



## **The Hidden Impact: Commercial Up-zoning in CodeNEXT (3rd Version) and the Loss of Petition Rights**

While time constraints imposed by the City process have prevented the called-for exhaustive examination, the review to date reveals something that is sometimes overlooked: CodeNEXT intensifies commercial zones in and around neighborhoods. **For some communities and schools, the up-zoned commercial uses will have an even more significant impact than the residential up-zoning.**

Today, before a property can be rezoned, nearby property owners have the right to receive notice and an opportunity to be heard on that specific case before the City Council. **If the owners of 20% of the property within 200 feet of the subject tract object to the proposed rezoning through a petition, the application requires a super-majority vote of the City Council for passage.** This provision originates with State law and is intended to assure that a proposed rezoning, to which objection is made, is clearly in the public interest.

**CodeNEXT is designed to reduce neighbors' rights to file a petition with the Council in opposition to zoning changes.** The City seeks to do this in two ways. First, the City has taken the position that citizens have no petition rights in connection with the adoption of CodeNEXT even though CodeNEXT represents an extensive rezoning of thousands of properties across the City. Second, CodeNEXT has lowered the standard in many zoning districts, requiring only a conditional use permit (CUP) or an administrative minor use permit (MUP) for an array of land uses that today need a zoning change. There are no petition rights in connection with CUPs and MUPs.

**It must be understood that CodeNEXT itself represents a widespread up-zoning of commercially zoned properties in and around neighborhoods and schools across the City.** The existing six commercial zoning categories closest to neighborhoods, NO, LO, GO, LR, GR, and CS, have been eliminated in CodeNEXT and replaced with eleven Mixed Use and seven Main Street zones. CodeNEXT essentially removes the Neighborhood Office (NO) and Limited Office (LO) office-only zones by combining them with retail uses that are now restricted to more intensive zones.

These new zones allow **incompatible higher traffic-generating uses** (e.g., banks, restaurants, commercial services, doctor's offices) – even near residences and schools – where they do not exist today.

Furthermore, CodeNEXT also broadly authorizes or facilitates the location of **bars, bar districts and micro-breweries on commercial properties near – even adjoining – residences** without the zoning change, petition rights and public hearing process that would be required today. The CodeNEXT Map even permits “adult entertainment” establishments (adult movie theaters, book stores, novelty shops, etc.) near single-family residential areas where they are not currently allowed.

CodeNEXT compounds the negative impact of the new intensive commercial zoning by **increasing the street traffic and the need for parking, while at the same time decreasing the parking requirements by 20% to 60% or more.** For example, bars, restaurants, and retail stores up to 2,499 square feet could locate along neighborhood corridors with MS zoning with *no* required parking. **The result would be more commercial traffic and commercial parking on adjoining or nearby neighborhood streets.**

**Accordingly, in analyzing the effect of CodeNEXT, it is critically important to look at how CodeNEXT rezones commercial uses in neighborhoods, around neighborhood schools, and across the City.** Thousands of properties would be up-zoned simultaneously, and neighbors are not going to get the same opportunity to be heard on individual properties during the CodeNEXT process as they would in a regular zoning case. And, it appears that the City is going to try to

deny neighbors their right to petition against these zoning changes during the CodeNEXT process. After CodeNEXT, neighbors won't have petition and/or Council hearing rights on new more intensive uses requiring only a Conditional Use Permit (CUP) or a Minor Use Permit (MUP) designation.

**In summary, CodeNEXT is attempting to up-zone commercial property under the radar while at the same time to downzone neighbors' opportunity to be heard and to protest with a petition. This is the hidden impact of CodeNEXT.**

Disclaimer: While the contributors to this overview made a concerted effort to be accurate, given the code draft's complexity, ambiguity and the limited time afforded by the City for review, there may be errors or misunderstandings herein. The reader is encouraged to check statements in this document against the draft code, its amendments, and additions.