVE	Between E Riverside DR & the Colorado River	Medium Corridor
S 1st ST	Between W Riverside DR & E FM 1626 RD	Medium Corridor
Springdale RD	Between Manor RD & E Cesar Chavez ST	Medium Corridor
E Stassney LN	Between S Pleasant Valley RD & West Gate BLVD	Medium Corridor
Tuscany Way	Ferguson LN & Springdale RD	Medium Corridor
Wells Branch PKWY	Between N Mopac EXPY & Killingsworth LN	Medium Corridor
William Cannon DR	Between S Mopac EXPY & S Pleasant Valley RD	Medium Corridor
William Cannon DR	Between Mc Kinney Falls PKWY & City Limits	Medium Corridor
N Lamar BLVD	Between W Guadalupe ST & 45th ST	Medium Corridor

STREET NAME	SEGMENT	CORRIDOR TYPE
N Lamar BLVD	Between 5th ST & Cesar Chavez ST	Medium Corridor
Burnet RD	Between Gracy Farms LN & Palm Way	Medium Corridor
W 24th ST	Between N Lamar BLVD & Guadalupe ST	Medium Corridor
Nueces ST	Between Guadalupe St & 24th St	Medium Corridor
Slaughter LN	Between FM 1826 RD & Brodie LN	Medium Corridor
William Cannon DR	Between Southwest PKWY & Mopac EXPY	Medium Corridor

STREET NAME	SEGMENT	CORRIDOR TYPE
Center Line Pass	Between Center Ridge Dr and Howard Ln	Larger Corridor
West Howard	Between Center Line Pass and N Lamar BLVD	Larger Corridor
Cullen LN	Between Slaughter and Turk Ln	Larger Corridor
Riverside Drive	Between South U.S. Highway 183 and South Congress Avenue	Larger Corridor
IH-35	Between City Limit & City Limit	Larger Corridor
MOPAC EXPRESSWAY (LOOP 1)	Between SH 45 N & SH 45 S	Larger Corridor
US 183/183 A (RESEARCH BLVD/ANDERSON LN/ED BLUESTEIN BLVD)	Between City Limit & City Limit	Larger Corridor
W US 290	Between City Limit & CAPITAL OF TEXAS HIGHWAY (LOOP 360)	Larger Corridor
W SH 71	Between City Limit & W US 290	Larger Corridor
BEN WHITE BLVD (US 290/SH 71)	Between CAPITAL OF TEXAS HIGHWAY (LOOP 360) & US 183	Larger Corridor
E US 290	Between AIRPORT BLVD & City Limit	Larger Corridor

STREET NAME	SEGMENT	CORRIDOR TYPE
E SH 71	Between US 183 & City Limit	Larger Corridor
SH 45 N	Between US 183 & City Limit	Larger Corridor
SH 45 S	Between MOPAC EXPRESSWAY (LOOP 1) & FM 1626	Larger Corridor
SH 130	Between City Limit & City Limit	Larger Corridor
CAPITAL OF TEXAS HIGHWAY (LOOP 360)	Between US 183 & BEN WHITE BLVD (US 290/SH 71)	Larger Corridor
RM 620	Between City Limit & US 183	Larger Corridor
Menchaca RD	Between W Slaughter LN & W Ben White BLVD	Larger Corridor
S Lamar BLVD	Between W Ben White BLVD & W Cesar Chavez ST	Larger Corridor
W 6TH ST	Between Lavaca ST & N Lamar BLVD	Larger Corridor
W 5th ST	Between N Lamar BLVD & Guadalupe ST	Larger Corridor
N Lamar BLVD	Between W 5th ST W 45th ST	Larger Corridor
W 45th ST	Between N Lamar BLVD & Burnet RD	Larger Corridor

STREET NAME	SEGMENT	CORRIDOR TYPE
Burnet RD	Between W 45th ST & Palm Way	Larger Corridor
San Antonio ST	Between W 4th St & W 3rd ST	Larger Corridor
W 3rd ST	Between San Antonio ST & Nueces ST	Larger Corridor
Nueces ST	Between 3rd ST & 4th ST	Larger Corridor
4th ST	Between Nueces ST & Trinity ST	Larger Corridor
Trinity ST	Between E 4th ST & San Jacinto Blvd	Larger Corridor
San Jacinto BLVD	Between Trinity ST & E Dean Keeton ST	Larger Corridor
E Dean Keeton ST	Between San Jacinto BLVD & Manor RD	Larger Corridor
Manor RD	Between E Dean Keeton ST & Berkman DR	Larger Corridor
Berkman DR	Between Manor RD & E 51st ST	Larger Corridor
E 51st ST	Between Berkman DR & Manor RD	Larger Corridor
Manor RD	Between E 51st ST & Ed Bluestein BLVD	Larger Corridor

STREET NAME	SEGMENT	CORRIDOR TYPE
Springdale RD	Between Ed Bluestein BLVD & Pecan Brook Dr	Larger Corridor
Pecan Brook DR	Between Springdale RD & Crystalbrook DR	Larger Corridor
Crystalbrook DR	Between Pecan Brook DR & Loyola LN	Larger Corridor
Loyola LN	Between Crystalbrook DR & Decker LN	Larger Corridor
Decker LN	Between Loyola LN & Colony Loop DR	Larger Corridor
Red River ST	Between Dean Keeton ST & E 41ST	Larger Corridor
E 41st ST	Between Red River ST & IH-35	Larger Corridor
Clarkson AVE	Between I-35 and E 46th ST	Larger Corridor
Airport BLVD	Between E 46th ST & E Highland Mall BLVD	Larger Corridor
Airport BLVD	Between Manor RD & Oak Springs DR	Larger Corridor
Oak Springs DR	Between Airport BLVD & Webberville RD	Larger Corridor

STREET NAME	SEGMENT	CORRIDOR TYPE
Webberville RD	Between Oak Springs DR & N Pleasant Valley RD	Larger Corridor
Pleasant Valley RD	Between Webberville RD & E Oltorf ST	Larger Corridor
E Oltorf ST	Between S Pleasant Valley RD & Burleson RD	Larger Corridor
Burleson RD	Between E Oltorf ST & E Ben White BLVD	Larger Corridor
Todd LN	Between E Ben White BLVD & E St Elmo RD	Larger Corridor
S Pleasant Valley RD	Between E St Elmo RD & E William Cannon DR	Larger Corridor
E William Cannon DR	Between S Pleasant Valley RD & Mc Kinney Falls PKWY	Larger Corridor
McKinney Falls PKWY	Between E William Cannon DR & Thaxton RD	Larger Corridor
Thaxton RD	Between McKinney Falls PKWY & E Slaughter LN	Larger Corridor
E Slaughter LN	Between Thaxton RD & Goodnight Ranch BLVD	Larger Corridor

**ORDINANCE NO. 20190509-027**

**AN ORDINANCE AMENDING CITY CODE TITLE 25 (*LAND DEVELOPMENT CODE*) CREATING A RESIDENTIAL AFFORDABLE HOUSING DEVELOPMENT BONUS PROGRAM; WAIVING, MODIFYING, AND ESTABLISHING REQUIREMENTS; CREATING AN OFFENSE; AND ESTABLISHING A PENALTY.**

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

**PART 1. FINDINGS.**

The council finds the following:

- (1) The Strategic Housing Blueprint (Blueprint) establishes a City-wide goal to produce a total of 135,000 new units with a goal of at least 60,000 new income restricted units by 2027.
- (2) There is a need for affordable housing of all types throughout the City including, but not limited, to single family, duplex, townhome, condominium, and multi-family.
- (3) The City is dedicated to finding creative, innovative solutions to address the City's affordable housing crisis, to create more affordable housing, to increase the effectiveness of public dollars used for affordable housing, and to meet the goals of the Blueprint.
- (4) In November 2018, voters approved \$250 million for affordable housing. Additionally, 4% and 9% Low Income Housing Tax Credits (LIHTC) are popular financing tools to create affordable housing and require at least 50% of a development's dwelling units to serve households that average 60% median family income.
- (5) This city-wide program, which was initiated in Resolution No. 20190221-027, is necessary to encourage the development of affordable housing throughout the City.

**PART 2.** City Code Chapter 25-1, Article 15 (*Housing*) is amended to add a new Division 4 (*Affordability Unlocked Bonus Program*) to read as follows:



***Division 4. Affordability Unlocked Bonus Program.***

**§ 25-1-720 PURPOSE, APPLICABILITY, SHORT TITLE, AUTHORITY, AND CONFLICT.**

- (A) The purpose of this division is to establish a voluntary affordable housing bonus program that allows for increased density for residential dwelling units.
- (B) This division applies within the zoning jurisdiction.
- (C) This division may be cited as "Affordability Unlocked Bonus Program".
- (D) The director may adopt, implement, and enforce:
  - (1) program guidelines; and
  - (2) administrative rules in accordance with Chapter 1-2 (*Administrative Rules*).
- (E) A provision of this title that is specifically applicable to a qualifying development governs over a conflicting provision of this title.

**§ 25-1-721 DEFINITIONS.**

In this division,

- (1) GOVERNMENT-OPERATED AFFORDABLE HOUSING PROGRAM means a program operated by a federal, state, or local department that provides financial or other form of subsidy for the purpose of providing affordable housing.
- (2) HOUSING FOR OLDER PERSONS means housing for households with at least one individual who is at least 62 years of age at the time of initial occupancy.
- (3) MFI means median family income for the Austin metropolitan statistical area.
- (4) QUALIFYING DEVELOPMENT means a development certified under Section 25-1-724 (*Certification*) and participating in the Affordability Unlocked Bonus Program.
- (5) SLEEPING UNIT means a bedroom in a structure that serves as a dwelling unit for seven or more unrelated individuals who share amenities, such as a kitchen, bathrooms, or living areas.
- (6) SUPPORTIVE HOUSING means housing that includes non-time-limited affordable housing assistance with wrap-around supportive

services for individuals experiencing homelessness, as well as other individuals with disabilities.

**§ 25-1-722 ELIGIBILITY.**

(A) A proposed development qualifies as a Type 1 development and is eligible for this program if:

- (1) it includes:
  - (a) a minimum of three dwelling units,
  - (b) only affordable dwelling units; or
  - (c) one or more structures that serve as a dwelling unit for seven or more unrelated individuals who share amenities, such as a kitchen, bathrooms, or living areas;
- (2) at least 25 percent of the affordable dwelling units include two or more bedrooms, supportive housing, housing for older persons, or any combination of the three;
- (3) not more than 25 percent of the proposed development's gross floor area is for commercial uses;
- (4) it is new construction, it is redevelopment of a site without existing multi-family structures, or the existing development on the site complies with the requirements in Subsection (D); and
- (5) it meets the requirements set forth in Section 25-1-723 (*Affordability Requirements*).

(B) Except for a proposed development participating in a government-operated affordable housing program with stricter requirements, the applicant for a proposed rental development:

- (1) shall incorporate lease provisions that are consistent with:
  - (a) the U.S. Department of Housing and Urban Development (HUD) Section 8 Tenant-Based Assistance Housing Choice Voucher (HCV) Program related to the termination of tenancy by owner;
  - (b) any lease addendum required as a condition to receive city or Austin Housing Finance Corporation (AHFC) funds; and
  - (c) 24 C.F.R. § 245.100 related to a tenant's right to organize; and

- (2) may not discriminate on the basis of an individual's source of income as defined in Section 5-1-13 (*Definitions*).
- (C) A proposed development qualifies as a Type 2 development and is eligible for additional bonuses if it meets the standards imposed in Subsections (A) and (B) plus one or more of the following:
  - (1) at least 50 percent of the affordable dwelling units include two or more bedrooms;
  - (2) for a rental development:
    - (a) at least 75 percent of the total units or sleeping units serve households whose incomes average 60 percent MFI or below, rounded up to the nearest unit or sleeping unit; or
    - (b) at least 10 percent of the affordable units or sleeping units serve households with incomes of 30 percent MFI or below, rounded up to the nearest unit or sleeping unit; or
  - (3) for an owner-occupied development, at least 75 percent of the owner-occupied dwelling units or sleeping units serve households whose incomes average 80 percent MFI or below; or
  - (4) is located within ¼ mile of an activity corridor designated in the Imagine Austin Comprehensive Plan and is served by a bus or transit line.
- (D) A proposed development that will require the applicant to redevelop or rebuild an existing multi-family structure is eligible for this program if:
  - (1) the proposed development meets the standards imposed in Subsections (A) and (B);
  - (2) the existing multi-family structure requires extensive repairs and for which rehabilitation costs will exceed 50 percent of the market value, as determined by the building official;
  - (3) the proposed development will replace all existing units that were affordable to a household earning 80 percent MFI or below in the previous year and have at least as many bedrooms;
  - (4) the applicant provides current tenants with:
    - (a) notice and information about the proposed development on a form approved by the director; and

- (b) relocation benefits that are consistent with Federal Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, 42 U.S.C.A. 4601, *et seq.*; and
- (5) the applicant grants current tenants the option to lease a unit of comparable affordability and size following completion of redevelopment.

**§ 25-1-723 AFFORDABILITY REQUIREMENTS.**

- (A) An applicant complies with the requirements in this section if the applicant participates in a government-operated affordable housing program that imposes, at a minimum, the same affordability requirements.
- (B) A rental development must comply with at least the following:
  - (1) at least 50 percent of the total units or sleeping units serve households whose incomes average 60 percent MFI or below; and
  - (2) at least 20 percent of the total units or sleeping units serve households with incomes of 50 percent MFI or below.
- (C) Except for a Type 2 owner-occupied development that complies with the requirements in Section 25-1-722(C)(3), at least 50 percent of the owner-occupied dwelling units or sleeping units must serve households whose incomes average 80 percent MFI or below.
- (D) If the number of units required in this section include less than a whole unit, the unit number is rounded up to the nearest whole unit.
- (E) The minimum affordability period for a rental development is the greater of the affordability period required for development receiving city or Austin Housing Finance Corporation (AHFC) funds or 40 years following the issuance of the last certificate of occupancy required for the qualifying development.
- (F) The minimum affordability period for an owner-occupied dwelling unit is 99 years following the issuance of a certificate of occupancy for the owner-occupied dwelling unit.
- (G) In a multi-phased qualifying development, the director may begin the minimum affordability period upon the issuance of the last certificate of occupancy for each phase.

**§ 25-1-724 CERTIFICATION.**

- (A) If the director certifies that a proposed development meets the requirements of this division, the accountable official is authorized to process a development application as a qualifying development.
- (B) Before the director may certify that a proposed development meets the requirements of this division, the applicant shall execute:
  - (1) an agreement to preserve the minimum affordability period and related requirements imposed by this division; and
  - (2) a document for recording in the real property records that provides notice of or preserves the minimum affordability requirements imposed by this division.
- (C) The form of the documents described in Subsection (B) must be approved by the city attorney.
- (D) The director may certify an applicant who complies with the requirements in Subsection (B) because the applicant participates in a government-operated affordable housing program that imposes, at a minimum, the same affordability requirements.

**§ 25-1-725 POST-CONSTRUCTION REQUIREMENTS AND PENALTY.**

- (A) For a rental development, the property owner or the property owner's agent shall provide the director with information that allows the director to verify compliance with the affordability requirements. The information shall be provided on an annual basis and on a form approved by the director.
- (B) If, for any reason, the director is unable to confirm that the affordability requirements were met during any 12-month period, the preceding 12 months may not be used to satisfy the minimum affordability requirements in Section 25-1-723 (*Affordability Requirements*).
- (C) An applicant complies with the requirements in this section if the applicant complies with monitoring and income verification requirements that are imposed and enforced as part of a government-operated affordable housing program.
- (D) A person commits an offense if the person fails to comply with the requirement in Subsection (A). A culpable mental state is not required, and need not be proved. A person commits a separate offense for each day the

person fails to provide the documentation. Each offense is punishable by a fine not to exceed \$500.

**PART 3.** City Code Chapter 25-2, Subchapter C, Article 2, Division 2 (*Requirements for All Districts*) is amended to add a new Section 25-2-518 (*Qualifying Development*) to read as follows:

**§ 25-2-518 QUALIFYING DEVELOPMENT.**

- (A) In this section, a qualifying development is a development certified under Section 25-1-724 (*Certification*) and participating in the Affordability Unlocked Bonus Program.
- (B) Notwithstanding any ordinance or City Code provision to contrary, a qualifying development is a permitted use under Section 25-2-491 (*Permitted, Conditional, and Prohibited Uses*) in:
  - (1) a residential base zoning district;
  - (2) a commercial base zoning district;
  - (3) a special purpose base zoning district, except on a site designated:
    - (a) agricultural (AG),
    - (b) aviation (AV); or
  - (4) a combining and overlay district.
- (C) No more than 25 percent of the gross floor area of the qualifying development may be comprised of commercial uses. The permitted commercial uses are determined using the base zoning district.
- (D) A qualifying development is not required to comply with:
  - (1) the height and setback requirements of Article 10 (*Compatibility Standards*) except to maintain side setbacks as required by the base zoning district;
  - (2) the maximum floor-to-area ratio for the applicable base zoning district under Section 25-2-492 (*Site Development Regulations*);
  - (3) Subchapter F (*Residential Design and Compatibility Standards*) except to maintain side setbacks as required by the base zoning district;
  - (4) Section 25-2-773 (*Duplex Residential Use*); or
  - (5) minimum site area requirements.

(E) This subsection applies to a qualifying development located in urban residence (SF-5) or more restrictive zoning district and the height of the development exceeds 35 or three stories.

(1) A qualifying development must comply with:

- (a) Section 25-2-1066 (*Screening Requirements*); and
- (b) Subsections (A) and (B) in Section 25-2-1067 (*Design Regulations*).

(2) A person must enclose a refuse receptacle, including a dumpster.

(3) The location of and access to a refuse receptacle is subject to review and approval by the accountable official.

(4) A person may not collect or allow another to collect refuse receptacles between 10:00 p.m. and 7:00 a.m.

**PART 4.** City Code Chapter 25-2, Subchapter C, Article 2, Division 3 (*Exceptions*) is amended to add a new Section 25-2-534 (*Qualifying Development Exceptions*) to read as follows:

**§ 25-2-534 QUALIFYING DEVELOPMENT EXCEPTIONS.**

(A) In this section, a qualifying development is a development certified under Section 25-1-724 (*Certification*) and participating in the Affordability Unlocked Bonus Program.

(B) A qualifying development is not subject to Section 25-2-511 (*Dwelling Unit Occupancy Limit*).

(C) Minimum lot size for a qualifying development is 2,500 square feet.

(D) Minimum lot width for a qualifying development is 25 feet.

(E) A Type 1 development may:

- (1) construct to a height that is the applicable base zoning district height limit multiplied by 1.25;
- (2) reduce front yard setbacks by 50 percent;
- (3) reduce rear setbacks by 50 percent; and
- (4) include six dwelling units if the existing zoning on the site is Single Family Residential Small (SF-4A), Single Family Residence Condominium Site (SF-4B), or more restrictive.

- (F) In addition to Subsection (E), a Type 2 development may:
- (1) construct to a height that is the applicable base zoning district height limit multiplied by 1.5; and
  - (2) include eight dwelling units if the existing zoning on the site is Single Family Residential Small (SF-4A), Single Family Residence Condominium Site (SF-4B), or more restrictive.
- (G) If a qualifying development is also eligible to utilize a separate density bonus program that grants density bonuses for the provision of affordable dwelling units or for the payment of a fee-in-lieu for affordable housing, then the qualifying development may comply with the least restrictive site development requirements if all affordable dwelling units are provided on-site.
- (H) A qualifying development will comply with impervious cover as allowed by zoning.

