



RECOMMENDATIONS FOR THE CITY OF AUSTIN'S LAND DEVELOPMENT CODE REVISION – SECOND READING DRAFT 2.10.20

Preservation Incentive

General

Recommendation: Direct staff to develop realistic and accurate modeling to show the potential scale, sizing and massing possible with those using the Preservation Incentive.

Justification: Council and the public can assess the impacts of additional development to surrounding properties.

(A) Purpose and Applicability.

(2) This section applies to all residential development on sites within a Residential House-Scale Zone.

- Recommendation: Develop language to apply Preservation Incentive to commercial and mixed-use zoned properties that add residential units while maintaining front portion of existing structure.
- Justification: This would allow small scale and formerly residential commercial and mixed-use zoned properties to maintain street scale and provide additional housing units. Those units might provide affordable housing for employees.

(1) Eligibility requirements:

(b) All of the existing structures on the site of the proposed development were constructed in compliance with City Code;

- Recommendation: Require compliance with City Code at time of construction vs. current code.
- Justification: Requiring all existing structures to have been constructed in compliance with City Code would eliminate many (most) central Austin properties from eligibility.

(c) The site complies with all applicable requirements of this Title, including Article 23-2H (Nonconformity).

- Recommendation: Allow a “nonconforming” property in a new R4 (i.e. an existing single-family home) to use the Preservation Incentive to add one ADU and get the bonus FAR.
- Justification: See recommendation for (d) below regarding adding one unit more than what is currently on the property triggering eligibility for Preservation Incentive bonuses.

(d) The proposed development for which the incentive is sought will increase density on the site by at least one dwelling unit.

- Recommendation: Clarify that additional dwelling unit that triggers eligibility is one more than is current on the property, not one more than the maximum number of units allowed. Suggested language, *“The proposed development for which the incentive is sought will increase density on the site by at least one dwelling unit more than the number of units currently on the property.”*

(2) Alterations to Original Structure. The preserved structure may not be modified or altered except as follows:

(ii) The exterior wall of the preserved structure must be retained, except that a private frontage, per Section 23-3D-5 (Private Frontages), may be added to a preserved structure that does not have a private frontage.

- Recommendation: Clarify that “private frontages” allows for open front porches only (i.e. use the word "porch" for clarity), not enclosed front additions.
- Justification: The incentive already requires that additions must be set behind the existing roof’s ridgeline or peak, or be set back from the front wall one-half of the width of the front wall. This eliminates confusion while allowing for flexibility in adding porches.

(e) Relocation Prohibited. A preserved structure may not be relocated.

- Recommendation: Allow relocation on-site to accommodate new construction as long as the front of the existing structure remains the front structure on the property and the setback is in conformance with other existing structures on the block face.
- Justification: Allows for flexibility while maintaining neighborhood character.

Setbacks

- Recommendation: Replace standard 15' setback with a flexible setback based on either (a) the average setback of existing structures on the block face or (b) the average setback of the two adjacent principal structures.
- Justification: 15' front setback in all R zones is incompatible with Council direction that specifically references neighborhood compatibility and refers to reducing compatibility requirements along activity corridors only. Consistent front setbacks are broadly accepted as the key character-defining feature for neighborhood compatibility. A 15'

front setback is out of character with the majority of residential neighborhoods in Austin. *Additionally, a 15' front setback is too narrow to protect the root perimeter of today's heritage trees or to nurture the growth of tomorrow's heritage trees.*

Preservation Ordinance

A number of changes to, and errors in, the language of the preservation code were noted from the first draft and have not been corrected in the latest code text. These include:

23-3C-10090 Historic Landmark and Historic District Overlay

(D) Designation Criteria for H and HD Overlays.

(c) Is at least 50 years old and represents a period of significance ending at least 50 years ago, and is individually listed in the National Register of Historic Places; or is designated as a Recorded Texas Historic Landmark, State Antiquities Landmark, or National Historic Landmark; or demonstrates significance in at least two of the following categories:

- Recommendation: Remove reference to the age of properties.
- Justification: The reference to the age of properties is redundant as 50 years old is already cited in section (a).

