

## A New Opportunity to Improve Austin's Land Development Code

By Michael Curry and Barbara McArthur

On November 6<sup>th</sup>, the voters declined to adopt Proposition J – the citizen initiative to require voter approval before a new comprehensive replacement of Austin's land development code could become effective. Proposition J offered a tool – a public vote on any new code – as a means to achieve the goal of a better, smarter Land Development Code supported by a broad cross-section of the community. A slim majority of voters rejected that tool but, importantly, not that goal.

There are lessons to be learned from the defeat of Proposition J but to do so, it is essential to understand its origin. Proposition J was a “break glass in case of emergency” initiative in response to CodeNEXT, the City's attempt at a comprehensive revision of Austin's Land Development Code. The Council withdrew CodeNEXT in August in the face of heavy criticism that it did not address our existing problems and created significant new ones. Many believed that the widespread up-zoning would fuel redevelopment that would exacerbate displacement and seal the fate of at-risk neighborhoods while pointlessly undermining established ones.

A land development code is an *implementation* document and not a *planning* document. Its function is to regulate land use in accordance with the City's approved comprehensive plan, including its small-area and neighborhood plans. CodeNEXT went off the rails when it sought to act instead as a new comprehensive planning document, and even worse, one that unilaterally rezoned the city in derogation of the wishes of its citizens.

The vote on Proposition J was a referendum on whether the community thought the CodeNEXT process and product were so irredeemable that we should consider the extraordinary step of taking the final decision out of the hands of the Council. Almost half of the voters said “yes.” Such a substantial number of votes for such extraordinary action confirms the Council's decision to set CodeNEXT aside and order a new process. To the extent that Proposition J motivated that decision, it accomplished a critical milestone even in defeat.

There is now space for a fresh start. Now is the time for an inclusive process that seeks a broad community consensus, one built from the bottom up, not imposed from the top down. Instead of counting votes on the dais, the Council needs to work for agreements in the community as to how best to implement our City plans. We need a code revision based on facts and real-life experiences not assumptions and planning theory. We need a code that has the flexibility to accommodate those who arrive in the future while respecting the rights of those who are already here. Now is the time to create a code that creates an efficient permitting process, while continuing to allow residents a say in what happens where they live.

To do those things the City needs to regain the trust of the citizens. Instead of trying to “handle” the community the City needs to listen to the community. No one should be required to learn a new code language (what is a “Transect?”) to understand what changes the City is

proposing. It should not take hours of detailed study to discover how each small part of the proposed code is different than the existing law and what it could mean on the ground. The City should spend more time explaining the document and less time selling it. Citizens are entitled to know not just the perceived theoretical benefits of an implementation approach but the downsides as well.

The citizen initiative embodied in Proposition J helped get us a new start. Now there is time to come together and improve our Land Development Code so that it does its job and works for everyone.