

Land Development Code Advisory Group (CAG) Recommendations

Throughout the life of the CAG, members have fielded a broad range of questions, concerns and suggestions from individuals, business interests, civic organizations, professional associations, neighborhood groups, community activists and many others. Over the course of these discussions, a number of topics consistently emerged as areas of public interest, with opinion often divided on how the code might best address them.

To aid the work of the Land Commissions and City Council, the CAG has identified frequently cited issues and prepared a series of briefs to highlight major points of contention and to provide constructive recommendations where possible.

CAG members considered the following recommendations at public meetings on June 5th and June 12th. Recommendations that were pulled for discussion are noted with numeric results below (Support-Oppose-Abstain). Recommendations not pulled for discussion are indicated as Consent. Thirteen CAG members were present for the June 5th meeting and twelve members were present for the meeting on the 12th.

Recommendations are grouped by the following topics: Code Structure and Analysis; Environment and Parkland; Infrastructure; Building and Standards; Family Friendly Communities; Process and Nonconforming Issues; and Proposed Future Code Additions. Additionally, a placeholder is included for Affordability Incentives, which are not yet available for review. Policy recommendations are denoted with a (P), code text recommendations with a (T) and mapping recommendations with an (M). Primary authors are listed, and may be contacted with any questions through their Boards and Commissions email addresses.

The final CAG report, including full issue briefs for these recommendations, will be available after the July 5th CAG meeting.

A. CODE STRUCTURE AND ANALYSIS

Issue 1: Obtain additional data and 3-D modeling to optimize CodeNext trade-offs. (Primary author: Steven Zettner)

Recommendations (13-0-0):

1. City Council should require additional scenario testing of trade-offs during the process of refining both CodeNext rules and the mapping, in particular of transportation, stormwater capacity, and housing mix by bedroom count. (P)
2. City Council should make this decision as soon as possible. (P)
3. Fund access and full training on these tools for boards and commissions, and City Council staff. (P)
4. Provide access and online training to the public. (P)

Issue 2: Revise mapping to reflect Imagine Austin's community goals, not just near-term market conditions. (Primary author: Steven Zettner)

Recommendations (13-0-0):

1. Map out all Imagine Austin centers and corridors with transect zones over the coming five years. (P)
2. Consider some T6 zoning in regional centers, including the North Burnet Gateway, possibly Howard Lane TODs. (M)
3. Prioritize strategic Imagine Austin centers outside the urban core for additional infrastructure investment to incentivize new development. (M)(P)
4. Consider policy changes to achieve community goals for income and age diversity & livability, in all parts of town, not just areas already experiencing high development pressure. (M)
5. Consider mapping and/or policy changes to support small and iconic business along corridors and retain the community character. (M)

Issue 3: Decrease complexity by moving toward unified code, rather than using Transect, Non-transect and Title 25 zones simultaneously. (Primary author: Steven Zettner)

Recommendations (13-0-0):

1. Move toward a simpler code with a unified set of standards. (P)

B. ENVIRONMENT AND PARKLAND

Issue 4: Provide stronger standards for urban heat island mitigation. (Primary author: Eleanor McKinney)

Recommendations (Consent):

1. Define the site plan submittal requirements for three to nine units. Incorporate all tree preservation requirements. (T)
2. Provide for combined side and rear setbacks in transect zones for the purpose of tree preservation. Provide front setbacks with sufficient depth for new tree planting. (T)
3. Allow site disturbance beyond the limit of construction for site plan exemptions for the purpose of planting trees and installing rain gardens. (T)
4. Incorporate green building requirements into all transect zones. Calibrate these requirements to the building form. Incentivize projects that go above and beyond the requirements. (T)
5. Incorporate Green Streets standards for street trees including soil volume requirements. (T)
6. Incorporate the Functional Green standards into the draft code update. (T)

Issue 5: Clarify and update water stewardship provisions. (Primary author: Eleanor McKinney)

Recommendations (Consent):

1. Update the onsite beneficial use section of the draft code to indicate the type of green infrastructure elements to be employed. (T)
2. Remove obstacles to the use of rainwater harvesting systems. (T)
3. Clearly indicate porous pavement, rain garden, and bio-swale options. (T)
4. Clearly indicate that non-potable water options will be available in the future code update. (T)