(F) Historic Landmark Commission Public Hearing, Review, and Recommendation.

(5) Contents.

(e) For a HD Overlay, a historic district preservation plan, as described in Subsection (H)(2), and list of designated contributing structures as described in Subsection (B).

- Recommendation: Add non-contributing properties to the list of properties in HD Overlay historic district. Language should read: *"For a HD Overlay, a historic district preservation plan, as described in Subsection (H)(2), and list of designated contributing and non-contributing structures as described in Subsection (B)."*
- Justification: Non-contributing properties need to be listed in the overlay district as they are subject to the preservation plan for new construction.

(H) HD Overlay and Preservation Plan Standard.

(1) An ordinance zoning or rezoning property as an HD Overlay must:

(c) List the designated contributing structures

- Recommendation: Add non-contributing properties to the list of properties in HD Overlay historic district. Language should read: *"List designated contributing and non-contributing structures."*
- Justification: Non-contributing properties need to be listed in the overlay district as they are subject to the preservation plan for new construction.

23-6E-1010 Purpose

- Recommendation: Add "historical" to (1) and (3) and eliminate (4) "Protecting property rights with reasonable regulations and procedures." Language should read:
*"The purpose of this article is to identify and protect buildings, sites, and structures of historical, cultural and architectural significance to the community through:
(1) Review of proposed changes to already identified historic properties;
(2) Review of requests to demolish or relocate already identified historic properties;
(3) Review of other properties to identify assets of historical, cultural and architectural value."*
- Justification: This clarifies that the purpose of the section includes protecting historic properties with cultural and architectural significance. The reference to property rights unnecessarily politicizes the review of historic properties. This type of statement is not included in the purpose subsection of other overlay zones and is a position statement that does not reflect any direction from Council.

23-6E-1030 Review Authority

- Recommendation: Eliminate language allowing other city departments to control delegations for this subsection.
- Justification: Other City departments lack the knowledge and expertise of the Historic Preservation Officer and other HPO staff to properly apply best practices and appropriate standards to the review of the cases regulated under this section. Review of cases involving historic properties requires specialized knowledge and experience in applying historic preservation standards, which are the job requirements of Historic Preservation Office staff.

23-6E-2040 Action on a Certificate of Appropriateness

- Recommendation: Maintain existing code language regarding criteria for review of cases on historic properties and protect City's Certified Local Government status – specifically the reference to the Secretary of the Interior's Standards for Rehabilitation (SOI Standards). This language is currently in the code and should be carried over. Language should read: *"In making a determination under this section, the commission shall consider the United States Secretary of the Interior's Standards for Rehabilitation, 36 Code of Federal Regulations Section 67.7(b)."*
- Justification: The SOI Standards are nationally-recognized standards for review of work impacting historic properties, and provide an essential level of objectivity to the criteria for review. Failure to review alterations to (and demolitions of) designated properties following SOI Standards jeopardizes the City's status as a Certified Local Government (CLG) and its ability to apply for federal funds to support historic preservation activities.

CLG status requires the City to apply the SOI Standards to review of designated properties.

23-6F-1020 Duty to Preserve and Repair

(C) If the building has any of the defects listed in Subsection (B), the owner shall repair the building to comply with the city's minimum housing standards.

- Recommendation: Add language to reference (B) of this section. Language should read: *"If the building has any of the defects listed in Subsection (B), the owner shall repair the building to comply with the city's minimum housing standards and remedy any of the defects listed in Subsection (B)."*
- Justification: The defects listed in Subsection (B) go beyond the city's minimum housing standards and so should be noted as required in this Subsection.

Mapping

- Recommendation: Direct staff to correct maps so that all H and HD zoning is carried over to proposed new maps.
- Areas with increased density from 1st draft that are of concern and should be reassessed for impact and appropriateness of increased density at levels proposed. These include, but are not limited to:
 - Old West Downtown
 - Judge's Hill – has high number of City Landmarks (H-zoned)
 - Heritage Neighborhood