**PART 5.** City Code Section 25-6-471 (*Off-Street Parking Facility Required*) is amended to add new Subsections (I) and (J) to read as follows:

**§ 25-6-471 OFF-STREET PARKING FACILITY REQUIRED.**

- (I) In this section,
- (1) ACCESSIBLE SPACE means a parking space for an individual with a disability that complies with the Americans with Disabilities Act (ADA) and Fair Housing Act Amendments (FHAA), as appropriate; and
  - (2) QUALIFYING DEVELOPMENT means a development certified under Section 25-1-724 (Certification) and participating in the Affordability Unlocked Bonus Program.
- (J) A qualifying development is not required to comply with Appendix A of Chapter 25-6 (Transportation) but must comply with this section.
- (1) If the parking provided by a qualifying development with more than two units is fewer parking spaces than required in Appendix A (Tables of Off-Street Parking and Loading Requirements), the minimum number of required off-street accessible spaces is the greater of:
    - (a) one accessible parking space;



- (b) the number of accessible spaces required under the Building Code based on 100 percent of the parking required for the use under Appendix A (*Tables of Off-Street Parking and Loading Requirements*); or
- (c) the number of accessible spaces required under the ADA or the FHAA, as appropriate.
- (2) An accessible space must be adjacent to the site and on an accessible route.
- (3) An accessible parking space must comply with design, accessibility, and location requirements imposed by the ADA and the FFHA, as appropriate.
- (4) Accessible parking detailed in Subsection (J)(1) must be provided off-street except insofar as on-street or off-site parking is allowed elsewhere in this title.

**PART 6.** The city shall enter into an agreement with each qualifying development, whether or not supported with city investments, that will include at least the following provisions to ensure compliance with affordability requirements established in this program, as well as ongoing affordability:

- (1) for owner-occupied housing, granting the City a right of first refusal for purchase of the property upon sale;
- (2) provisions related to penalties for repeated violations; and
- (3) other options the city deems appropriate.

**PART 7.** The administrative rules implementing the Affordability Unlocked Bonus Program shall at a minimum establish:

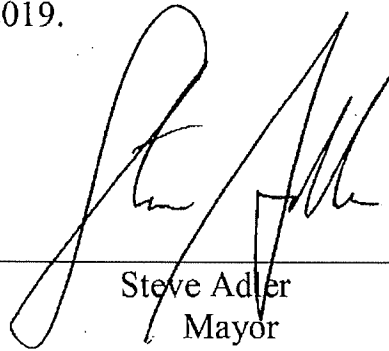
- (1) rent level standards based on the different median family income (MFI) level targets and varying to reflect different unit types; and
- (2) determine income eligibility standards for renters and owners.

**PART 8.** This ordinance takes effect on May 20, 2019.

**PASSED AND APPROVED**

\_\_\_\_\_, May 9 \_\_\_\_\_, 2019

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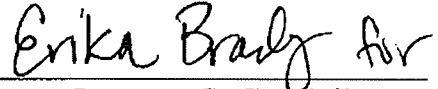
\_\_\_\_\_  
Steve Adler  
Mayor

**APPROVED:**



\_\_\_\_\_  
Anne L. Morgan  
City Attorney

**ATTEST:**



\_\_\_\_\_  
Jannette S. Goodall  
City Clerk



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June 8, 2022

Mayor Steve Adler

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[Natasha.madison@austintexas.gov](mailto:Natasha.madison@austintexas.gov)

City Council Member Vanessa Fuentes

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City Council Member Sabino "Pio" Renteria

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City Council Member Mackenzie Kelly

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City Council Member Leslie Pool

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City Council Member Kathie Tovo

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City Council Member Ann Kitchen

[Ann.Kitchen@austintexas.gov](mailto:Ann.Kitchen@austintexas.gov)

City Council Member Alison Alter

[Alison.Alter@austintexas.gov](mailto:Alison.Alter@austintexas.gov)

City Council Member Jose "Chito" Vela

[Chito.Vela@austintexas.gov](mailto:Chito.Vela@austintexas.gov)

City Council Member Paige Ellis

[Paige.Ellis@austintexas.gov](mailto:Paige.Ellis@austintexas.gov)

Re: Legal Problems Regarding Item 80 relating to Vertical Mixed Use Zoning

Dear Mayor and Council,

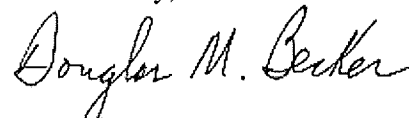
**EXHIBIT F**

As you may know, I am the attorney who represented the Plaintiffs in the *Acuna et al. v. City of Austin* zoning litigation.

I have been advised that the Council is considering amendments to Austin's land development code regulations governing Vertical Mixed-Use (VMU) properties. I also understand that while Council Member Kitchen has proposed implementing those changes through existing rezoning processes which would provide affected property owners state-mandated written notice and an opportunity to support or protest, others have suggested that these changes and other amendment such as compatibility reductions be implemented without affording these protections.

With those understandings, I write to remind you that changes to the land use regulations on VMU properties without providing written notice and protest rights, as required by state law and the district court as affirmed by *Acuna et al. v. City of Austin*, subjects the City to further costly litigation. At that time, the City will be asked to explain why it again – this time within weeks of the Court of Appeals mandate –violated state law. As you know from the *Acuna* case, the City's failure to follow the mandatory requirements of Chapter 211 renders its actions void.

Yours truly,



Douglas M. Becker

DMB.tm

cc: City Attorney Anne Morgan  
[Anne.Morgan@austintexas.gov](mailto:Anne.Morgan@austintexas.gov)

**RESOLUTION NO. 20211118-052**

**WHEREAS**, the Imagine Austin Comprehensive Plan and Housing Blue Print identify the need for more affordable housing and promote walkable, multi-modal, transit supportive development; and

**WHEREAS**, the Vertical Mixed Use (VMU) building is an existing program that allows the development of vertical mixed use buildings that include a mix of uses, is transit oriented, provides for parking reductions, and offers relaxation of development regulations in exchange for providing a percentage of affordable residential units (the “VMU Program”); and

**WHEREAS**, the Vertical Mixed Use Overlay District has resulted in the generation of more than 100 VMU buildings, encompassing more than 1,600 affordable units geographically dispersed in alignment with transit access; and

**WHEREAS**, while the VMU Program is successful in generating on-site affordable units, the implementation of the program has been stymied by the existence of the Multifamily Residence Highest Density (MF-6) zoning district which lacks similar means to generate affordable housing as in the Vertical Mixed Use (VMU) overlay district. The MF-6 district zoning affords greater building height entitlements (90 feet) by right than can be achieved under the VMU overlay district in which building height is limited to the base zoning and typically does not exceed 60 feet; and

**WHEREAS**, the city would benefit from an expanded VMU Program to add a second (VMU2) option that provides an additional 30 feet of height to better align and incentivize the use of the VMU Program in light of the MF-6 district entitled zoning height of 90 feet; and



**WHEREAS**, by expanding the VMU Program the City Council can build upon and strengthen an existing successful program and reaffirm its commitment to providing both affordable housing and increased density along transportation corridors; **NOW, THEREFORE**,

**BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF AUSTIN:**

Council initiates amendments to City Code Chapter 25-2, Subchapter E (*Design Standards and Mixed Use*), Article 4: Mixed Use, 4.3.3 (Standards), to expand the existing VMU Program to provide VMU1 and VMU2 options and directs the City Manager to process amendments to accomplish the following:

1. Amend Section 4.3.3 (Standards), Subsection (E) Dimensional and Parking Requirements:
  - a. VMU1 buildings are subject to the height restrictions as provided in other sections of this Code. VMU2 buildings are eligible for an additional 30 feet of height with an increased percentage of affordability as described in Subsection (F). Affordability Requirements
2. Amend Section 4.3.3 (Standards), Subsection (F) Affordability Requirements:
  - a. Affordability Requirements for Owner-Occupied Units.
    - i. Five percent of the residential units in the VMU1 and (% to be determined) in the VMU2 building shall be reserved as affordable, for not less than 99 years from the date a certificate of occupancy is issued, for ownership and occupancy by households earning no more than 80 percent of the current Annual Median

Family Income for the City of Austin Metropolitan Statistical Area as determined by the Director of the ~~Neighborhood Housing and Community Development~~ Housing and Planning Department.

- ii. In addition, five percent of the residential units in the VMU building shall be reserved, for not less than 99 years from the date a certificate of occupancy is issued, for ownership and occupancy by households earning no more than 100 percent of the Annual Median Family Income.

b. Affordability Requirements for Rental Units.

1. Ten percent of the residential units in the VMU1 and (% to be determined) in the VMU2 building shall be reserved as affordable, for a minimum of 40 years following the issuance of the certificate of occupancy, for rental by households earning no more than 60-80 percent of the Annual Median Family Income.

**BE IT FURTHER RESOLVED:**

In developing these amendments, other associated VMU requirements shall be maintained.

**BE IT FURTHER RESOLVED:**

The VMU2 zoning designation will not supersede existing regulating or neighborhood plans and VMU2 is not available where regulating plans waive compatibility requirements.



**BE IT FURTHER RESOLVED:**

The City Manager shall propose an affordable unit percentage level for VMU2 for consideration during the code amendment process. Tracts that have existing V zoning designation shall have access to the VMU2 affordable housing density bonus option administratively at the required percentage and MFI levels as outlined above. Tracts currently not zoned V can apply as a zoning change to participate as a VMU1 or VMU2 through normal zoning process.


Additionally, these code amendments shall be coordinated with VMU code change recommendations from the Codes and Ordinances Joint Committee to align and update the efforts and involve key stakeholders and affordable housing providers and advocates to develop the ordinance in response to this resolution.

To achieve better coordination, the council intends that the code amendments initiated in this resolution be heard by the Planning Commission and, subsequently, Council at the same time as the Planning Commission initiated VMU code amendments. The council does not intend that the code changes initiated by this resolution be heard by the Codes and Ordinances Joint Committee.

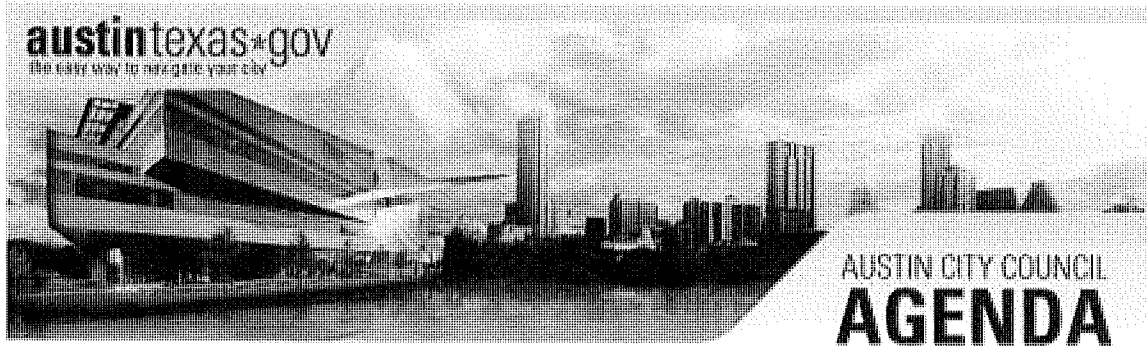
The City Manager shall bring these code amendments for council consideration by January 31, 2022.

**ADOPTED:** November 18, 2021

**ATTEST:**

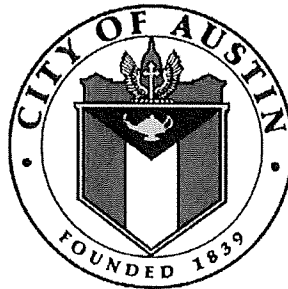
  
Jannette S. Goodall  
City Clerk





June 9, 2022

## Questions and Answers Report



Mayor Steve Adler

Council Member Natasha Harper-Madison, District 1

Council Member Vanessa Fuentes, District 2

Council Member Sabino "Pio" Renteria, District 3

Council Member Josè "Chito" Vela, District 4

Council Member Ann Kitchen, District 5

Council Member Mackenzie Kelly, District 6

Council Member Leslie Pool, District 7

Council Member Paige Ellis, District 8

Council Member Kathie Tovo, District 9

Council Member Alison Alter, District 10

**EXHIBIT H**

area regulating plans. For more details about the ETOD planning, please see the May 31 ETOD updated memo.

*2) Is it typical (or best practice) to codify planning approaches and methods? What are the pros and cons?*

Planning processes (approaches and methods) are typically described in the operating procedures of city's planning program and not codified.

Codes (such as the LDC) are *tools* for implementing policies in adopted plans and it is best practice to distinguish plans from codes to avoid conflation. Codes establish standards and review procedures for development applications whereas the city's planning program defines how and when plans for various areas of the city are prepared. To ensure flexibility so that planning activities can be right sized for different areas and scales, staff discourages codifying planning processes in the Land Development Code. In alignment with similar cities such as Denver, Raleigh, Nashville, and Seattle - which all have small area planning programs without codifying planning actions - staff believe the City of Austin will continue to follow common industry best practices.

Codifying planning as described in the IFC could hinder the City's ability to prepare and deliver additional planning services to Austin residents because future changes to the framework, criteria, prioritized areas, or community engagement processes could limit flexibility and/or require code amendments that delay preparation of plans.

*3) How will codifying planning as described in the IFC enhance or accelerate the department's ability to prepare more plans?*

Codifying planning processes would not enhance the department's ability to prepare more plans, as the limiting factor is staff capacity - which a change in code would not alleviate. Current staff focus, in alignment with council direction and priority, includes the Equitable TOD Planning Program, the Northeast Austin District Plan, Palm District Plan, South Central Waterfront Regulating Plan, numerous code amendments, and staffing numerous boards and commissions. To ensure quality of service and clarity in communication of planning activities, staff have developed more streamlined and consistent small area planning processes and deliverables.

**Item #80:** Conduct a public hearing and consider an ordinance amending City Code Chapter 25-2, Subchapter E, Section 4.3 relating to Vertical Mixed Use buildings.

MAYOR PRO TEM ALTER'S OFFICE

*1) In a previous Q:A we requested information regarding how many VMU properties have a sufficient amount of single family zoned land or uses within 200 feet of their parcel that would allow those properties to constitute at least 20% of the total property within 200 feet of the VMU parcel? And we requested a map of both of these scenarios. We understand from the staff response that additional staff capacity would be needed for the level of detail requested. Can staff please provide greater clarity on the amount of capacity it would require to provide this information and please describe*

*how the information we are requesting would significantly differ from the work that went into creating the interactive map that staff created for this item.*

The difference in the analyses is that this request would require individual analysis of ~1,675 parcels with VMU zoning, compared with the completed analysis that shows the impact of uniform compatibility regulations on all of those parcels. The uniformity of compatibility standards enables them to be analyzed at a policy level, whereas protest rights verification analyses are typically prepared on a case-by-case basis because they are time and resource intensive to conduct. The requested analyses could take up to two months to complete given the current workload and capacity of HPD staff at this time.

**Item #85:** Conduct a public hearing on the City's draft HOME American Rescue Plan (HOME-ARP) Allocation Plan that will be submitted to U.S. Department of Housing and Urban Development as part of the City's application for \$11,441,252 in federal funding through a HOME-ARP grant.

MAYOR PRO TEM ALTER'S OFFICE

- 1) *The back-up for item 85 notes that as tenant protections have expired, the number of evictions has climbed back up, with April 2022 data indicating filings at a rate 199% greater than average, as of April 9th, 2022. This trend demonstrates the unmet need for tenant protections, rental assistance, and other programs that prevent households from becoming homeless. Can staff please detail the funding amounts, funding sources, and interventions anticipated to support tenant rental assistance (not supportive services) in the upcoming fiscal year? Please specify what, if any amount, we anticipate spending from federal dollars and what, if any amounts, we anticipate will be funded with local tax dollars.*

Utilizing primarily federal funds, HPD provided more than \$70 million in emergency rental assistance to more than 8,000 low-income households since the beginning of the pandemic. Unfortunately, federal funding for emergency rental assistance is no longer available. And, there are no state nor federal dollars available in the upcoming fiscal year. Locally, the upcoming fiscal year proposed budget for the City is in development and the Community Development Commission budget recommendation for emergency rental assistance is under consideration within the framework of all other budgetary decisions and recommendations.

# City Council Regular Meeting Transcript – 06/09/2022

Title: ATXN-1 (24hr)

Channel: 6 - ATXN-1

Recorded On: 6/9/2022 6:00:00 AM

Original Air Date: 6/9/2022

Transcript Generated by SnapStream

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*Please note that the following transcript is for reference purposes and does not constitute the official record of actions taken during the meeting. For the official record of actions of the meeting, please refer to the Approved Minutes.*

[10:12:00 AM]

>> Mayor Adler: This Austin city council meeting. Let's go ahead and convene today's Austin city council meeting, Thursday, June 9th, 2022. We are in city council chambers, and councilmember Ellis is with us virtually. We will be holding executive session today virtually, not in person. The time is 12 minutes after 10:00. We have a lot of speakers today, and we'll get to them in just a moment. We're going to -- I think we have over 100 speakers today. We're going to go in the morning -- on the compatibility and the vmu, we're going to give everyone two minutes. Everyone else is going to get one minute on the morning call, and then it's one minute on the

[10:13:03 AM]

afternoon call at 2:00. I think there are 60 speakers or something like that set. Most of the speakers today are on those two land development code items. I'm going to read the changes and correction into the record. Item number 37, postponed indefinitely. Item number 42, recommended by the water and wastewater commission on June 8th, 2022 on a 7-0 vote, with commissioners Navarro, fisher, and teryetta absent. Item number 59 added mayor pro tem alter as a sponsor. Item number 67 has added mayor pro tem alter as a cosponsor. The suggested public hearing date on item 73 is July 28th,

[10:14:04 AM]

**EXHIBIT I**

>> Mayor Adler: We can talk about it, and I think that it's -- as I was going to go on -- I'm comfortable with the compatibility that we just passed in 66 and I think that is what the compatibility provision should be, because it applies to

[10:54:47 PM]

this when 66 comes back as an ordinance. Because it's the affordability provision. And then I would recommend that we keep to the percentages that were originally proposed by staff and I say that almost because we just don't have the --

>> Kitchen: So, mayor, what I'd like to do is that I would like to go section-by-section.

>> Mayor Adler: That's what I was proposing.

>> Kitchen: And I would like to vote on each section.

>> Mayor Adler: That's what I was proposing.

>> Kitchen: I think that is a better way to do that. So let's be specific. So let's start with the one that is do people need a moment or -- should I continue? Huh? Okay. All right. So, let's start with the one at the end, which is on page 9.

[10:55:49 PM]

It's part 5. So what part 5 does is that it creates -- it specifies what the public -- what the public process is for vmu2. Now, remember that only applies to -- to properties that are already zoned vmu. So what it is saying is that to add vmu2, to property that is already zoned V, that the process would be a zoning process essentially, which carries with it notice, individual notice, to properties within a certain distance. And also the right to protest. So that's the difference that we're talking about here.

[10:56:51 PM]

And what I want to say -- I want to say how I got to this point. I really -- I really believe that -- you know, first let me say that vmu is a program that was created in collaboration with residents. Our residents throughout the central city identified properties along corridors that were -- that they really wanted to designate for affordable housing. So this was a -- a community effort that was -- that created vmu. So, I believe that -- to me it's fundamental fairness and respect for the public. I believe that fundamental fairness and respect for the public requires that people be notified when land use around their homes is being changed.

[10:58:49 PM]

So that they can exercise their right to be if there is concern to suggest we're going to say these with go to 90 feet -- people who live near these properties. We could consider a C.U.P. Process which we've done -- if we strike section five -- if the council chooses to strike section 5, what you're saying in effect the that these changes go into effect, people have no right to be notified about their change near their house and they don't have a right to say anything about it. To me that's fundamentally unfair. I would like to vote it -- mayor, if you want to make a motion to delete this, that's fine. Let's have a conversation and let's vote on it.

>> Mayor Adler: Okay. I would move we keep the way the staff originally proposed it.

>> Kitchen: Mayor, that's -- the motion -- if you want to make a motion, I would say

[10:59:49 PM]

strike part five. That's what it would do what you want to do.

>> Mayor Adler: I understand that. My motion -- god, Ann.