5. Clearly indicate that potable water use regulations will be calibrated to practical landscape outcomes including plant establishment windows and new water conserving irrigation technologies. (T)

Issue 6: Strengthen provisions to preserve natural character, ensure adequate parkland and integrate nature into the city. (Primary author: Eleanor McKinney)

Recommendations (Consent):

1. Require parkland dedication on or off-site if requirements are .25 acres or more. (T)
2. Coordinate all aspects of open space standards and prioritize preservation of natural character and green stormwater infrastructure. Incorporate results into the updated draft. (T)
3. Update and calibrate the former Subchapter E open space requirements to lot size. (T)
4. Update open space at BRT stops. (T)
5. Provide missing items and standards including Definitions and Measurements, Parkland Dedication, Civic and Open Space, Supplemental Standards for Transect Zones, Private Personal and Private Common Open Space, Open Space in Commercial Non-transect zones, and open space in private courtyard forms. (T)

Issue 7: Strengthen provisions for water quality protections. (Primary authors: Lauren Ice, Eleanor McKinney)

Recommendations (11-0-1):

1. Reinstate the Environmental Commission's right to an annual review the Urban Watersheds Structure Control Plan as well as any new Suburban Watersheds Structure Control Plan. (T)
2. Decrease the threshold for requiring water quality controls from 8,000 square feet of impervious cover to 5,000 square feet, staff's original recommendation. (P)
3. Bring forward the recently codified Impervious Cover Restrictions for Education Facilities found in § 25-8-366. (T)

Issue 8: Protect rights of public in privately owned, publicly accessible open space subject to public/private partnership agreements or other city consideration. (Primary author: Rich Heyman)

Recommendations (12-0-0):

1. Add to sections 23-3B-2030, 23-4C-1070 and elsewhere in the code as appropriate, the following language: "All privately owned, publicly accessible civic, open space, or parkland subject to 23-3B-2030 or similar provisions in the code shall afford the same rights and protections for free speech and assembly to residents as comparable publicly owned civic, open space, and parkland." (T)(P)

C. INFRASTRUCTURE

Issue 9: Tighten drainage provisions to reduce risk of floods. (Primary authors: Lauren Ice, Eleanor McKinney)

Recommendations (12-0-0):

1. Provide watershed capacity analysis for every watershed in the City to understand and account for the limitations of the modeling and to provide a baseline of actual current impervious cover that will inform our zoning map and maximum impervious cover requirements. (M)(P)
2. Prohibit fees-in-lieu when downstream drainage systems are at or exceeding capacity, eliminating staff discretion in such cases. This could be accomplished by a map, regularly updated with modeled data, to show areas where fees-in-lieu are prohibited. (T)

Issue 10: Draft does not adequately address connectivity and flooding improvements triggered by remodels. (Primary authors: Lauren Ice, Eleanor McKinney)

Recommendations (12-0-0):

1. Clarify remodeling threshold for providing public benefit improvements, including flooding mitigation, streetscape improvements and connectivity improvements, e.g. sidewalks and safe crossings, per Mobility Code Prescription Paper, page 17. (T)
2. The scope of upgrade requirements or incentives should reflect the scope of the remodel project. (T)
3. Consider severity of need for the upgrades based on mobility, flooding and infrastructure issues in the surrounding area. (T)
4. Alternatively, incentivize removal of impervious cover and addition of trees and rain gardens, by allowing site disturbance for commercial remodels over the standard threshold without triggering a full-blown site plan. (T)

Issue 11: Create a plan for infrastructure capacity to keep pace with development. (Primary author: Nuria Zaragosa)

Recommendations (7-1-5):

1. Direct staff to produce a concurrent study to create budget projections for infrastructure improvements to correspond to CodeNext mapping. (P)
2. Produce analyses of impact of proposed parking reductions for representative areas of the city, including Transect and Non-Transect zones, and adjust as needed before implementing reductions citywide. (P)
3. Provide greater detail on proposed parking management districts. Apply a context sensitive approach to residential parking permits. (T)
4. Specify how or whether drainage and on-site beneficial reuse requirements and other environmental/infrastructure regulations will apply to 3-9 unit infill developments. (T)

Issue 12: Tie reduced parking requirements to clear public benefits. (Primary author: Nuria Zaragosa)

Recommendations (12-0-0):

1. Develop a means of capturing specific public benefits related to proposed reduced parking requirements in the draft code. (T)

Issue 13: Revise CodeNext mapping to better reflect existing or planned transit.

