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May 29, 2008

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The Honorable Will Wynn
City Council Members
City of Austin

RE: Proposed Amendments to the PUD Ordinance

Dear Mayor and Council Members:

I am writing to you on behalf of the Real Estate Council of Austin (RECA) about the amendments to the Austin City Code (Code) being considered by the City Council on June 5, 2008 regarding the Planned Unit Development (PUD) zoning district. RECA is opposed to the proposed amendments as currently drafted.

As you know RECA has over 2000 members employed in all facets of the real estate industry. RECA's members live and work in Austin and care deeply about both the quality of life in Austin and the economic health of our great City. RECA takes great pride in how it has carried out its civic participation as a constructive partner with the City and other stakeholders on the important issues related to development in Austin. RECA and the real estate community have done their part to make Austin the "best city in the world."

Specifically, RECA and its volunteers have spent countless hours working for mutually acceptable solutions on numerous development issues. In fact, there have been 23 major land use policy initiatives over the last 16 months which have either been adopted or are currently under consideration at the City of Austin. When RECA has been invited to participate in collaborative groups to assist in drafting ordinances or policies, our members have devoted hundreds of hours attempting to implement widely recognized community values through sustainable and practical solutions. I hope you will agree that RECA has time and again been a constructive and supportive partner. The examples are numerous – Commercial Design Standards, Residential Design Standards (McMansion), Water Conservation, Barton Springs Re-Development, and the Affordable Housing Task Force to name only a few, recent major examples. In addition, RECA has participated in other important community initiatives like Envision Central Texas, Take on Traffic, Opportunity Austin and most recently our Downtown Austin Park & Ride initiative. RECA has been happy to work with you and others on these initiatives, and we look forward to working with all of you in the future on other City proposals.

While RECA has consistently maintained that the PUD zoning district rules did not need to be amended, RECA has been willing to participate and consider changes that would meet the stated community goals of (i) providing earlier City Council involvement in the PUD process, (ii) acknowledging additional community values to be considered in determining superiority, and (iii) providing a means of requiring affordable housing for PUDs seeking density bonuses. RECA was hopeful a consensus proposal could be achieved based on these goals.

Regrettably, we are not at a point where RECA can support the proposal approved by the Planning Commission this week. We do not relish opposition to Council sponsored initiatives; rather we seek to find proposals for which we can offer enthusiastic support, and to that end we have offered numerous suggestions for how to improve this draft. Unfortunately, none of the input we have offered has been included in the draft ordinance before you now. We believe the proposal will seriously damage PUDs as a planning tool and will impede and constrain creative, innovative solutions for new developments and redevelopments in Austin. This is a big step backward, not forward and we urge you not to take it.

Throughout the process, we have urged that the most flexible planning tool in the Code remain just that – flexible. While we support the goals of clearly articulating goals and standards expected for new projects through the PUD process, we know from decades of experience that no two sites are alike and that numerical standards, inherent to every other zoning category in the Code, are entirely inappropriate for the most important planning tool available that is designed to be flexible.


Moreover, we believe there may be serious legal, procedural and practical problems associated with a delegation of duties to a three member “gate-keeping” subcommittee at which only two Council Members could effectively “kill” a project, as well with the de facto inclusionary zoning aspects of this proposal. We believe there are far better ways to achieve the goals motivating these provisions without the legal exposure and without making an already cumbersome and costly City process worse.

For these reasons, RECA urges you not to approve the PUD amendments at this time and instead provide additional time for a continuation of the stakeholder process. Under the current proposal, the hard PUD zoning cases will still be hard, but the easy cases will become more difficult. RECA is, therefore, very concerned that the PUD amendments will discourage PUDs and the creative and innovative planning that the current Code allows (as evidenced by the numerous high-quality, beneficial developments that have resulted under the current Code), and that the very community benefits the City seeks would not be achieved.

With additional time and effort RECA hopes that the proposal will be revised and improved (1) to eliminate the PUD subcommittee and instead consider a City Council review and comment process as part of the Development Assessment that currently exists for PUDs; (2) to make clarifications to Code language with respect to Baseline determinations, Council modifications of PUD requirements, and the application of some of the Tier 1 Requirements, (3) to eliminate specific numerical requirements in the Tier 2 requirements and to make other clarifications thereto; (4) modify or eliminate the “local business” Tier 3 requirement as being unworkable and impossible to implement; (5) reject the Planning Commission additions to the proposed amendments as being inconsistent with other affordable housing initiatives and otherwise unworkable; and (6) limit any changes to the PUD zoning ordinance to apply only within the urban core. We stand ready to return to the stakeholder process and roll up our sleeves as we have so often before. I am certain that with the benefit of ample time and with a mutually shared desire for a win-win result, we can reach a solution that will strengthen the current process rather than weaken it into obsolescence.

Thank you for your thoughtful consideration of this matter. If you should have any questions or comments, please do not hesitate to contact me.

Sincerely,


Tom Terkel
President