>> Kitchen: Well, I mean.

>> Mayor Adler: My motion is to keep it by right. I move to strike part five. Is there a second to that motion? Mayor pro tem seconds it. Any discussion? Let's take a vote. Those in favor of striking part five, please raise your hand. Vela, mayor pro tem, Ellis, harper-madison, me. That's one, two, three, four, five, six, seven, eight. Those against, please raise your hand. Against my amendment. It is kitchen, tovo.

[11:00:54 PM]

That's right. Kitchen, tovo, pool, and Kelly. 7-4. Amendment passes.

>> Kitchen: Was it 7? I only counted 6. It's 7-4. Okay. Let's move on. Wait. Council member tovo, did you want to say something.

>> I didn't have an opportunity to speak before we took the vote but I wanted to underscore what you had to say, and you know, this is -- I was glad to be a co-sponsor on it. It caused a lots of questions and we assured -- I think it's important to stick to what we have heard again and again from the public what they want us to do, which is to notify them when there are proposals that are significantly different than the zoning on the ground. They want the opportunity to participate in them, as my colleague said. And I think it's of grave concern to me that we're moving

[11:01:55 PM]

forward potentially with that vote in a way that doesn't allow folks the opportunity to have petition rights.

>> Mayor Adler: Let's move on.

>> Mayor? Right here. Apologies. There are additional references in part one that we would need to strike to make your amendment -- moving part five effective.

>> Mayor Adler: Would you call those out, so we can make sure?

>> E dits in part one.

>> Mayor Adler: Okay.

>> Highlighted properties designated as v-2. 4.3.2 we have reference to the section that was created in part five. So we would need to strike that as well.

>> Mayor Adler: Okay. So I would imagine it's going to be the same vote to strike.

>> Kitchen: We don't need to vote on that, I mean --

>> Mayor Adler: 4.3.6 comes out.

[11:02:57 PM]

4.3-2. What about sup part D.

>> We need to keep D.

>> Mayor Adler: Okay.

>> Kitchen: Okay. I'll move on --

>> Mayor Adler: Hang on. Hang on. Staff likes part D? That addition change.

>> It's not dependent on v-2 designation. We have it in the staff version as well as this version because the way that this section is set up in the code article 4, it uses reference vmu building.

>> Mayor Adler: Why is it highlighted in yellow.

>> Apologies. It was highlighted because I moved it from a different section.

>> Mayor Adler: Is it okay in this section or should it be moved back.

>> It's fine here.

**CODE AMENDMENT REVIEW SHEET**

**Amendment:** C02-2021-006 Amending Title 25-2(E) 4.3 Vertical Mixed-Use Buildings

**Description:**

In response to adopted direction from both the Planning Commission and the City Council, amend certain provisions in City Code related to the voluntary density bonus known as the Vertical Mixed-Use (VMU) program.

- Create a new tier in the VMU program that grants up to 30 feet of additional bonus height in exchange for Affordable Housing Community Benefits.
- Refine requirements for developments that participate in the VMU program including affordability requirements and general provisions to affirmatively further Fair Housing and inclusion.

**Staff Recommendation:**

Staff recommends approval of this amendment.

This amendment is supported by adopted policy direction in the Austin Strategic Housing Blueprint as well as the Displacement Mitigation Strategy and the City of Austin's Fair Housing Action Plan.

**Board and Commission Actions**

Code amendment initiated by the Planning Commission on July 27, 2021.

Code amendments initiated by the Planning Commission on March 8, 2022.

**City Council Action**

Resolution No. 20211118-052 initiated by the City Council on November 18, 2021.

**City Staff:** Sam Tedford

**Email:** [sam.tedford@austintexas.gov](mailto:sam.tedford@austintexas.gov)

3/17/2022

**EXHIBIT J**



## Vertical Mixed-Use Code Amendments Staff Report

This document provides the Housing and Planning Department staff recommendation and additional context for the Vertical Mixed Use (VMU) program amendments (C02-2021-006) in response to Planning Commission direction adopted on July 27, 2021, and Council [Resolution No. 20211118-052](#).

### Staff Recommendation

#### Set-Aside Rates and Affordability Levels

Staff recommends offering two options for the set-aside rate in the **new tier of the VMU program (VMU2)** that corresponds to affordability depth or the provision of onsite income-restricted housing. For rental developments, twelve percent of the units should be set-aside as income-restricted to households earning no more than 60% of the Austin-Round Rock MSA Median Family Income or ten percent of the units should be set-aside as income-restricted to households earning no more than 50% of the Austin-Round Rock MSA Median Family Income. For ownership developments, twelve percent of the units should be set-aside as income-restricted to households earning no more than 80% of the Austin-Round Rock MSA Median Family Income or the corresponding value of twelve percent of the units should be paid as a fee in-lieu of onsite income-restricted units.

A summary of the staff recommendation for affordability requirements in the Vertical Mixed-Use program is shown in the table below. Amendments to the current code provisions are shown in blue.

	Bonus Entitlements	Community Benefits	Affordability Requirements	
VMU	<ul style="list-style-type: none"> <li>Residential uses</li> <li>Unlimited FAR</li> <li>Waiver of site dimensional requirements</li> <li>60% reduction in parking minimum</li> </ul>	<ul style="list-style-type: none"> <li>Active ground floor use</li> <li>Mix of land uses near transit</li> <li>Heightened design standards</li> <li>Regulated Affordability</li> </ul>	<u>Rental Developments</u> <i>40-year affordability period</i>	<u>For-Sale Developments</u> <i>99-year affordability period</i>
			10% set-aside affordable to <b>60% Median Family Income</b>	10% set-aside affordable to <b>80% Median Family Income</b> <b>OR</b> Fee equivalent to 10% of total units
VMU2 <i>(proposed)</i>	<ul style="list-style-type: none"> <li>All of the above</li> <li><b>30ft bonus height</b></li> </ul>		10% set-aside affordable to <b>50% Median Family Income</b> <b>OR</b> 12% set-aside affordable to <b>60% Median Family Income</b>	12% set-aside affordable to <b>80% Median Family Income</b> <b>OR</b> Fee equivalent to 12% of total units

The change in the affordability levels is reflective of Planning Commission-initiated changes to standardize the affordability depths of the current VMU program to 60% of MFI for rental developments and 80% of MFI for ownership developments. Staff are proposing the two options for the set-aside rate in the second tier of the VMU program to offer some flexibility within the program since it is not calibrated to current market conditions as well as to create pathways to deeper affordability levels within density bonus programs. Staff compared the cost to buy down market-rate units at the two proposed affordability levels with an equivalent bedroom mix and found approximate proportionality between the two options.

Staff were not able to calibrate the set-aside percentages in the new tier in the VMU program on the Council-requested timeline. The modeling tool developed by consultants for the purpose of supporting this type of calibration work is not yet ready for use. While the model is undergoing additional quality control measures, staff proceeded with creating the new tier in the existing VMU density bonus program with interim set-aside percentages with the acknowledgement that the program requirements should be reviewed on a regular basis and updated in the future.



Staff reviewed comparable, calibrated work from the LDC Revision while working to establish a recommendation for the affordability requirements under VMU2. While the majority of VMU-zoned sites have Commercial Services (CS) zoning, there are at least five other base zones paired with the "-V" combining district within the city, including Community Commercial (GR), Limited Office (LO), Neighborhood Commercial (LR), General Office (GO), and Neighborhood Office (NO). These base zones allow different heights and therefore result in different bonus heights with 30-foot height bonus. The most comparable zones from the LDC Revision were calibrated to a set-aside rate of 5% in most instances and up to 12% in some parts of West and South Austin. While this comparison may provide some frame of reference, there are inconsistencies between the proposed LDC zones and the current LDC zones beyond just their allowable heights. The housing market has also shifted substantially in some parts of town since this calibration work was conducted in 2019.

#### Fee In-Lieu for Condominium Developments

Staff recommend the addition of a fee in-lieu option for ownership developments only. Rental developments that participate in the VMU program would be required to provide the affordable units onsite. If approved, the Housing and Planning Department would bring forward a recommended fee in-lieu rate for the Vertical Mixed-Use program in the City budget process within the department's fee schedule. Staff anticipate calibrating said fee on a per unit basis and varying by the number of bedrooms corresponding to the bedroom mix in the market-rate development. An example of this format for the fees is shown in the table below, which shows the proposed fee in-lieu rates from the LDC Revision for the citywide Affordable Housing Bonus Program.

Example of proposed fees in-lieu of onsite income-restricted affordable units from the draft LDC Revision citywide Affordable Housing Bonus Program

Unit Size	Studio	1-Bedroom	2-Bedroom	3-Bedroom
Fee-in-Lieu	\$135,000	\$180,000	\$335,000	\$440,000

The Housing and Planning Department is committed to bringing affordable homeownership options to our community; however, through implementation of past affordability agreements with income-restricted homeownership units in predominantly market-rate condominium developments, staff have encountered barriers to securing long-term affordability and stability for low-income homeowners in these types of developments that the City cannot control for. Both homeowners' association fees and property tax assessments from the county appraisal district have created concerns for low and moderate-income homeowners in income-restricted units that may prevent them from maintaining housing affordability and may even put them at risk of displacement. For this reason, staff recommend collecting fees in-lieu of onsite income-restricted units within for-sale developments and directing these fees towards long-term affordable homeownership projects such as Community Land Trusts.

### Additional General Requirements

Staff recommend the inclusion of a set of general provisions that apply to all developments that voluntarily participate in the VMU program. These provisions would affirmatively further Fair Housing choice by protecting low and moderate-income people and creating more inclusive, equitable outcomes for our community. Staff recommend that these requirements be included uniformly in all density bonus programs within the LDC; however, given the current opportunity, they have been drafted to apply to the VMU section specifically.

A brief description of the proposed additional general requirements for VMU developments is provided below:

- Source of income discrimination protection
  - Ensures that a prospective tenant in a VMU development would not be denied housing based solely on their source of income, including housing vouchers.
- Dispersion of and equal access to affordable units
  - Disperses income-restricted units through the development to avoid clustering
  - Ensure access to income-restricted units through the same routes as market-rate units
  - Guarantees access to all on-site amenities for income-restricted units that are available to market-rate units, including parking facilities
- Comparable design standards for affordable units
  - Requires functionally equivalent finishes, features, and appliances within income-restricted units and market-rate units
  - Requires that all interior components in income-restricted units are durable, good quality, and consistent with federal, state, and local standards
- Proportional bedroom count
  - Requires that the income-restricted units within a development are comparable to the mix of the number of bedrooms in the market-rate units in order to create more affordable multibedroom housing units
  - Allows for two one-bedroom or efficiency units to be exchanged for one two-bedroom units or three one-bedroom or efficiency units to be exchanged for one three-bedroom unit in an effort to create more affordable multibedroom housing units
- Floating rental units
  - Allows for the location of the income-restricted units in a rental development to change over time so long as the property maintains the required total number of affordable units for the duration of the affordability period
- Simultaneous availability
  - Ensures that income-restricted affordable units are made available concurrently with market-rate units, or requires plans for sequencing construction in multi-phase developments
- Affirmative marketing
  - Requires the development to prepare and utilize an affirmative marketing and outreach plan that affirmatively furthers Fair Housing
- Tenant's Right to Organize
  - Enhances provisions provided in Texas Property Code to further protect a tenant's right to conduct activities related to a tenant organization without retaliation
  - Requires the owner of a VMU building to meet with tenants and members of a tenant organization to discuss matters related to the property as requested

### Non-Residential Bonus Area Fee

The LDC states that a bonus area fee will be set by Council for upper-level non-residential space within VMU buildings, but no such fee has ever been adopted by Council.

The current code provisions require that a minimum of one floor within a VMU Building be dedicated to residential uses. With the addition of a height bonus through VMU2, there will be potential for a greater amount of upper-level non-residential space to be created within VMU Buildings.

Given this information, Council may elect to provide direction to staff to bring forward a recommendation for this non-residential bonus area fee for the Vertical Mixed-Use program in the City budget process within the department's fee schedule.





**HOUSING &  
PLANNING**

# Vertical Mixed-Use Research

February 2022

# Staff Research

## VMU Developments

- Completed
- In the Pipeline
- Tenure
- By Council District

## Dispersion of VMU Zoning

- Number of sites
- Total Acreage
- By Council District
- Displacement Risk Areas
- High Opportunity Areas

## Other Policies Impacting VMU-Zoned Properties

- Conditional Overlays
- Compatibility Standards

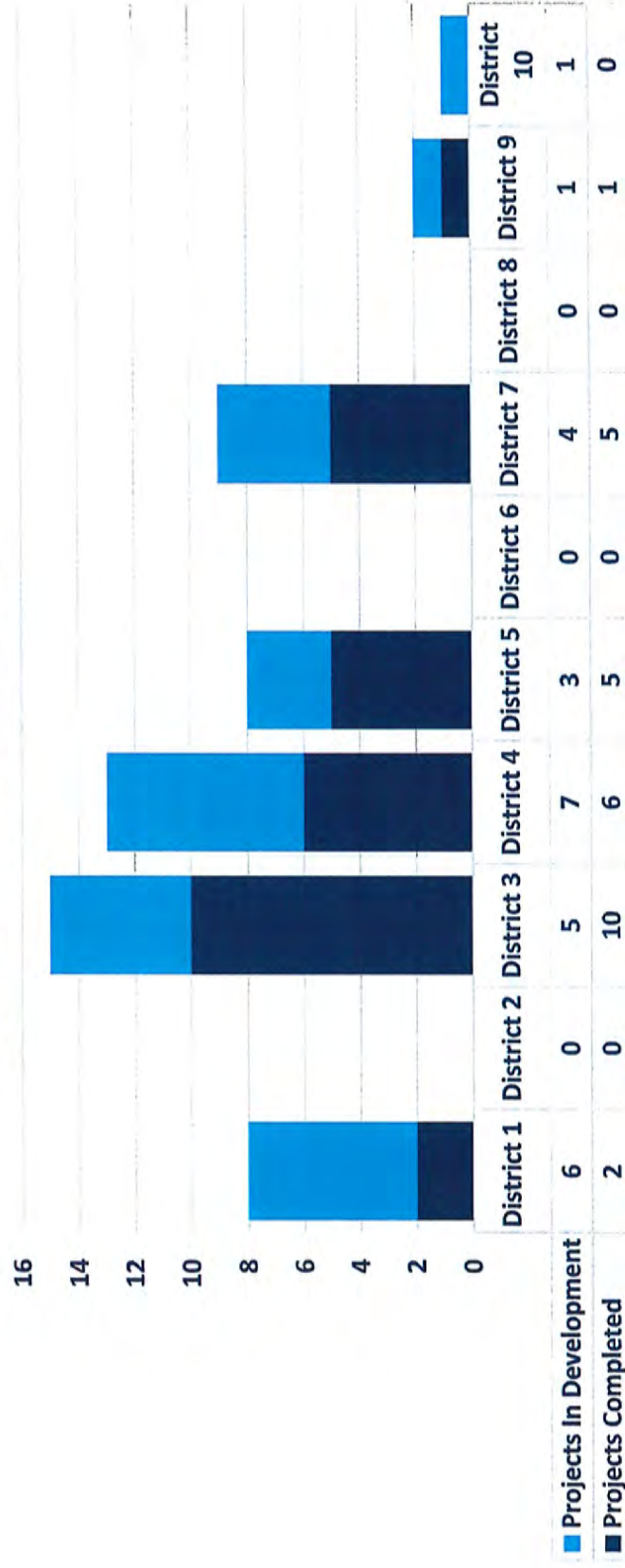


# Vertical Mixed-Use Developments

VMU Developments			
	Completed	In the Pipeline	Notes
VMU Buildings	29	9 under construction 18 in planning	Buildings under construction have been issued a building permit but have not received a Certificate of Occupancy (CO). Buildings in planning have received a certification letter to utilize VMU but may be in early stages of planning and development ranging from site plan under review to building plan under review.
VMU Housing Units	5,379	2,037 under construction 3,992 in planning	These totals reflect all housing units within VMU buildings including both market-rate and income-restricted housing units.
Income-Restricted Affordable VMU Housing Units	540	496 under construction 404 in planning	These totals reflect income-restricted affordable units within VMU buildings ranging from below 60% MFI to 100% MFI. Two projects in the pipeline are developing with higher numbers of income-restricted affordable units than required under VMU, which brings the percentage of total units that are income-restricted to over 10%.
VMU Housing Units by Tenure	98% rental 2% ownership	99% rental 1% ownership	