Recommendations (13-0-0):

1. Recalibrate the mapping along corridors and centers to optimize existing or planned transit lines, and to shape transit-oriented village centers. (M)
2. City of Austin Transportation Department should request that Cap Metro commit to long-term sites for future rapid transit stations as part of its Connections 2025 plan, including identification of east-west rapid transit lines and stations. (P)

Issue 14: Prioritize civic space at rapid transit stations, including along corridors. (Primary author: Steven Zettner)

Recommendations (12-0-0):

1. For sites of at least 2 acres adjacent to transit stations require plazas or pocket plazas connecting to the station and accessible to nearby residences without the use of a major roadway. (T)

D. BUILDING AND STANDARDS

Issue 15: Recalibrate proposed compatibility standards to create uniform standards that better balance livability and growth. (Primary authors: Chris Allen, Susan Moffat)

Recommendations (8-0-5):

1. Replace confusing multi-tier system with uniform citywide standard. (T)(P)
2. Reinstate current code rules governing noise levels of mechanical equipment, dumpster placement and driveway placement, reflective materials, etc. (T)
3. Trigger compatibility rules from all T3 and T4 zones, except T4MS. (T)
4. Insert triggers for properties remaining under existing code. (T)
5. Calibrate by-right entitlements with new compatibility rules to support affordability bonus program. (T)
6. Expand requirements for “green compatibility” to include green roofs/walls, bioswales, evergreen shade trees, hedges, sound walls. (T)

Issue 16: Promote context sensitive structures with Floor to Area Ratio maximums, and encourage community benefits for potential increases in FAR. (Primary author: Nuria Zaragosa)

Recommendations (8-0-5):

1. Reintroduce FAR in LMDR and in all Transect categories except T6. (T)
2. Require community benefits such as affordable housing in return for proposed increases from current FAR. (T)

Issue 17: Provide real-life modeling for McMansion policy integration. (Primary author: Chris Allen)

Recommendations (12-0-0):

1. The CodeNEXT team should beta test the draft code via modeling of real-world development scenarios to ensure that the policies of Subchapter F are effectively

carried over to the new code with the smallest possible adverse impact on design cost and design flexibility. (P)(T)(M)

Issue 18: Model development scenarios under draft code to avoid acceleration of demolitions.
(Primary author: Chris Allen)

Recommendations (13-0-0):

1. The CodeNEXT process should prioritize beta testing/vetting via modeling of real-world development scenarios to avoid acceleration of demolitions. (P)(T)(M)

Issue 19: Provide an exception for alley access requirement for alleys serving both residential and commercial properties. (Primary author: Dave Sullivan).

Recommendations (9-0-3):

1. Draft code provisions on alley access should provide an exception for cases in which an alley also serves commercial property, as well as residential. (T)

Issue 20: To support cooperative housing, revise definition, occupancy and parking provisions, and add new housing type for co-housing. (Primary author: Richard Heyman)

Recommendations (10-2-0):

1. Revise draft definition of cooperative housing to: “A housing arrangement in which residents share expenses and ownership, and in which all profits or surpluses are allocated to purposes that benefit current or future residents.” (T)
2. Raise occupancy limit for cooperative housing to 2 adults per bedroom. (P)(T)
3. Reconsider parking requirements to better support cooperative housing. (P)(T)
4. To facilitate co-housing add a new type to cottage court with a larger main house and separate duplex or cottage units on either side. (T)

E. FAMILY-FRIENDLY COMMUNITIES

Issue 21: Create suffix for urban core school areas to ensure public school safety and access.
(Primary author: Susan Moffat)

Recommendations (8-0-5):

1. Develop a zone suffix similar to the proposed O-suffix (PSU – Public School, Urban) or other tool for properties within 600’ of an urban core public school property line to retain current on-site parking requirements for all uses. For single-family homes or duplexes, this would require two on-site parking spaces per dwelling unit. For multifamily, commercial or other uses, on-site parking requirements would match those currently contained in the Austin Land Development Code, Section 25-6 Appendix A.