# Vertical Mixed-Use Developments

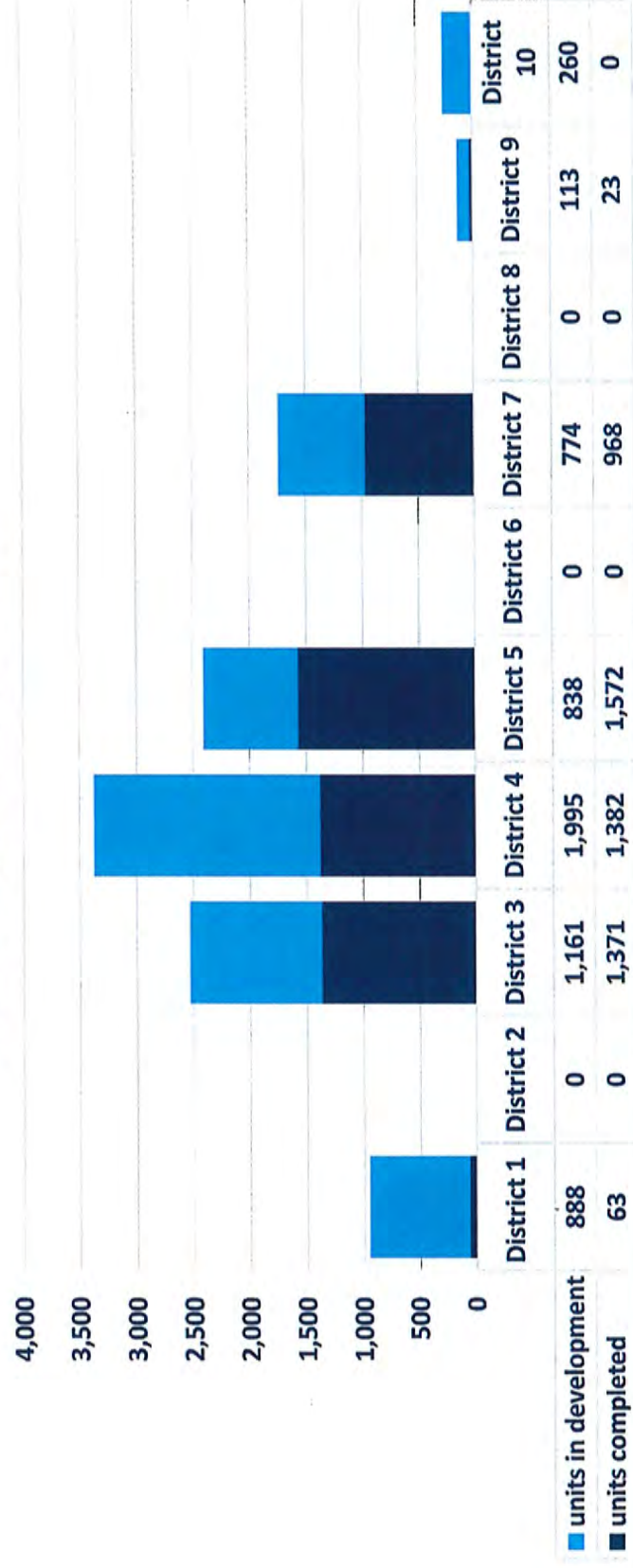
VMU Developments By Council District





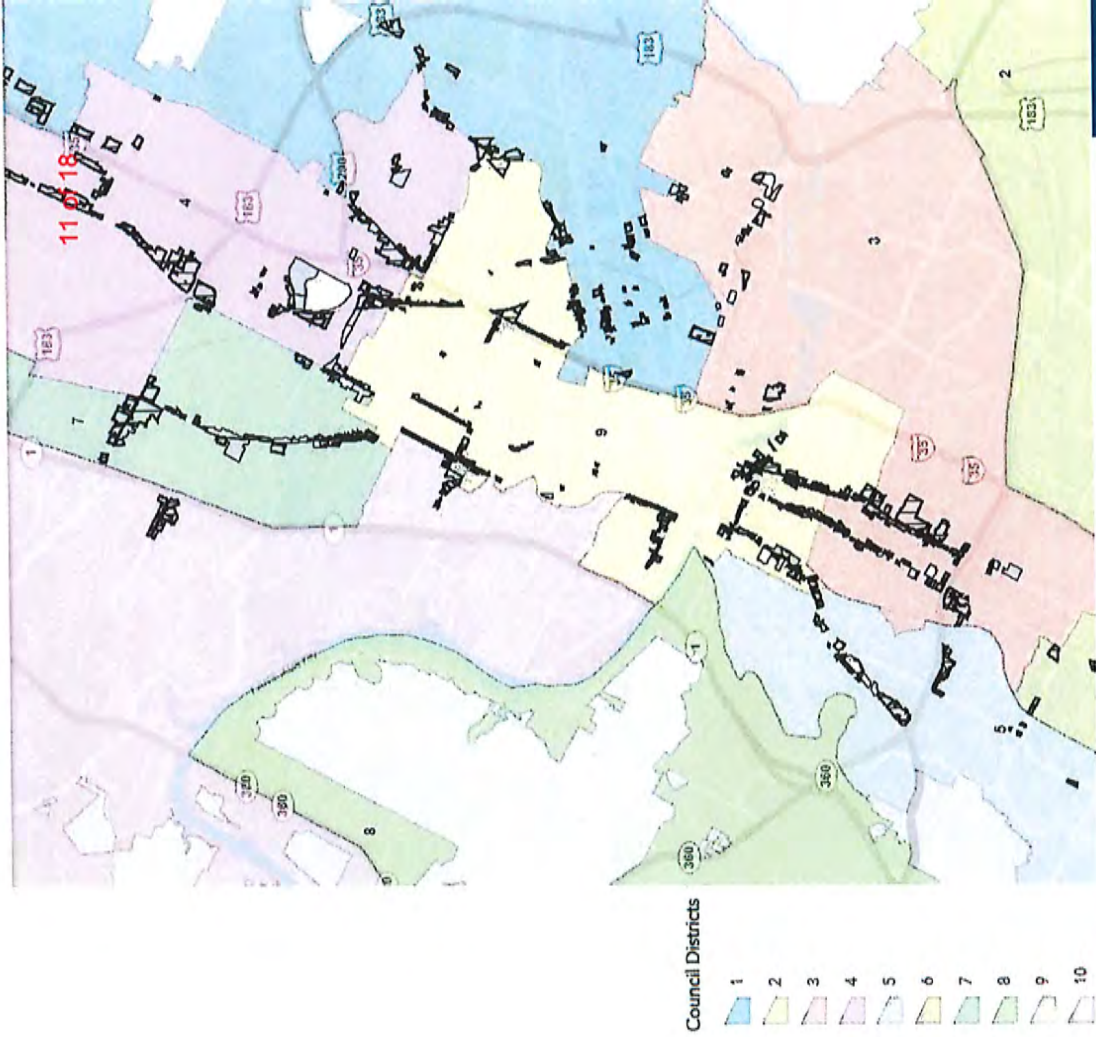
# Vertical Mixed-Use Developments

VMU Housing Units by Council District



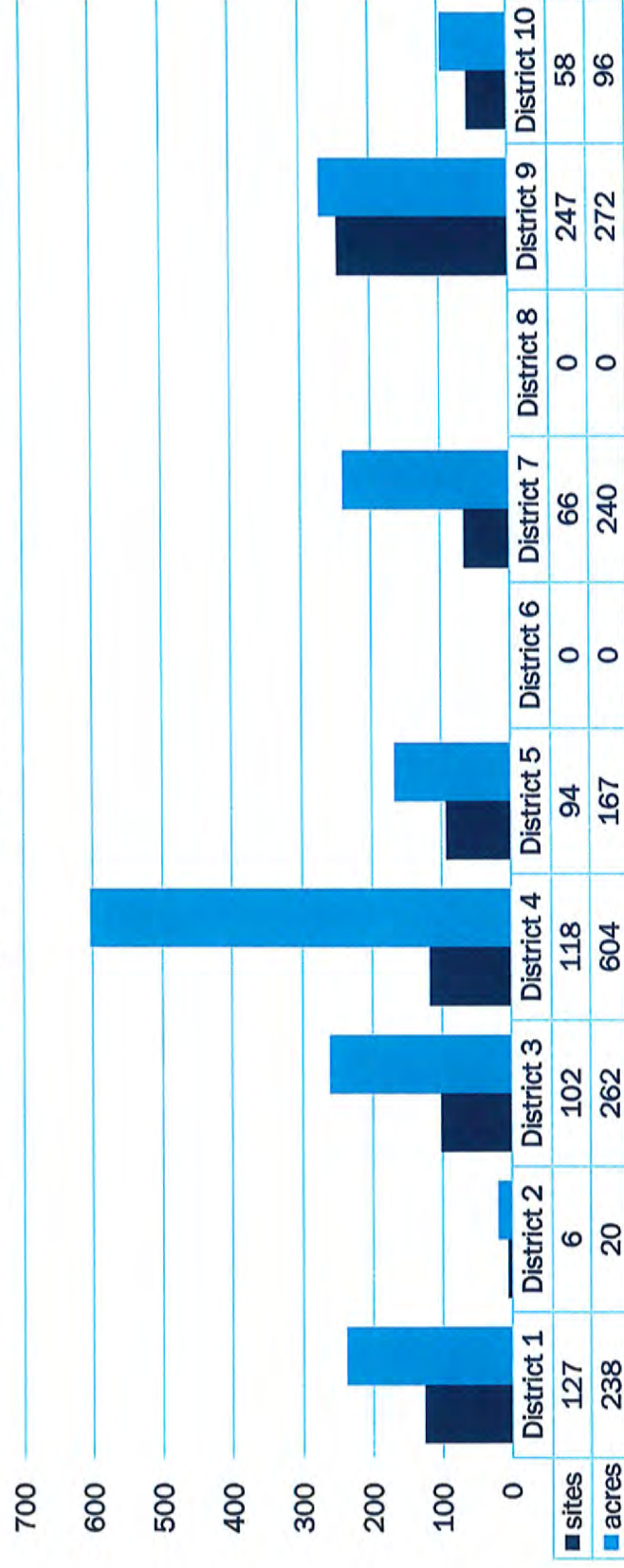
# Dispersion of VMU Zoning

VMU Zoning	
Total Sites with -V	Total Acres with -V
~ 818	~ 1,900



# Dispersion of VMU Zoning

VMU Zoning by Council District



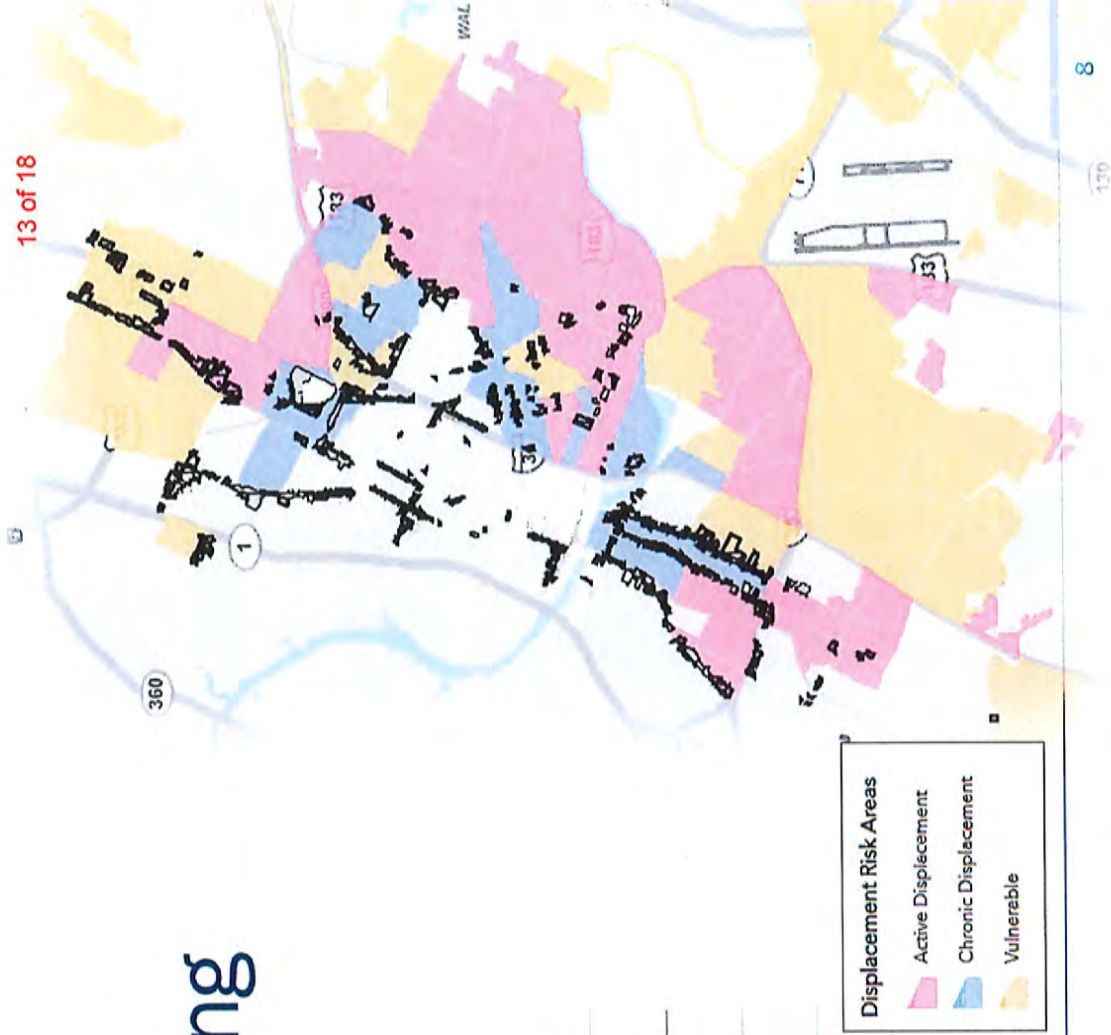
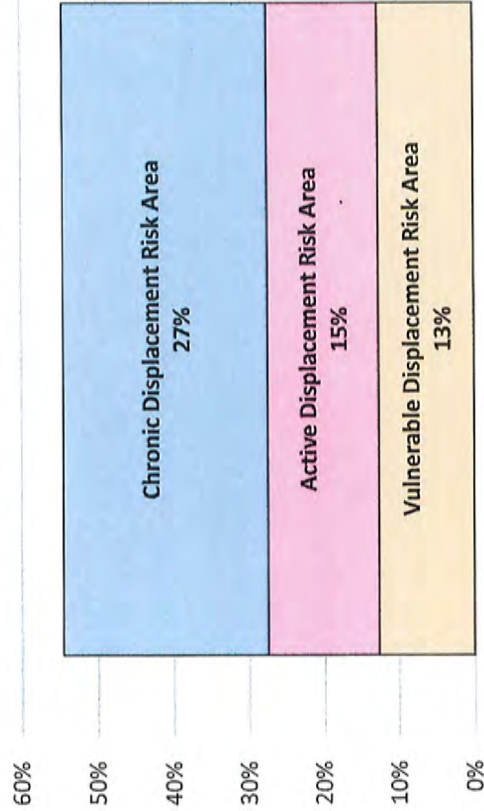


# Dispersion of VMU Zoning

## Displacement Risk Areas

- 55% of VMU-Zoned Sites are within Displacement Risk Areas

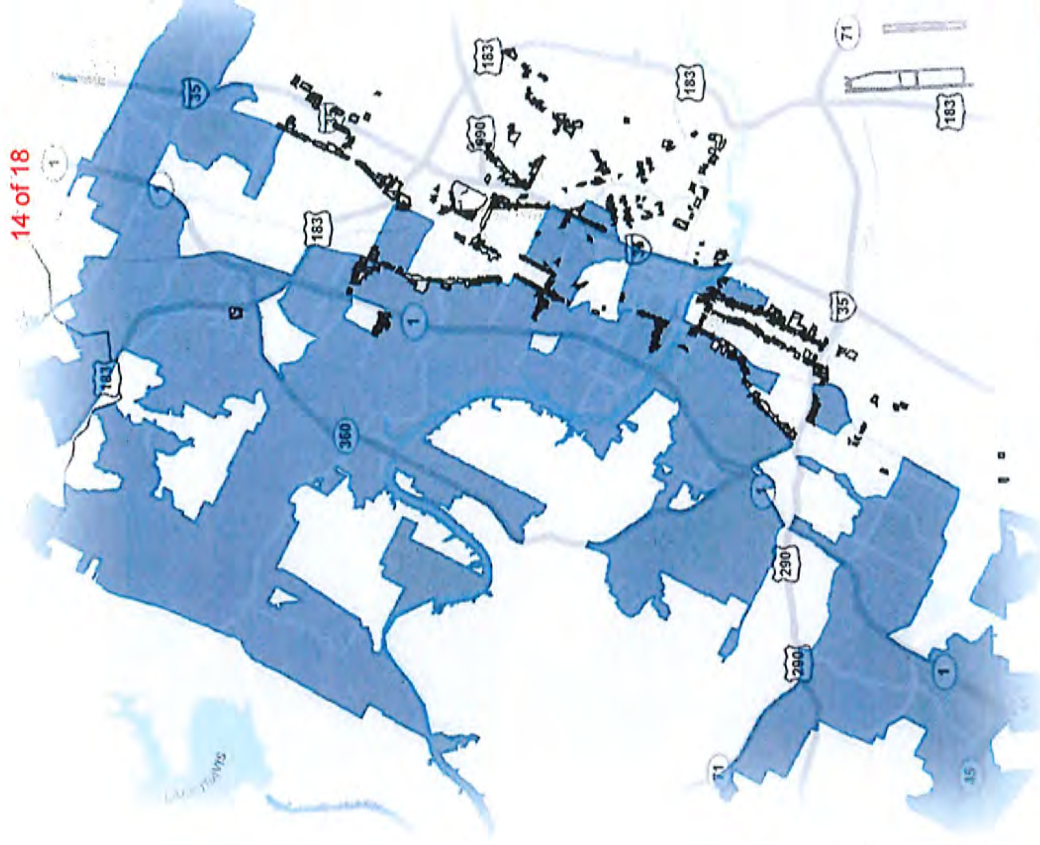
VMU-Zoned Sites within Displacement Risk Areas



# Dispersion of VMU Zoning

## High Opportunity Areas

- 33% of VMU-Zoned Sites are within High Opportunity Areas



High Opportunity Areas are defined by Enterprise Community Partners Opportunity360 Index.



## Other Policies Impacting VMU-Zoned Sites

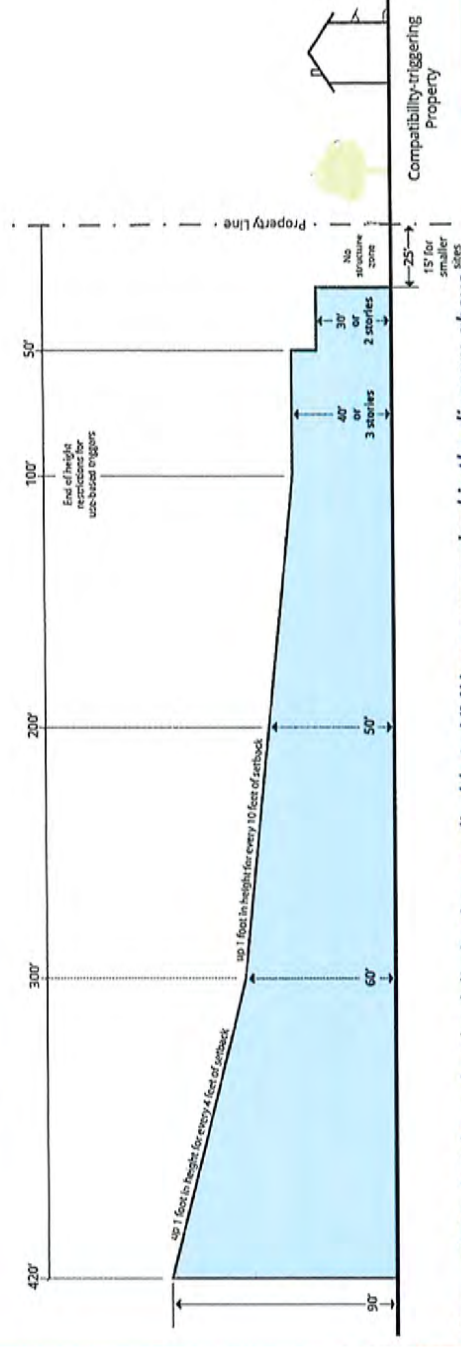
### Conditional Overlays (CO's)

- Conditional Overlay Combining Districts, or CO's, are used to modify use and site development regulations on a site-by-site basis. CO's are always more restrictive than the restrictions otherwise applicable to the property. CO's can regulate many site development regulations, including lowering the maximum allowable building height on a site.
- **67% of VMU-zoned sites have a Conditional Overlay.** Staff did not research specific CO's on VMU-zoned sites; however, it is possible that many of these sites with CO's have additional height restrictions that may limit the ability to utilize the 30-foot height bonus outlined in the new tier of the VMU program.

## Compatibility Standards

- Compatibility standards apply to sites that are within 540 feet of the property line of an urban family residence (SF-5) or more restrictive **zoning** district.
  - For the purposes of the new VMU height bonus, the distance from a compatibility-triggering property that could affect a VMU building's maximum height is 420 feet.
- Compatibility standards also apply when a site is adjacent to a lot on which a **use** permitted in an SF-5 or more restrictive zoning district is located.

- Compatibility Standards require:
  - Height and Setback Limitations
  - Scale and Clustering Requirements
  - Screening Requirements
  - Design Regulations



Compatibility height and setback limitations applicable to VMU are summarized in the diagram above.

# Other Policies Impacting VMU-Zoned Sites



# Other Policies Impacting VMU-Zoned Sites

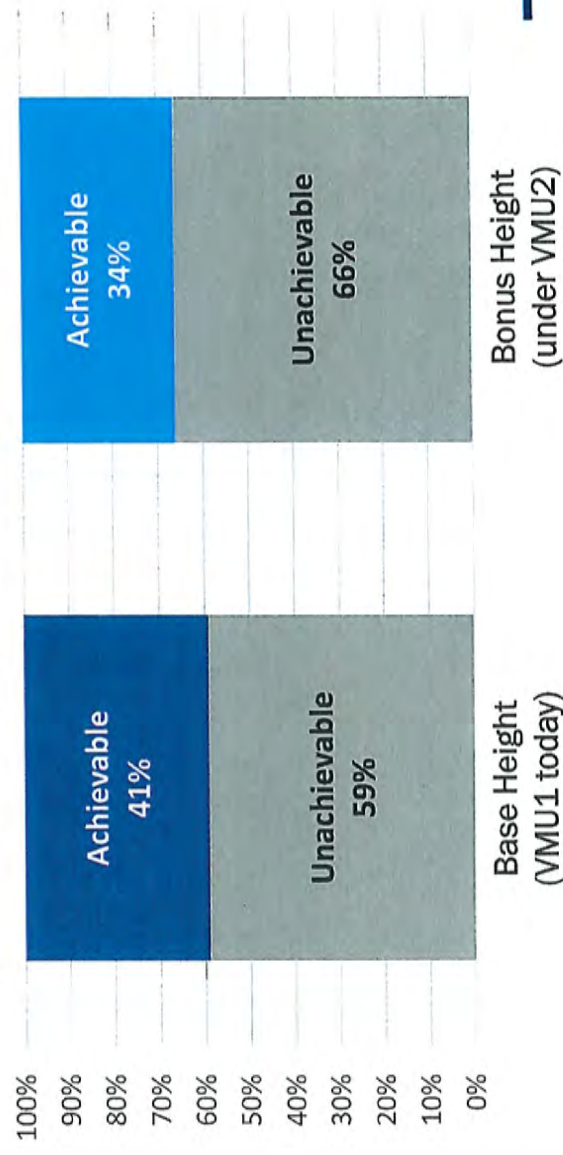
## Compatibility Standards

17 of 18

- 41% of VMU-zoned sites could build to their *base* height after compatibility standards are applied.
  - The remaining 59% of VMU-zoned sites are prohibited from building to the maximum height allowed by their base zoning due to compatibility standards.
- 34% of VMU-zoned sites could potentially build to the *bonus* height under VMU2 after compatibility standards are applied.
  - The remaining 66% of VMU-zoned sites would be prohibited from building to the maximum height allowed with the 30-foot height bonus.

*\*For purposes of this analysis, a site was considered buildable if the maximum height could be achieved for at least 10,000 square feet. This analysis included all sites with VMU zoning and did not exclude undevelopable or recently developed sites.*

VMU-Zoned Sites Allowable Heights with Compatibility Standards







The web map can be accessed here:

<https://austin.maps.arcgis.com/apps/webappviewer/index.html?id=bff1cf81f6534a0bb2f8a23988d499c2>

## Compatibility + VMU Web Map

- Interactive Map
- View where VMU-Zoned Sites are Located
  - Including layers for Displacement Risk Areas, High Opportunity Areas, and the Transit Priority Network
- View allowable heights with the new bonus on VMU-Zoned sites after Compatibility Standards
- View VMU-Developed and Developing Buildings



**HOUSING &  
PLANNING**

# Code Amendment: Residential in Commercial

City Council  
December 1, 2022

Greg Dutton – Housing and Planning

**EXHIBIT K**



# Content

- Background
- Council resolution
- Proposed draft changes
- Staff's recommendation
- Timeline





## Background

- Residential in commercial is a new concept for the draft LDC
- Basic concept is to allow residential in commercially zoned property to add housing capacity with required affordable units
- Draft LDC is suspended (March 2020)

## Council Resolution 12/9/21

- *WHEREAS, under the Land Development Code, residential development is not currently allowed in many of the commercial zoning districts in Austin; and*
- *WHEREAS, City Council adopted the Austin Housing Strategic Blueprint (the Blueprint) in 2017 which called for 135,000 housing units by 2028, with 60,000 of those units at or below 80 percent of the median family income (MFI);*

## Council Resolution 12/9/21

- *WHEREAS, in the proposed Land Development Code Revision, residential uses were allowed in more zoning districts than in current city code; and*
- *WHEREAS, allowing housing in more places provides the opportunity for increased housing supply in Austin; and*
- *WHEREAS, in its 2018 report, the Planning Commission Mapping Working Group indicated that allowing mixed use in commercial zoning could lead to about 46,324 housing units in new capacity;*



## Council Resolution 12/9/21

- Allow residential development in:
  - CS, CS-1, GR, LR, GO, LO
  - Affordable housing required
  - Right to return for creative spaces:
    - Uses as defined in the Land Development Code, including but not limited to libraries, museums, public art galleries; performance venues/theaters; art, dance, martial arts, and studios for performing art, music and visual art; art workshops; live music venues; and artist live/work spaces.



## Proposed draft changes

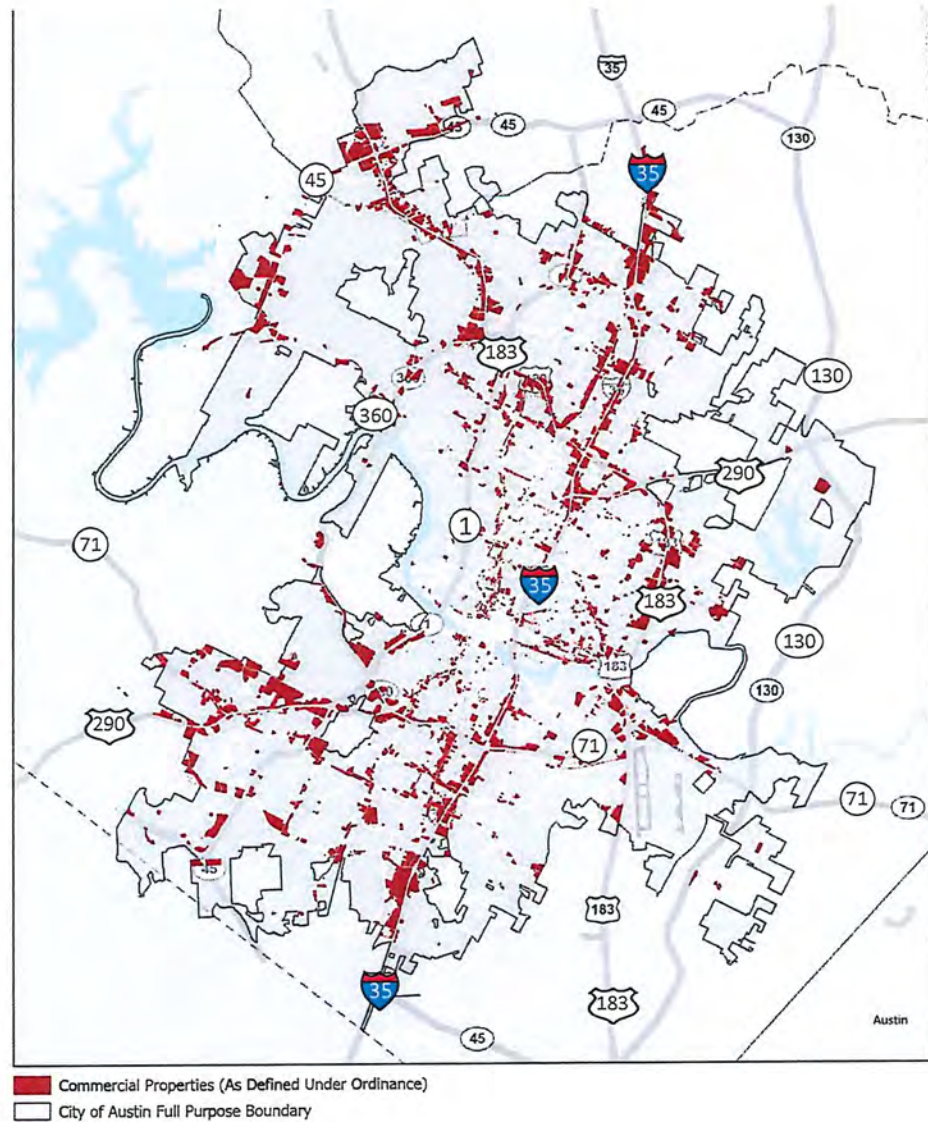
- Affordable housing required for residential entitlement:
  - Rental: 10% @ 60% MFI, 40 years
  - Owner: 10% @ 80% MFI, 99 years
  - Fee-in-lieu not allowed





HOUSING &  
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# Proposed draft changes: Applicability



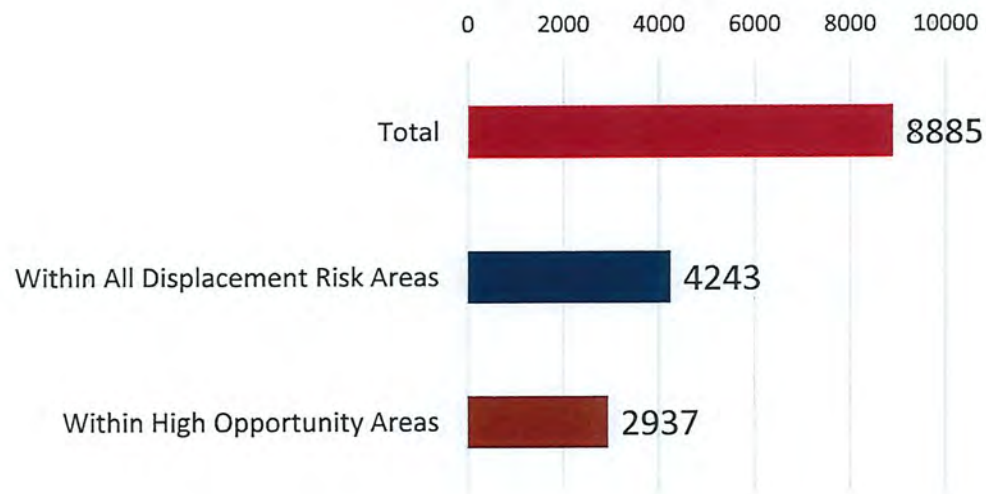


## Proposed draft changes

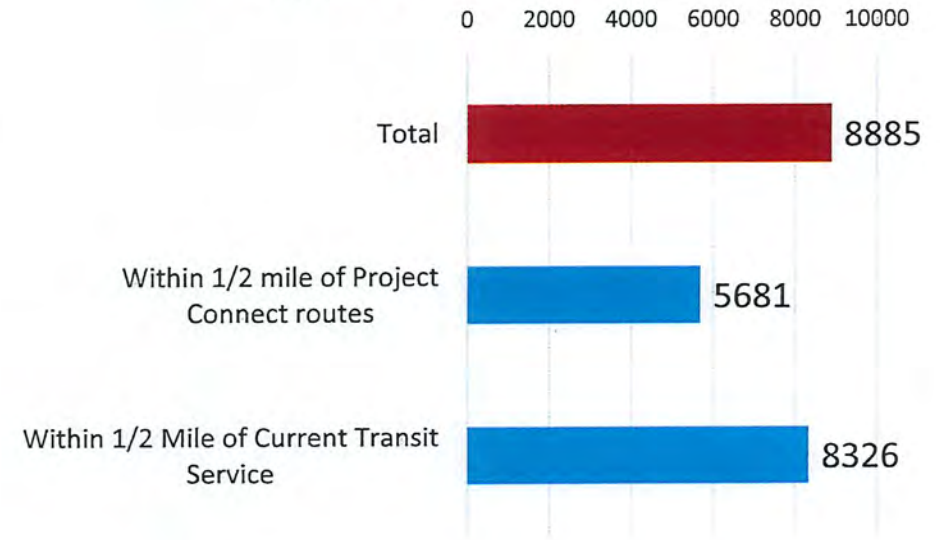
- Effectively grants MU zoning administratively when affordable housing is provided
- No other changes to site development standards: height, impervious cover, floor area ratio, parking



### Eligible Commercial Parcels by Displacement Risk Area & High Opportunity Area



### Eligible Commercial Parcels



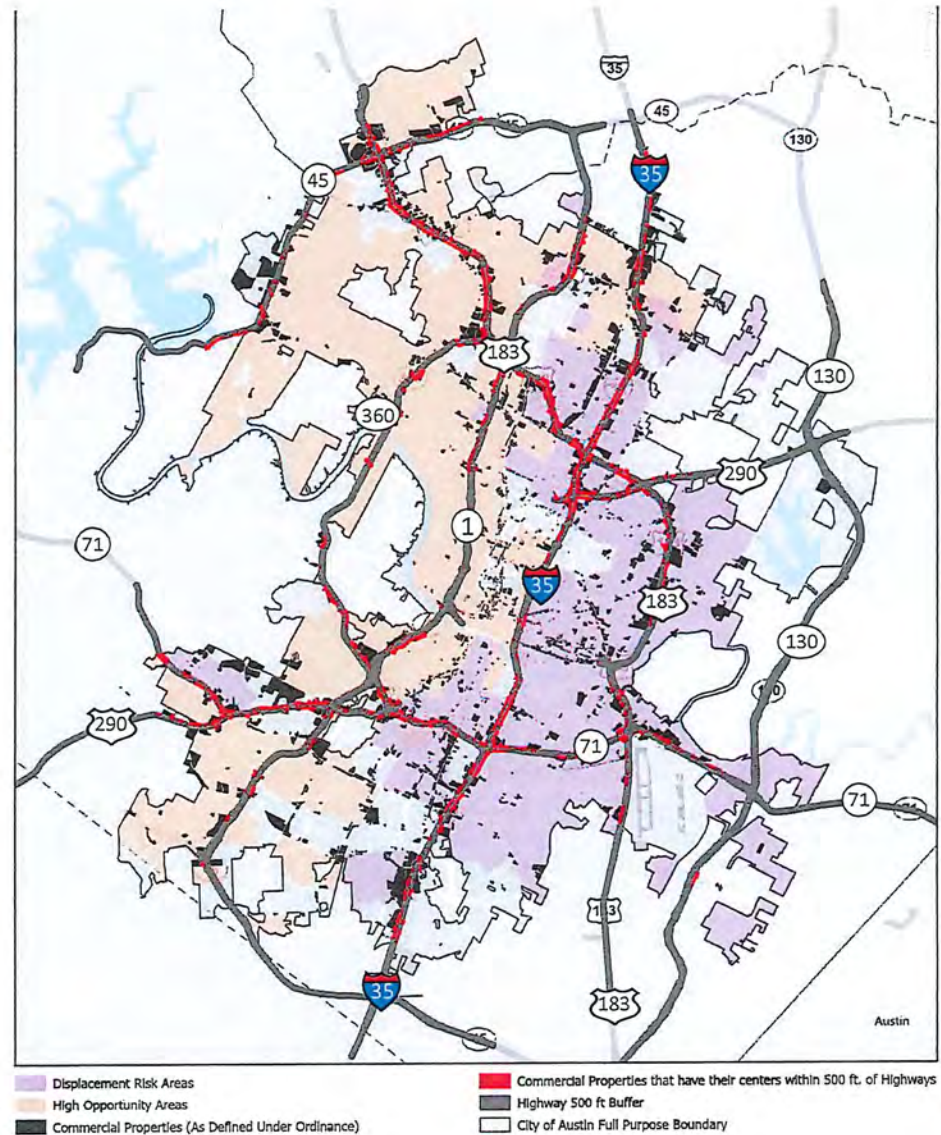
## Staff's recommendation

- Recommended with changes:
  - Modify to exclude properties within 500' of a level 5 highway
  - Modify to exclude residential uses near more intense manufacturing and/or noxious uses



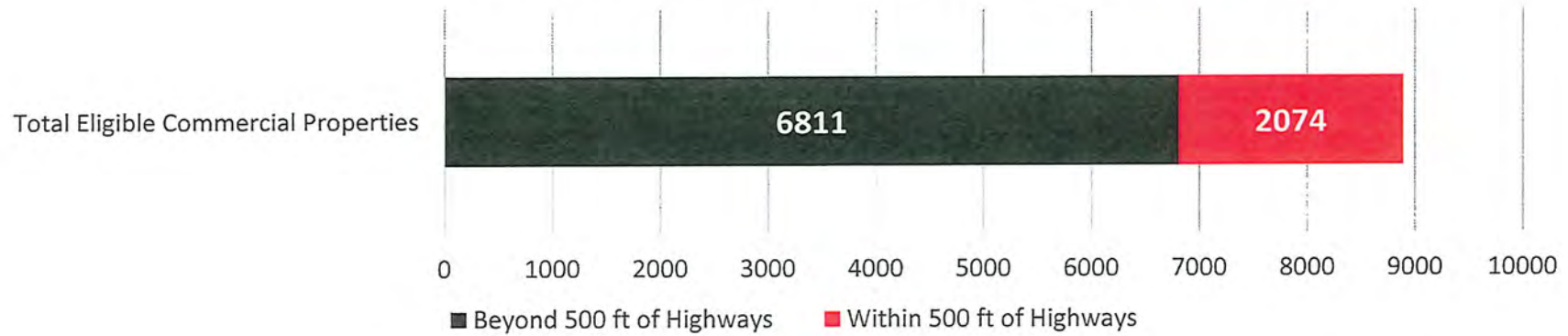


# Staff's recommendation: 500' highway buffer

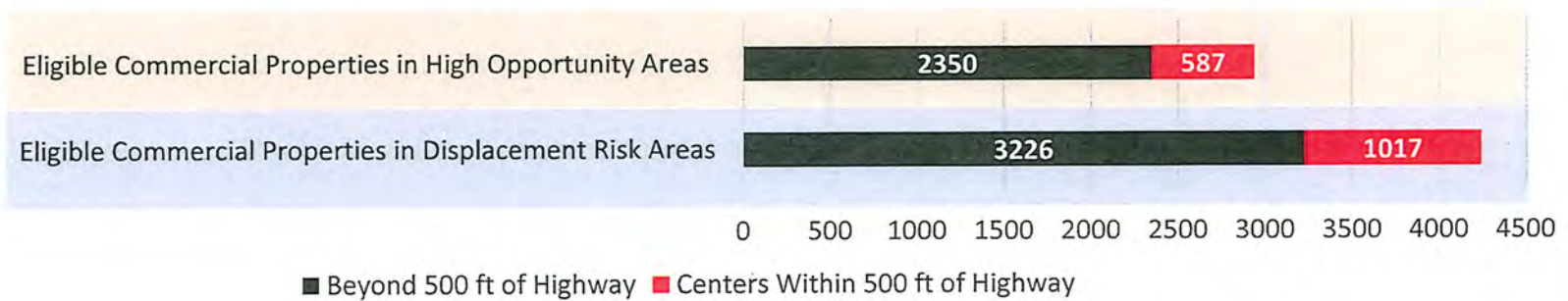




### Eligible Commercial Properties by Distance From Highway



### Eligible Commercial Properties and Distance From Highway by Displacement Risk & High Opportunity Areas





## Staff's recommendation

- Recommended with changes:
  - Modify to exclude properties within 500' of a level 5 highway
  - Modify to exclude residential uses near more intense manufacturing and/or noxious uses, e.g.:
    - Adult-oriented businesses
    - Agricultural sales and services
    - Automotive repair services
    - Building maintenance and services
    - Commercial blood plasma center
    - Construction sales and services
    - Drop-off recycling collection facility
    - Equipment repair services
    - Equipment sales
    - Exterminating services
    - Kennels
    - Limited warehousing and distribution
    - Maintenance and service facilities
    - Monument retail sales
    - Outdoor entertainment
    - Vehicle storage
    - Basic industry
    - General warehousing and distribution
    - Limited warehousing and distribution
    - Recycling center
    - Resource extraction
    - Scrap and salvage





## Review Process

- 10/19/22: Codes and Ordinances Joint Committee
- 10/25/22: Planning Commission
- 11/2/22: Environmental Commission
- 11/8/22: Planning Commission
- 11/10/22: Council Housing and Planning Committee
- 12/1/22: Council



# Planning Commission recommendation

Approve Staff's recommendation related to amending Title 25 of the City Code to create an affordable housing bonus program and include the following amendments:

1. Ensure that there is no 500 ft highway buffer in ordinance applicability. The ordinance must be applied with the 500 ft foot buffer and if needed, we recommend that council give direction to further study the issue.
2. Require Pedestrian-Oriented Commercial Spaces for a certain portion of the ground floor at the edge of the property fronting a transit corridor, including dimensional requirements and allowable commercial uses from the VMU ordinance.
3. Prohibit Type 2 and Type 3 STR. (This would be consistent with the compatibility ordinance as well)
4. Remove certain lease requirements from ordinance as indicated in proposed text change. Start a process to assess what lease requirements should be included in all density bonuses, including a stakeholder engagement process. Once we have identified a clear list of items that will support tenants and ensure bonus participation, we should make those changes across all density bonus programs.
5. Add advanced design standards from the VMU program.
6. Provide an incentive for ground floor retail by increasing height of the first level by 5 to 10 feet to accommodate a higher ceiling on the first floor.
7. Remove MU standards and replace with standards from the VMU program.