https://www.municode.com/library/tx/austin/codes/code_of_ordinances?nodetid=TIT25LADE_C H25-6TR

(P)(T)(M)

2. For deeply affordable family-friendly units to be rented or priced at 60% MFI (Median Family Income) or below, on-site parking exemptions within 600' of a public school property line should be determined by the applicable director. (P)(T)

Issue 22: Plan for family-friendly housing near urban core schools to retain inter-generational communities. (Primary author: Steven Zettner)

Recommendations (13-0-0):

1. Develop zones with building types best suited for families and entry-level ownership. (P)(T)(M)
2. Map more family-friendly housing in transit-oriented areas near schools. (P)(M)
3. Determine the legality of requiring a minimum housing mix by bedroom count. If legal, determine minimum mixes appropriate to the new zones. (P)(T)(M)

Issue 23: Restore/revise existing rules for nightclubs and liquor stores near residences. (Primary author: Steven Zettner)

Recommendations (12-1-0):

1. Restore existing rules on liquor-serving uses to the new code. (T)
2. Initiate a process to balance the needs of liquor-serving businesses and adjacent communities. (P)

F. PROCESS AND NONCONFORMING ISSUES

Issue 24: Revise proposed public process changes to ensure adequate notice and participation. (Primary authors: Chris Allen, Susan Moffat)

Recommendations (10-0-2):

1. Reinstate current code provisions governing mailed notice, posted notice, public response, administrative appeals, site plan extension notice, required meetings to resolve issues including both parties, appellant's right to rebuttal, and mailed notice to organizations for Areawide Interlocal agreements. (T)
2. Provide information about valid petition rights, similar to that provided for vested rights in 23-K-2. (T)
3. Clarify notice requirements for MUPs and consider placing this tool in hands of Land Use Commission, not city staff. (T)
4. Revise proposed language to explicitly prohibit ex parte communication regarding appeals by applicant and applicant's representatives, as well as public. (T)
5. Remove proposed language that allows hearings to proceed with notice errors. (T)

Issue 25: Clarify nonconforming use/structure language to avoid unintended consequences. (Primary authors: Chris Allen, Susan Moffat)

Recommendations (10-0-2):

1. Insert language to ensure that existing structures/uses that were conforming/complying at time of code adoption are not rendered noncomplying by code changes (see 25-2-294, 25-2-962). (T)

2. Require public process for change from one nonconforming use to another, and for conversion to Conditional Use. (T)
3. Clarify whether conversion to Conditional Use terminates nonconforming use. (T)
4. Reinstate existing code section that allows only one modification to height and setbacks for nonconforming structures (25-2-963(H)). (T)
5. Reinstate current code provisions for rebuilding a destroyed noncomplying structure, including time limits, gross floor area and interior volume, and location and degree of noncompliance (25-2-964(B)). (T)
6. Require termination of nonconforming parking when nonconforming use/structure is terminated. Reinstate code provision stating the discontinuation of nonconforming STR Type 2 by April 1, 2022 (25-2-950). (T)
7. Revise language in Transects to clearly state that grandfathering of 25' lots applies only to specific lots already granted small lot amnesty prior to code adoption. (T)

Issue 26: Add provision to terminate nonconforming uses that threaten general health, safety and welfare. (Primary author: Richard Heyman)

Recommendations (Consent):

1. Allow the city to require the termination of nonconforming uses that threaten health, safety and welfare, in accordance with the Texas Supreme Court's recognition of "the principle that municipal zoning ordinances requiring the termination of nonconforming uses under reasonable conditions are within the scope of municipal police power" (City of University Park v. Benners). (T)
2. Create a process for the direct and systematic termination of nonconforming uses that protects communities and which ensures that adequate time is allowed to recoup an owner's investment in the property. (P)(T)

G. PROPOSED FUTURE CODE ADDITION

Issue 27: Augment CodeNEXT with new Article 23-3F to support art, music, and culture.

(Primary author: Dave Sullivan)

Recommendations (Consent):

1. Add arts, music culture to the Purpose Statement of General Planning Standards. (T)
2. Working with appropriate city boards and stakeholders, develop a new code section to be numbered 23-3F with provisions to support arts, music and culture in Austin. (P)(T)

H. AFFORDABLE HOUSING INCENTIVES (Placeholder)