Vote : 11-0

**RESOLUTION NO. 20220609-066**

**WHEREAS**, Austin is facing an affordability crisis as the housing market reaches record rents and home prices; and

**WHEREAS**, City Council has recently passed a number of resolutions to address affordability and housing supply, including reforms for accessory dwelling units, Vertical Mixed Use, Equitable Transit Oriented Development, and affordable housing bonus programs for commercial zones; and

**WHEREAS**, Austin voters approved substantial investments in corridor improvements, active transportation, and Project Connect in 2016, 2018, and 2020; and

**WHEREAS**, current compatibility regulations, established in the 1980s, limit housing capacity on corridors by limiting the height of developments of properties within 540 feet of single-family properties, which is significantly more restrictive compared to cities with similar regulations; and

**WHEREAS**, current parking minimums may require more parking than currently needed and conflict with the City's goal of reaching a 50/50 transportation mode share; and

**WHEREAS**, moderate changes to compatibility and parking regulations on corridors would increase affordable and market-rate housing supply and support the City's transit investments; and

**WHEREAS**, Planning Commission, Zoning and Platting Commission, City Council, and community members have provided substantial feedback in the last 10 years on potential changes to the compatibility regulations and parking minimums; and

**WHEREAS**, the Austin City Council is committed to enacting policy changes to increase housing capacity and support transit investments on corridors;  
**NOW, THEREFORE,**

**BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF AUSTIN:**

The City Council initiates the following amendments to City Code Title 25 (*Land Development Code*) to increase housing capacity and support transit investments on corridors by relaxing compatibility regulations and reducing parking minimums. It is Council's intent that these amendments apply to a property that is front-facing or side-facing a corridor. It is Council's intent that these amendments apply when the property's existing compatibility or parking regulations are more restrictive.

**BE IT FURTHER RESOLVED:**

The City Council directs the City Manager to prepare a code amendment that accomplishes the following for a property located on a Light Rail, Larger, or Medium Corridor:

1. Defines Light Rail Corridors to include Project Connect Light Rail Lines and their Future Extensions (i.e. Orange and Blue Lines);

2. Defines Larger Corridors to include:
  - a. Austin Strategic Mobility Plan (ASMP) Level 5 Streets (i.e., major highways); and
  - b. Project Connect MetroRapid Routes (i.e., Expo Center, Pleasant Valley, Burnet to Menchaca & Oak Hill\* [exact route still under development], and Gold Lines), excluding Future Extensions.
3. Defines Medium Corridors to include:
  - a. Imagine Austin Corridors that have been constructed but do not qualify as Light Rail or Larger Corridors; and
  - b. 2016 Bond Corridor Construction Program corridors that do not qualify as Light Rail or Larger Corridors.
4. Modifies the compatibility height and setback regulations to:
  - a. limit the applicability to properties located on the same side of corridors;
  - b. tie the applicability to zoning classification, rather than existing land use;
  - c. end compatibility regulations at a 300' distance from the nearest triggering property;

- d. for any residential or mixed-use property on a corridor, allow more flexibility for what can be located in the 25' setback but not including dumpsters and with consideration of locating green infrastructure, landscape buffering, and green walls and solid fencing for sound attenuation;
  - e. for any residential or mixed-use property on a corridor, amend City Code Sections 25-2-1062 and 25-2-1063 to:
    - i. increase height from 30' to 35';
    - ii. increase height from 40' to 45';
    - iii. increase height from 50' to 55'; and
  - f. exempt the following from compatibility regulations:
    - i. any residential use permitted in an SF-6 or more restrictive zoning district and developed in accordance with site development standards allowed within an SF-6 or more restrictive zoning district; and
    - ii. any building consisting of only residential uses with a maximum of 12 units and a maximum of 35' height.
5. Creates a bonus program for a property on a corridor that provides on-site affordable units and allows:

- a. properties on Light Rail Corridors to end compatibility height and setback regulations at 100' distance from the nearest triggering property; and
  - b. properties on Larger Corridors to:
    - i. reach 65' height at 100' distance,
    - ii. reach 90' height at 200' distance; and
  - c. properties on Medium Corridors to:
    - i. reach 65' height at 150' distance,
    - ii. reach 90' height at 250' distance; and
  - d. properties utilizing fee-in-lieu options to be eligible only if and when the fees are updated to match the equivalent of on-site construction costs.
6. Except for accessible parking, modifies parking for a residential or mixed-use property on a corridor as follows:
- a. require a property on a Light Rail or Larger Corridor to build only 25% of the parking currently required;
  - b. require a property on a Medium Corridor to build only 50% of the parking currently required; and
7. Require a property on a Light Rail, Larger, or Medium Corridor and within 300 feet from a school to maintain existing parking regulations.
8. Prohibit Type 2 and Type 3 short term rental (STR) use in units along these corridors.

**BE IT FURTHER RESOLVED:**

The City Council directs the City Manager to explore the following ideas and, if feasible, include these ideas in the code amendment:

1. with the goal of promoting the use of more sustainable, climate-friendly transportation modes, explore the advantages of requiring implementation of Transportation Demand Management (TDM) measures in the recently updated Transportation Criteria Manual to qualify for the parking reductions, and with Austin Transportation Department Director approval, achieve further reductions as part of a tiered system that applies multiple TDM measures to a development;
2. appropriate reduction in parking requirements for a property on a Larger or Medium Corridor and within 300 feet of a school in exchange for construction of multi-bedroom units; and
3. applying Light Rail or Larger Corridor regulations to Transit Oriented Developments (TODs) and Regulating Plans where current regulations are more restrictive;
4. provide analysis of the affordable housing capacity yield of this Resolution; and
5. explore limiting triggering for civic uses and non-residential uses in residentially-zoned areas.

**BE IT FURTHER RESOLVED:**

The City Manager is directed to explore collaborating with local school districts on reserving public street space for school use.

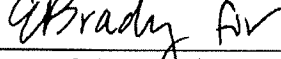
**BE IT FURTHER RESOLVED:**

Provide modeling and visual analysis for a variety of lot sizes and depths.

**BE IT FURTHER RESOLVED:**

The City Manager is directed to bring an ordinance for Council consideration no later than September 2022.

**ADOPTED:** June 9, 2022

**ATTEST:**   
Myrna Rios  
City Clerk





**Thursday, December 1, 2022**

The City Council will convene at 10:00 AM on Thursday, December 1, 2022 at Austin City Hall, 301 W. 2nd Street, Austin, Texas, and some members may be participating via videoconference. <http://www.austintexas.gov/page/watch-atxn-live>



Mayor Steve Adler  
Mayor Pro Tem Alison Alter, District 10  
Council Member Natasha Harper-Madison, District 1  
Council Member Vanessa Fuentes, District 2  
Council Member Sabino "Pio" Renteria, District 3  
Council Member José "Chito" Vela, District 4  
Council Member Ann Kitchen, District 5  
Council Member Mackenzie Kelly, District 6  
Council Member Leslie Pool, District 7  
Council Member Paige Ellis, District 8  
Council Member Kathie Tovo, District 9

**EXHIBIT M**

**Public comment will be allowed in-person or remotely by telephone. Speakers may only register to speak on an item once either in-person or remotely. For full instructions on participation in person or by telephone, please visit the Council Meeting Information Center:**  
**[http://austintexas.gov/department/city-council/council/council\\_meeting\\_info\\_center.htm](http://austintexas.gov/department/city-council/council/council_meeting_info_center.htm)**

*The City Council may go into a closed session as permitted by the Texas Open Meetings Act, (Chapter 551 of the Texas Government Code) regarding any item on this agenda.*

**All of the following items may be acted upon by one motion. No separate discussion or action on any of the items is necessary unless desired by a Council Member.**

**10:00 AM – City Council Convenes**

## **Consent Agenda**

### **Approval of Minutes**

1. Approve the minutes of the Austin City Council work session of November 1, 2022, regular meeting of November 3, 2022, and special called of November 9, 2022.

### **Austin Energy**

2. Authorize reimbursement of costs to Waller Creek Owner, LLC, for the purchase and installation of the service pipe connection required to interconnect the Waller building to the Austin Energy downtown district cooling system in an amount not to exceed \$2,424,138.

**Strategic Outcome(s):** Government that Works for All.

**District(s):** District 9

### **Convention Center**

3. Approve an ordinance amending Exhibit A to Ordinance No 20220817-005 (City of Austin Fee and Fine Ordinance for Fiscal Year 2022-23) to increase certain fees for the Convention Center garages near the Convention Center.

**Strategic Outcome(s):** Economic Opportunity and Affordability.

### **Development Services**

4. Approve an ordinance vacating an alley right-of-way of approximately 865 square feet to Ascension Seton, being the remaining portion of a 16-foot-wide alley right-of-way traversing north from West 34th Street, adjoining the parcel located at 1301 West 38th Street, Austin, Texas.

**Strategic Outcome(s):** Government that Works for All.

**District(s):** District 10

5. Approve an ordinance vacating a right-of-way of approximately 3,442 square feet to Ascension Seton, being the remainder of a sixty-foot -wide right-of-way commonly known as Bailey Lane; formerly known as Pratt Avenue traversing north from West 34th Street.

**Strategic Outcome(s):** Government that Works for All

**District(s):** District 10

the property interest needed for the Slaughter Lane Corridor Project for the public use of reducing delay, improving the effectiveness of transit, and creating continuous American with Disabilities Act-compliant sidewalks, bicycle facilities, and either separate paths or a shared-use path which will enhance safety for pedestrians and cyclists along the entire length of the project, the acquisition of a Sidewalk, Trail and Recreational Easement comprising approximately 0.0173 of an acre of land (approximately 755 square feet), being out of and a portion of the Theodore Bissell League, Survey Number 18, Abstract Number 3 in the City of Austin, Travis County, Texas, being a portion of the remainder of Lot 1, The Lane at Riddle Road, a subdivision recorded on January 8, 1980 in Book 79, Page 61 of the Plat Records of Travis County, Texas, currently appraised at \$39,077 and subject to an increase in value based on updated appraisals or a Special Commissioner's award. The owner of the needed property is Skipper Beverage Company, LLC. The property is located at 3419 W Slaughter Ln., Austin, Texas 78748. The general route of the project is along Slaughter Lane between RM-1826 and Vertex Blvd.

Strategic Outcome(s): Mobility, Safety.

District(s): District 5

### **10:30 AM - Austin Housing and Finance Corporation Meeting**

52. The Mayor will recess the City Council meeting to conduct a Board of Directors' Meeting of the Austin Housing Finance Corporation. Following adjournment of the AHFC Board meeting the City Council will reconvene. (The AHFC agenda is temporarily located at <https://www.austintexas.gov/departments/city-council/2022/20221201-ahfc.htm>).

### **Public Hearings and Possible Actions**

53. Conduct a public hearing to receive public comment and consider an ordinance establishing revised electric rates and charges for Austin Energy customers.

Strategic Outcome(s): Government that Works for All.

54. Conduct a public hearing and consider an ordinance amending Ordinance No 20211220-002 related to Tax Increment Reinvestment Zone No. 19 by amending the boundaries of the zone, amending the participation rate of the zone, and amending the preliminary financing plan and related matters.

Strategic Outcome(s): Government that Works for All, Economic Opportunity and Affordability, Mobility, Culture and Lifelong Learning.

55. Conduct a public hearing and consider an ordinance amending City Code Title 25 to allow residential uses on commercially zoned property under certain conditions.

Strategic Outcome(s): Government that Works for All.

56. Conduct a public hearing and consider an ordinance amending City Code Title 25 to create a new overlay that modifies compatibility and parking requirements along certain roadways.

Strategic Outcome(s): Government that Works for All.

### **12:00 PM - Public Communication: General**

## ORDINANCE AMENDMENT REVIEW SHEET (Council)

**Amendment:** C20-2021-012 Residential in Commercial

**Description:** Consider an amendment to Title 25 of the City Code to create an affordable housing bonus program and allow residential development on commercially zoned properties.

**Proposed Language:** See attached draft ordinance and background information.

### **Summary of proposed code amendment**

- The proposed amendment will create an affordable housing bonus program to allow commercially zoned properties with no existing residential entitlements to develop projects with residential units in return for on-site affordable units.
- Eligible projects:
  - Must provide on-site affordable units
  - Cannot exceed base zoning height or impervious cover
  - Must generally comply with the standards of a mixed-use (MU) combining district

**Background:** Initiated by City Council Resolution 20211209-056.

In December 2021, City Council issued a resolution that directed staff 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.

### **Staff Recommendation: Recommend with modifications**

As drafted, the proposed amendments to the Land Development Code would apply to 8,885 commercially zoned properties, including all properties zoned Commercial Liquor Sales (CS-1), General Commercial Services (CS), Community Commercial (GR), Neighborhood Commercial (LR), General Office (GO), and Limited Office (LO). A significant majority of these properties are located along existing transit corridors and Project Connect transit corridors, and approximately 48% of these properties are located within displacement risk areas. (See charts below for more detailed analysis.) The draft code amendments include provisions for the preservation of existing residential development as well as creative spaces. The draft code amendments would support implementation of multiple City policy goals, including goals related to transit-supportive land uses, housing production goals of the Austin Strategic Housing Blueprint, and goals related to preservation of existing affordable housing. Based on the geographic analysis, the recommended code amendments do not appear to have a disproportionate impact on racial equity or displacement risk areas.



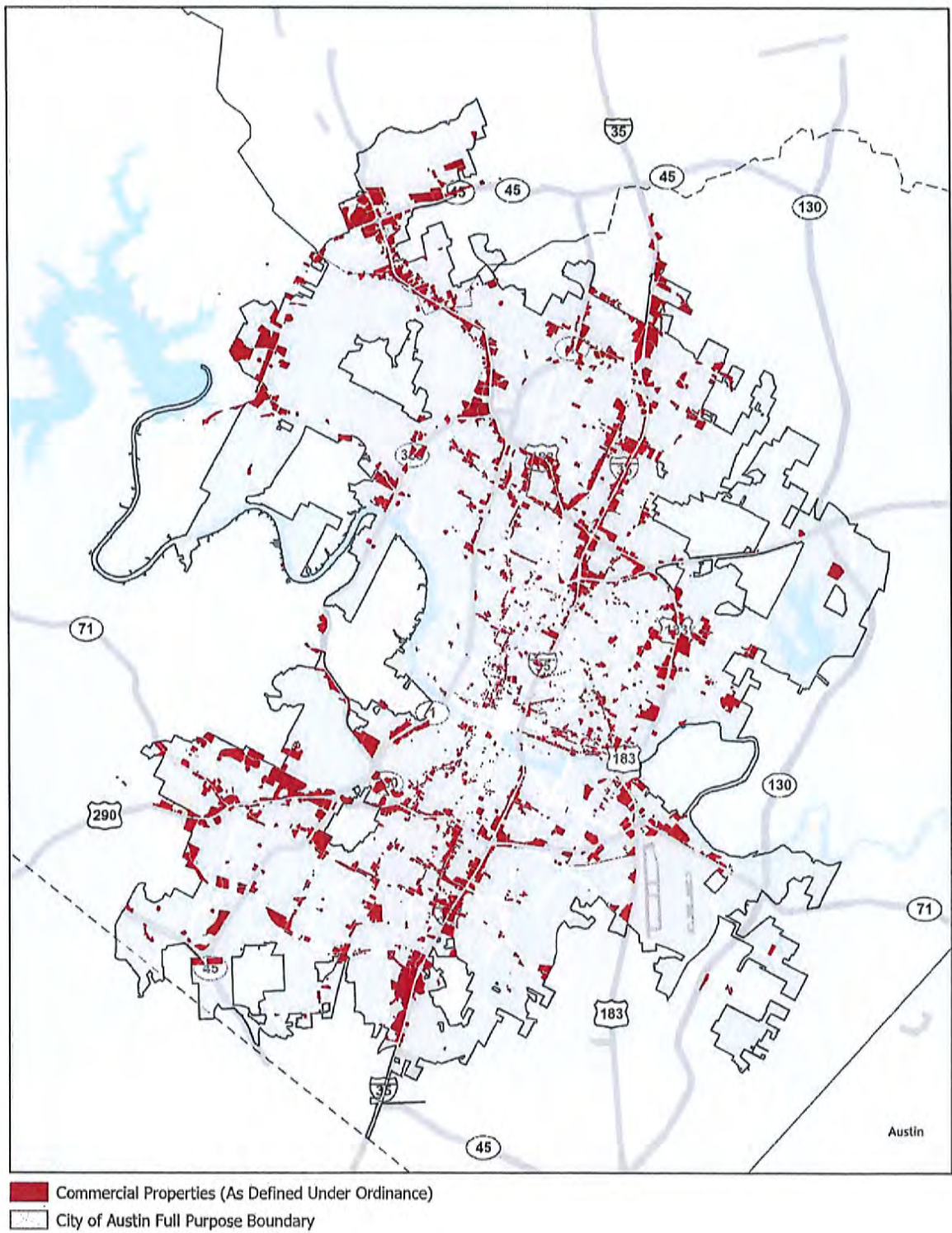
Property owners currently have other options for developing residential units on commercially zoned properties, including providing affordable housing that meets the deep affordability targets of the Affordability Unlocked Program and requesting a zone change through the conventional zone change request process.

HPD staff generally supports providing additional flexibility to develop residential projects in commercial zones as described in the draft code language, but has identified several potential areas of concern:

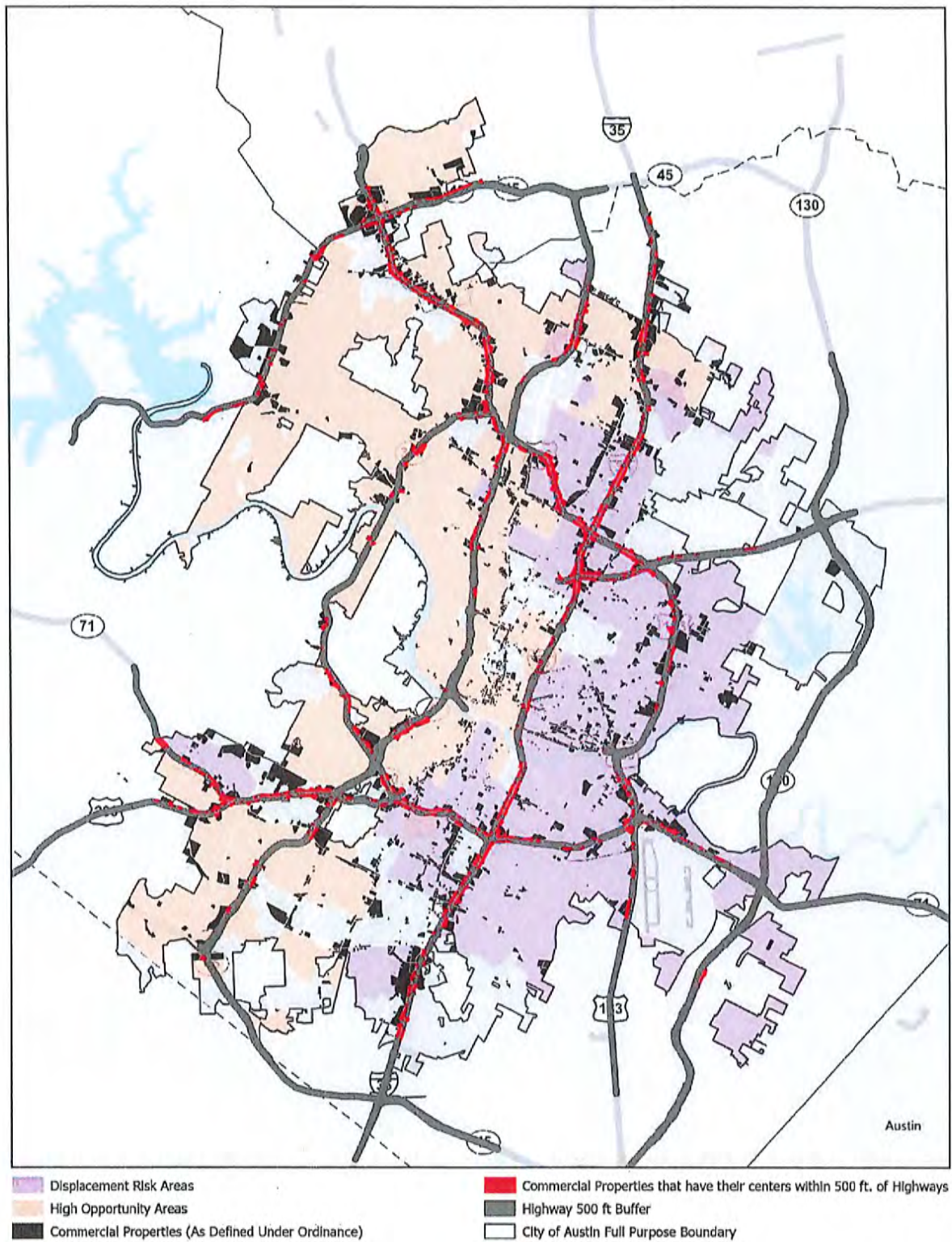
- **Compatibility of Uses.** The current proposal includes General Commercial Services and Commercial-Liquor Sales (CS and CS-1) districts, which allow for development of fairly intense commercial/light industrial uses, including vehicle storage, custom manufacturing, and limited warehousing and distribution, and many areas where these zones apply today may not be compatible with residential uses. In addition, 2,074 of the parcels eligible under the draft code amendments are along “Level 5” Regional Highways. Studies have shown that due to the increased particulates associated with freight vehicles, highways have a detrimental impact on respiratory health for people who live near them, and HPD staff generally do not recommend incentivizing additional housing development along such highways. **Recommended Modification:** Modify code amendments to not apply within 500 feet of Level 5 Regional Highways and examine ways to exclude residential uses from locating near certain CS and CS-1 uses. (Note: This option would have a substantive impact on the recommended structure of the proposed code language and approval process.)

**Possible land uses to exclude:**

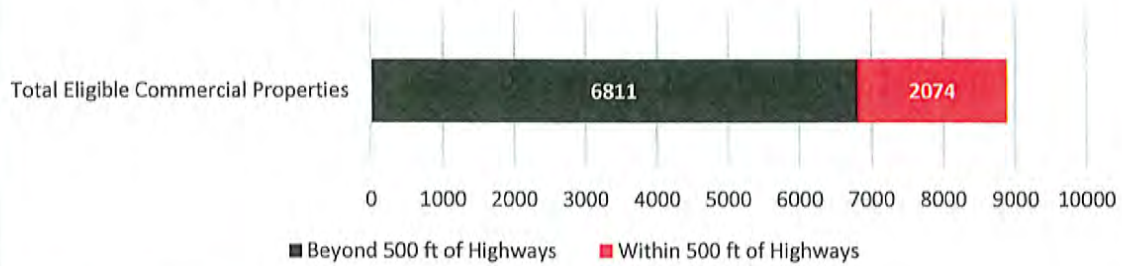
- Adult-oriented businesses
- Agricultural sales and services
- Automotive repair services
- Building maintenance and services
- Commercial blood plasma center
- Construction sales and services
- Drop-off recycling collection facility
- Equipment repair services
- Equipment sales
- Exterminating services
- Kennels
- Limited warehousing and distribution
- Maintenance and service facilities
- Monument retail sales
- Outdoor entertainment
- Vehicle storage
- Basic industry
- General warehousing and distribution
- Limited warehousing and distribution
- Recycling Center
- Resource Extraction
- Scrap and salvage

**Summary of Geographic Analysis:**





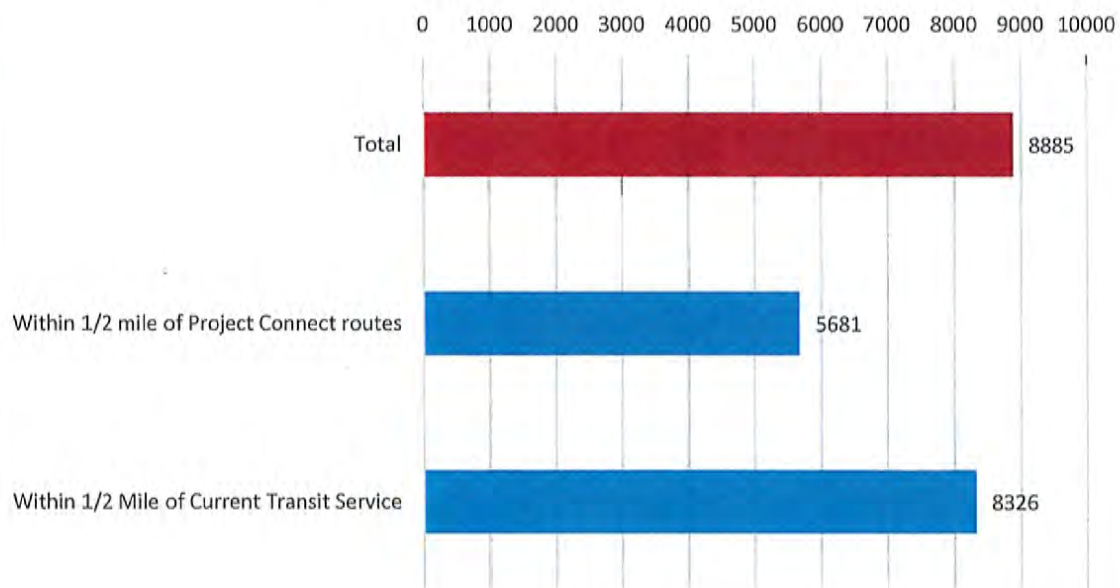
### Eligible Commercial Properties by Distance From Highway



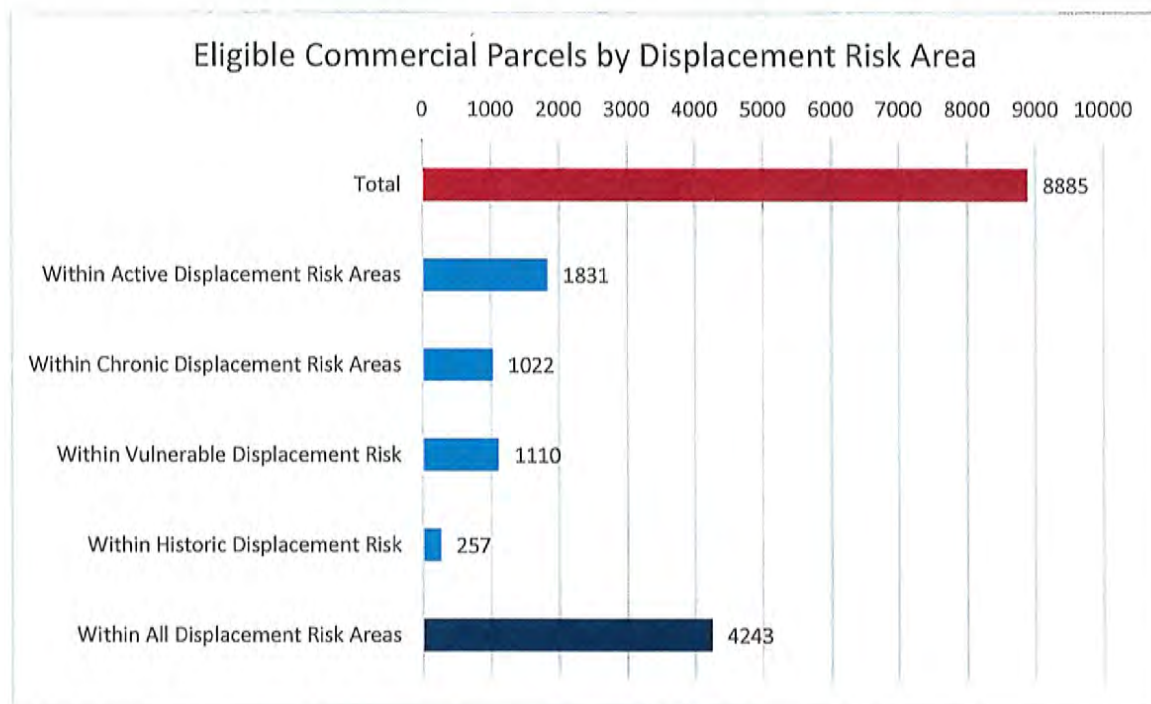
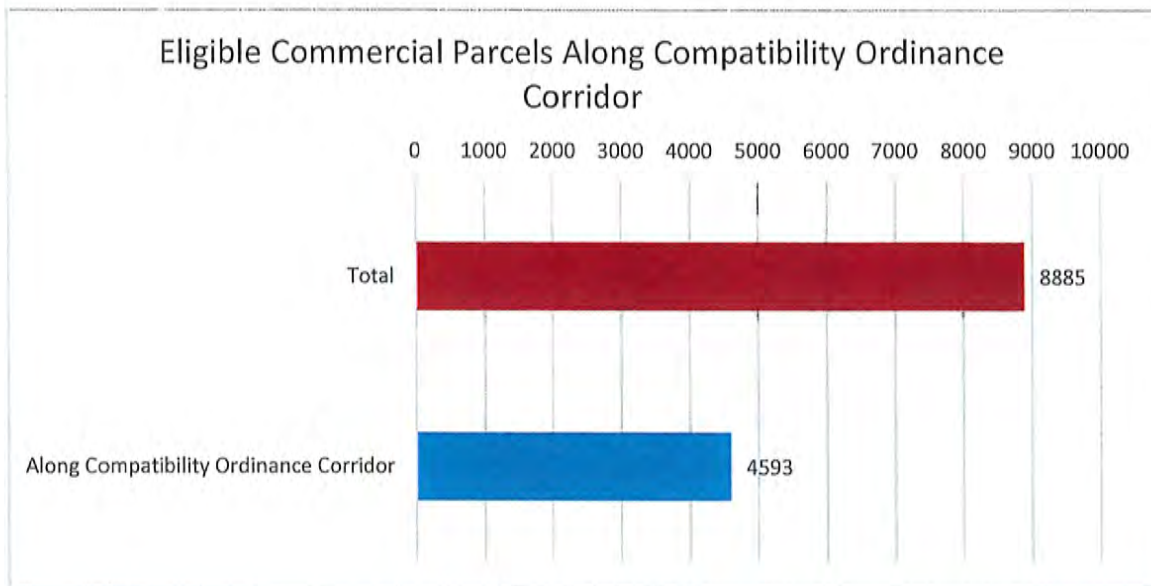
### Eligible Commercial Properties and Distance From Highway by Displacement Risk & High Opportunity Areas

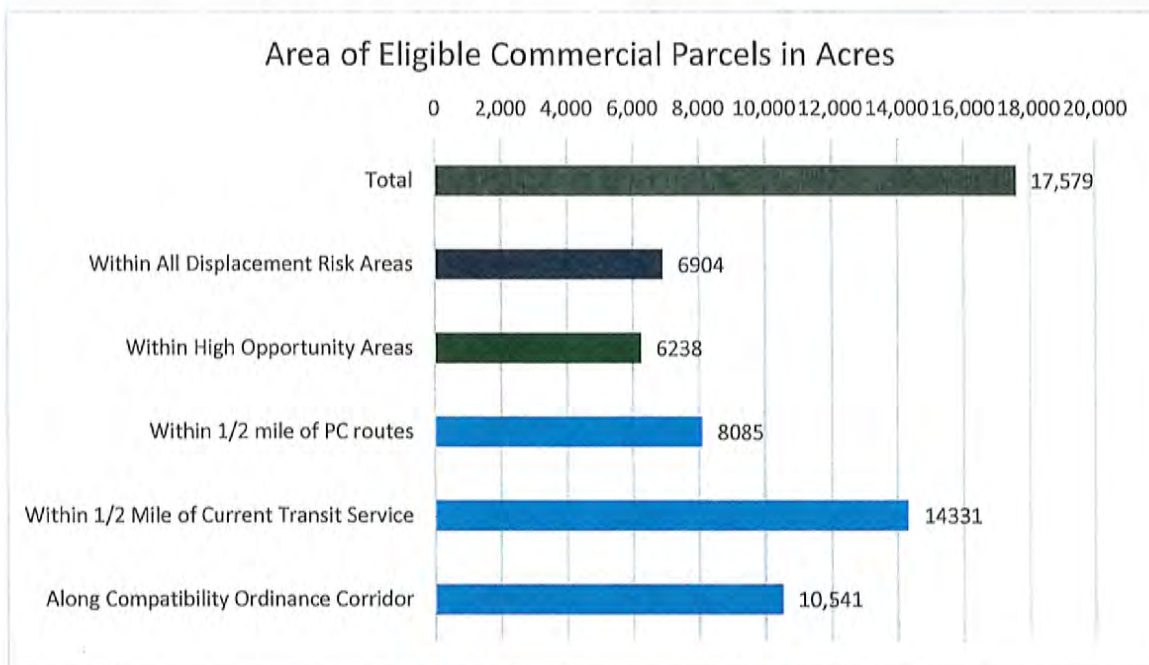
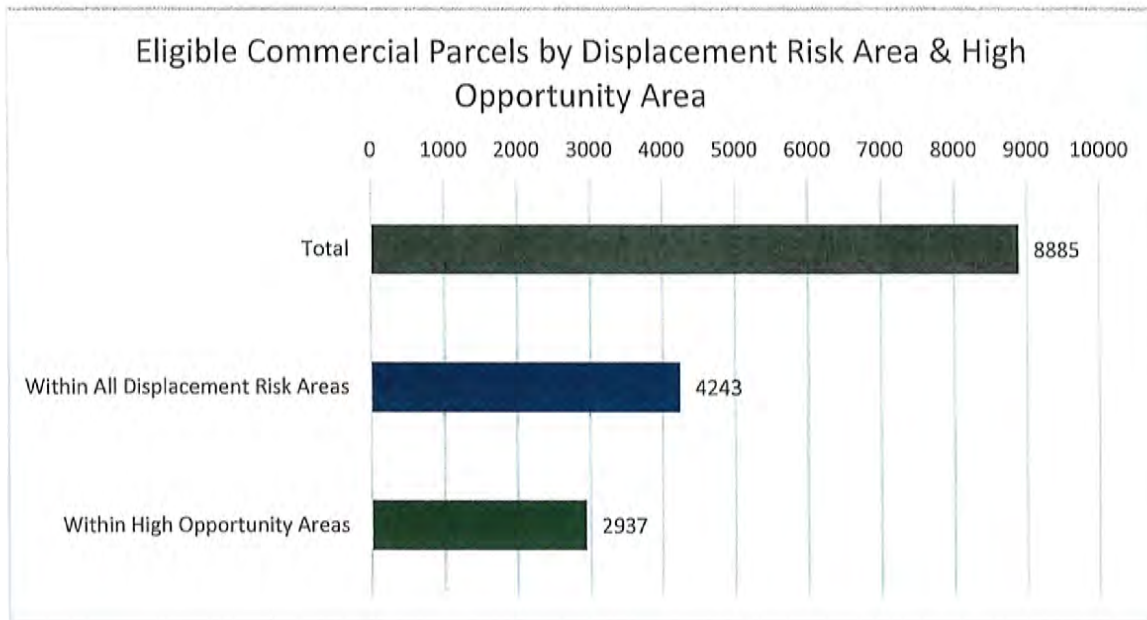


### Eligible Commercial Parcels









**Board and Commission Actions**

**October 19, 2022:** The item was recommended to PC by Commissioner Anderson, seconded by Commissioner Azhar, with direction to further explore VMU-type standards for eligible properties. Vote: 4-1 (Commissioner Denkler nay, Commissioners Shaw and Hempel absent). An amendment was made by Commissioner Azhar, seconded by Commissioner Denkler, to recommend the item to PC with staff's suggested changes that address concerns about proximity to highways and more intense, objectional land uses. Vote: 5-0 (Commissioners Shaw and Hempel absent).

**October 25, 2022:** A public hearing was held and closed by Planning Commission; item postponed to the November 8, 2022 Planning Commission meeting for further discussion.

**November 2, 2022:** The item was discussed at Environmental Commission and recommended on an 8-1 vote, with amendments (see attachment).

**November 8, 2022:** The item was discussed at the Planning Commission and recommended on an 11-0 vote, with amendments (see attachment).

**Council Action**

**December 1, 2022:** A public hearing has been scheduled.

**Ordinance Number:** NA

**City Staff:** Greg Dutton    **Phone:** (512) 974-3509    **Email:** greg.dutton@austintexas.gov

**RESOLUTION NO. 20211209-056**

**WHEREAS**, under the Land Development Code, residential development is not currently allowed in many of the commercial zoning districts in Austin; and

**WHEREAS**, City Council adopted the Austin Housing Strategic Blueprint (the Blueprint) in 2017 which called for 135,000 housing units by 2028, with 60,000 of those units at or below 80 percent of the median family income (MFI); and

**WHEREAS**, in the proposed Land Development Code Revision, residential uses were allowed in more zoning districts than in current city code; and

**WHEREAS**, allowing housing in more places provides the opportunity for increased housing supply in Austin; and

**WHEREAS**, in its 2018 report, the Planning Commission Mapping Working Group indicated that allowing mixed use in commercial zoning could lead to about 46,324 housing units in new capacity; **NOW, THEREFORE,**

**BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF AUSTIN:**

The City Council initiates amendments to the Land Development Code, codified in City Code Title 25, to allow residential uses in General Commercial Services (CS), Commercial Liquor Sales (CS-1), Community Commercial (GR), Neighborhood Commercial (LR), General Office (GO), and Limited Office (LO) zoning districts, subject to participation in a voluntary affordable housing incentive program.

**BE IT FURTHER RESOLVED:**

In developing the proposed amendments, the City Manager is directed to:

1. Require at least 10 percent of the rental units be affordable to households at 60 percent MFI for at least 40 years;
2. Require at least 10 percent of the homeownership units be affordable to households at 80 percent MFI for at least 99 years;
3. Authorize residential uses in all parcels located in the listed zoning districts except when subject to a regulating plan which prohibits residential uses on the particular parcel, subject to compliance with affordability requirements, site development regulations, parking requirements, and design standards similar to those design standards currently applicable to Vertical Mixed Use Buildings;
4. 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 when the project contains commercial uses on the ground floor and provides residential dwelling units on all upper floors;
5. Identify options for a “right to return” policy for art workshops and galleries, theater, and other creative spaces that have operated for more than 10 years on a particular site. The policy would give preference to those creative businesses within the new development and would enable them to access space of comparable size and cost so as to continue their mission and/or business.
6. Retain existing requirements of Chapter 25-2, Subchapter C, Article 10 (*Compatibility*); and
7. Extend the residential use option to all parcels in the listed zoning districts without requiring a zoning change or other discretionary approval from a city commission or city council. A property owner


shall be allowed to use this program in addition to any other existing affordable housing bonus programs.

**BE IT FURTHER RESOLVED:**

In addition to applicable procedures required for consideration of code amendments to Title 25, the City Manager is directed to present the proposed amendments to the Housing and Planning Committee before bringing a proposed draft to Council for consideration.

**ADOPTED:** December 9, 2021

**ATTEST:**

  
\_\_\_\_\_  
Myrna Rios  
Interim City Clerk





**December 1, 2022**

## Questions and Answers Report



Mayor Steve Adler

Council Member Natasha Harper-Madison, District 1

Council Member Vanessa Fuentes, District 2

Council Member Sabino "Pio" Renteria, District 3

Council Member Josè "Chito" Vela, District 4

Council Member Ann Kitchen, District 5

Council Member Mackenzie Kelly, District 6

Council Member Leslie Pool, District 7

Council Member Paige Ellis, District 8

Council Member Kathie Tovo, District 9

Council Member Alison Alter, District 10

**EXHIBIT O**



### Council Question and Answer

Related To	Item #55	Meeting Date	December 1, 2022
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### Additional Answer Information

**Item #55:** Conduct a public hearing and consider an ordinance amending City Code Title 25 to allow residential uses on commercially zoned property under certain conditions.

#### MAYOR PRO TEM ALTER'S OFFICE

- 1) *The resolution Council authored included the following language: "Authorize residential uses in all parcels located in the listed zoning districts except when subject to a regulating plan which prohibits residential uses on the particular parcel, subject to compliance with affordability requirements, site development regulations, parking requirements, and design standards similar to those design standards currently applicable to Vertical Mixed Use Buildings". For VMU sites that are not located along a light rail line, the current VMU ordinance states, "For all uses in a VMU building, the minimum off-street parking requirement shall be 60 percent of that prescribed by Appendix A (Tables of Off-Street 29 Parking and Loading Requirements). This reduction may not be used in combination with any other parking reduction.". However, the draft ordinance does not include the line, "This reduction may not be used in combination with any other parking reduction.". Why was the language "This reduction may not be used in combination with any other parking reduction." not included in the draft ordinance and can staff explain the menu of other parking reductions that a project could potentially utilize if the ordinance remains unchanged?*

In practice parking reductions cannot be stacked, as they are discounts from Appendix A, and not each other. But the language on prohibiting the combining of parking reductions was not an intentional omission and adding it will reinforce the intent of the existing language.





### Council Question and Answer

Related To	Item #56	Meeting Date	December 1, 2022
Additional Answer Information			

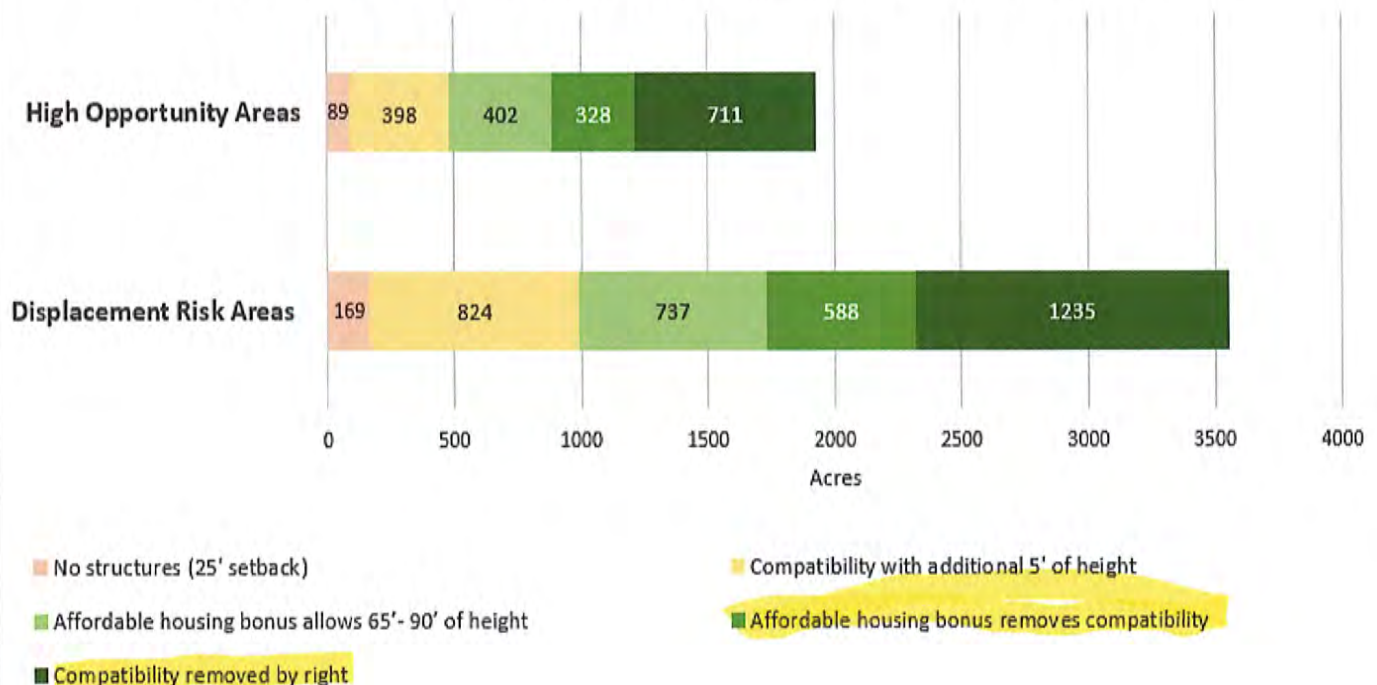
**Item #56:** Conduct a public hearing and consider an ordinance amending City Code Title 25 to create a new overlay that modifies compatibility and parking requirements along certain roadways.

COUNCIL MEMBER HARPER-MADISON'S OFFICE

1) How much acreage will have relaxed compatibility standards in High Opportunity Areas versus Displacement Risk Areas with the proposed Compatibility on Corridors code amendments?

See the chart below with information about the acreage of properties for which compatibility standards will be relaxed based on the proposed Compatibility on Corridors code amendments.

Acreage of Residential and Commercial Corridor Properties Impacted by Proposed Compatibility Standards in High Opportunity and Displacement Risk Areas





### Council Question and Answer

Related To	Item #56	Meeting Date	December 1, 2022
------------	----------	--------------	------------------

### Additional Answer Information

**Item #56:** Conduct a public hearing and consider an ordinance amending City Code Title 25 to create a new overlay that modifies compatibility and parking requirements along certain roadways.

#### COUNCIL MEMBER KITCHEN'S OFFICE

- 1) *Given their deep involvement in city-commissioned research and city-funded community engagement processes that have led to recommendations that go counter to this ordinance's definition of affordability, have the following offices reviewed this ordinance? This would include the Equity Office, Innovation Office, Office of Sustainability, and Resilience?*

Given the accelerated timeframe of this Council initiated work, it was not possible to include boards and commissions that were outside of the standard code amendment process. In addition, these offices are not generally involved in a standard code review process unless requested by Council, or by the commissions themselves.





### Council Question and Answer

**Related To**

Item #56

**Meeting Date**

December, 2022

### Additional Answer Information

**Item #56:** Conduct a public hearing and consider an ordinance amending City Code Title 25 to create a new overlay that modifies compatibility and parking requirements along certain roadways.

#### MAYOR ADLER'S OFFICE

- 1) Please provide the same data analysis provided in the staff report for if the following changes are enacted:  
 Collapse Large and Rail corridors into one category -- Large Corridors  
 Include the Burnet/S. Lamar line as a Large Corridor  
 End compatibility for lots that participate in the bonus on the newly combined Large corridors at 100' distance  
 Please see attached.

**Item 56 (Compatibility and parking on corridors) Question:**

Please provide the same data analysis provided in the staff report for if the following changes are enacted:

- Collapse Large and Rail corridors into one category -- Large Corridors
- Include the Burnet/S. Lamar line as a Large Corridor
- End compatibility for lots that participate in the bonus on the newly combined Large corridors at 100' distance

**Staff Response:**

The following table and charts show the total acreage of all properties along medium, and large corridors with residential, mixed-use, and commercial zoning that are subject to compatibility standards based on proximity to a parcel with a residential zoning district more restrictive than SF-6, grouped by proposed compatibility standards and distances.

The following table and charts show the same data analysis provided in the staff report for Compatibility on Corridors, but assume the following changes to the proposed ordinance:


- Collapse Large and Rail corridors into one category -- Large Corridors
- Include the Burnet/S. Lamar line as a Large Corridor (note: this change is already assumed in the latest version of the staff report)
- End compatibility for lots that participate in the bonus on the new large corridors at 100' distance


	25'	100'	150'	200'	250'	300'	540'
<b>Large Corridors (combined)</b>	<b>188 acres</b> <i>No structures (25' setback)</i>	<b>722 acres</b> <i>Compatibility with additional 5' of height</i>	<b>1,927 acres</b> <i>Affordable housing bonus removes compatibility</i>				<b>1,699 acres</b> <i>Compatibility removed by right</i>
<b>Medium Corridors</b>	<b>136 acres</b> <i>No structures (25' setback)</i>	<b>789 acres</b> <i>Compatibility with additional 5' of height</i>		<b>493 acres</b> <i>Affordable housing bonus allows 65'-90' of height</i>	<b>209 acres</b> <i>Affordable housing bonus removes compatibility</i>	<b>776 acres</b> <i>Compatibility removed by right</i>	

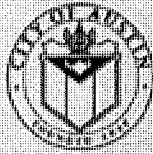
 No structures (25' setback)

 Compatibility with additional 5' of height

 Affordable housing bonus allows 65'- 90' of height

 Affordable housing bonus removes compatibility

 Compatibility removed by right



## NOTICE OF PUBLIC HEARING PROPOSED AMENDMENT TO AUSTIN'S LAND DEVELOPMENT CODE

Mailing Date: October 28, 2022

Case Number: C20 - 022 - 004

A public hearing will be held to consider proposed amendments to Austin's Land Development Code.

**Proposed Amendment:**

Consider amendments to Title 25 of the City Code to modify compatibility standards and parking requirements on certain roadways.

The Planning Commission will consider this amendment on November 8, 2022 at City Hall, 301 West 2nd Street, beginning at 6:00pm. Comments on this proposed ordinance from any member of the public will be heard during the public hearing.

The City Council will consider this amendment on December 1, 2022 at City Hall, 301 West 2nd Street, and online viewable at <http://www.atx.tx.gov> beginning at 10:00 am. Comments on this proposed ordinance from any member of the public will be heard during the public hearing.

For additional information on this proposed ordinance or how to participate in the meeting, please contact Greg Dutton, Housing and Planning Department, at (512) 974-3509 or [Greg.Dutton@austintexas.gov](mailto:Greg.Dutton@austintexas.gov) and refer to the Case Number at the top right of this notice.



**RESOLUTION NO. 20190221-027**

**WHEREAS**, in order to address the affordable housing crisis, the Austin City Council adopted the Strategic Housing Blueprint (Blueprint) with the goal of producing a total of 135,000 new units with a goal of at least 60,000 new income restricted units by 2027; and

**WHEREAS**, to create more than 47,000 affordable units called for in the Blueprint, additional City Council policy direction is required; and

**WHEREAS**, there is a need for affordable housing of all types including, but not limited to, single family, duplex, townhome, condominium, and multifamily, located throughout the City; and

**WHEREAS**, the City Council has passed numerous resolutions aiming to strategically improve affordable housing programs to meet the Blueprint's goals, such as exploring ways to provide residents the right to return, connect those with the highest needs with affordable housing, and better monitor the affordable units being created through various programs; and

**WHEREAS**, currently many affordable housing units, including new affordable housing developments and properties that accept Housing Choice Vouchers are located east of IH-35, north of Hwy 183, south of SH 71, and in the City's extraterritorial jurisdiction (ETJ); and

**WHEREAS**, the 4% Low Income Housing Tax Credit (LIHTC) program is a popular financing tool used to create affordable housing and requires at least 50% of a development's units to average at 60% median family income; and

**WHEREAS**, many 4% LIHTC developments in the City or in City's ETJ are located in areas that lack many amenities and viewed as lower opportunity areas; and

**WHEREAS**, past affordable housing efforts have not maximized their potential impact because of some city restrictions, thereby limiting the number of affordable units, limiting levels of affordability, and limiting the availability of income restricted family-friendly units; and

**WHEREAS**, in November, 2018, voters approved \$250 million for affordable housing, which may serve more families at deeper levels of affordability if City restrictions on residential development are modified; and

**WHEREAS**, the Austin Strategic Housing Blueprint, Austin's Fair Housing Action Plan, the Obama White House Housing Development Toolkit, and multiple other studies and reports have found that some land use restrictions can be a barrier to housing affordability; and

**WHEREAS**, maximizing the use of land for affordable housing will allow for more affordable units, deeper levels of affordability, more family-friendly units, and will facilitate affordable housing in higher opportunity areas; and

**WHEREAS**, the City Council approves many zoning cases for affordable housing developments; however, some restrictions that may result in additional affordable housing units cannot be waived in a zoning case; and

**WHEREAS**, the rezoning process may be costly, time consuming, and may ultimately limit the number of affordable units, level of affordability, and number of family-friendly units in an affordable housing development and allowing affordable housing to be built by-right without rezoning may benefit the City's affordable housing stock; and

**WHEREAS**, the City Council has missed opportunities to allow for the creation of more affordable units; and

**WHEREAS**, Saigebrook's Aria Grand is a 9% LIHTC multifamily property in Travis Heights that received \$1.5 million in affordable housing bond subsidies to develop 60 affordable units, but could have created 10 more affordable units without compatibility and 20 more affordable units without parking requirements with negligible increases in public subsidies and a decrease in the overall subsidy per unit; and

**WHEREAS**, Guadalupe Neighborhood Development Corporation was able to build 6 more units for a total of 22 units at its La Vista de Guadalupe development due to a substantial reduction of compatibility limitations; and

**WHEREAS**, Habitat for Humanity's development in the Plaza Saltillo Transit Oriented Development is participating in an affordable housing bonus program that waives



parking, allowing it to build 56 affordable units, where they would not have built any otherwise; and

**WHEREAS**, the City Council is dedicated to finding creative, innovative solutions to address the City's affordable housing crisis, to create more affordable housing in high opportunity areas, to increase the effectiveness of public dollars, and to meet the goals of the Austin Strategic Housing Blueprint; **NOW, THEREFORE,**

**BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF AUSTIN:**

In order to increase the number of affordable units and to most effectively utilize 2018 Affordable Housing Bond funds and other public funds and resources, the Council initiates amendments to City Code Title 25 (*Land Development Code*) to create an affordable housing program on a citywide basis. After adopting the amendments initiated by this resolution, Council directs the City Manager to provide an annual report on the impact and outcomes of the program to City Council and for the Planning Commission to review the results of the program after three years.

To be eligible for this program, a residential development must provide the following:

1. for rental housing, at least 50% of total units serving households with incomes at an average of 60% MFI or below and including at least 20% of total units serving households with incomes at 50% MFI or below, rounded up to the nearest unit, for at least 40 years;

2. for homeownership housing, at least 50% of owner-occupied units serving households with incomes at an average of 80% MFI or below, rounded up to the nearest unit, for at least 99 years;
3. at least three units total, unless the development is 100% affordable;
4. at least 25% of affordable units must have two or more bedrooms, unless the affordable units are permanent supportive housing or senior housing, rounded up to the nearest unit; and
5. provide just cause eviction protections and the right of tenants to organize, as required in existing city/federal affordable housing agreements.

This program would be available for a residential development or redevelopment irrespective of whether the proposed development or redevelopment requires a zoning change or other discretionary action from a City commission or the Council. It is the intent of the Council for this program to be accessed without requesting a further discretionary action by the Council. A property owner would be allowed to use this program in addition to any other existing affordable housing bonus programs, and apply in all overlays and regulating plans.

In order to avoid unnecessary disruption and displacement of low-income renters, this program would be available when an existing multifamily rental residential development is redeveloped or rebuilt only if:

1. the reason for the redevelopment or rebuilding is to replace residential facilities in serious need of repair and for which rehabilitation is not practicable and current tenants are provided notice of the redevelopment proposal; and
2. the property owner agrees to replace the affordable units (market-rate and/or income-restricted units that have been affordable to households earning 80% MFI or below in the previous year) one for one, without reducing the number of affordable bedrooms, grant current tenants a right to return to the development to a comparable unit after redeveloping or rebuilding, set rents so that current tenants are able to afford to return, and provide relocation benefits that are consistent with Uniform Relocation Act.

**BE IT FURTHER RESOLVED:**

The Council intends for a residential development that participates in this program to be allowed in any residential and commercial zone, but not industrial zones, and does not waive existing rules and requirements related to residential uses near health hazards; and to comply only with the occupancy limits for multi-family zoning districts. Any development that accesses this program shall not be comprised of more than 25% of gross floor area as non-residential use.

The Council intends for this program to:

1. waive compatibility standards for height and setbacks, but maintain the side setbacks as required by the base zoning district, and maintain requirements for any health and safety or environmental protection related setbacks;
2. allow building height to be 1.25 times the base zoning district's height entitlements;
3. waive parking requirements without waiving state or federal ADA parking requirements;
4. reduce front yard and rear setbacks by 50%;
5. allow density (i.e., site area requirements and units per acre) to be 1.5 times the base zoning district's density limits or allow six units, whichever is greater;
6. waive maximum floor-to-area-ratio;
7. waive the Residential Design and Compatibility Standards, as codified in Chapter 25-2, Subchapter F, but maintain the side setbacks as required by the base zoning district, and maintain requirements for any health and safety or environmental protection related setbacks;
8. require a modified site plan process that more closely resembles residential site plan while still addressing health and safety and addressing and reviewing drainage in the same way that drainage is addressed and reviewed for non-multifamily structures with the same impervious cover, including any adjustments to fee schedule as necessary, for developments with 12 or fewer units; and

9. waive common wall, roof, front porch, and other restrictions specific to duplexes in Section 25-2-773.

**BE IT FURTHER RESOLVED:**

If the development meets the aforementioned requirements, but in addition has:

1. between 75% and 100% of its units at rates affordable as defined above;
2. at least 50% of the affordable units have two or more bedrooms;
3. at least 10% of the affordable units serve households with incomes 30% MFI or below; or
4. is located within ¼ mile of an Imagine Austin Corridor that is served by a bus or transit line,

then, in addition to the bonuses described above, the development may also:

1. allow building height to be 1.5 times the base zoning district's height entitlements;
2. allow density (i.e., site area requirements and units per acre) to be 2 times the base zoning district's density limits or allow eight units, whichever is greater; and
3. require a modified site plan process that more closely resembles residential site plan while still addressing health and safety and addressing drainage in the same way that drainage is addressed for non-multifamily structures with the same impervious cover, including any adjustments to fee schedule as necessary, for developments with 16 or fewer units.

**BE IT FURTHER RESOLVED:**

The amendments initiated by this resolution should be designed with the goal of expanding the requirements, through subsequent code amendments, to align with any future changes to other City affordable housing program requirements or approvals that extend the affordability period, require rights of first refusal, or modify other program requirements.

**BE IT FURTHER RESOLVED:**

A residential development can establish eligibility for this program using documents required to participate in affordable housing programs operated by a local, state, or federal agency. Examples of affordable housing programs include the Low-Income Housing Tax Credit (LIHTC) program, the City's Rental Housing Development Assistance Program (RHDA), and programs funded through the U.S. Department of Housing and Urban Development. Otherwise, the Director shall establish eligibility procedures for the program that are similar to the procedures of other City bonus programs.

**BE IT FURTHER RESOLVED:**

The Council acknowledges that Planning Commission may recommend modifications to the amendments described in this resolution to best achieve the goals in Imagine Austin. Planning Commission should consider how to ensure the program maximizes affordable housing, meets our transportation goals and to consider the use of Transportation Demand Management Plan (TDM) as a tool for transportation needs as appropriate, and meets the housing and transportation needs of people with disabilities, and may review



setbacks/buffers and other options to address transitions between adjacent properties, with the intent of not reducing the positive impacts of this program.

**BE IT FURTHER RESOLVED:**

The amendments initiated by this resolution may not include increases in allowable impervious cover.

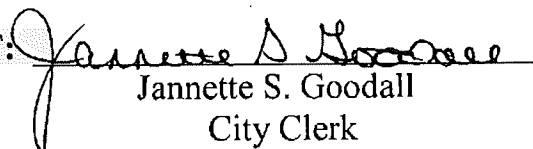
**BE IT FURTHER RESOLVED:**

The City Council directs the City Manager to:

1. work with affordable housing providers to provide visual representations of examples of how the program would produce more affordable units in more geographic areas, and the Manager should work with such providers to bring information forward to Council about potential projects—including their size, location, unit mix, affordability—with and without this new affordable housing program;
2. bring back an outline of the proposed modified site plan review process; and
3. bring back an ordinance for Council consideration no later than May 9, 2019.

**ADOPTED:** February 21, 2019

**ATTEST:**

  
Jannette S. Goodall  
City Clerk