CANPAC Statement on CodeNext Draft 3

The Central Austin Neighborhood Plan Area Committee (CANPAC) continues to have serious reservations about CodeNext. Attached you will find our recommendations that were provided on Draft 2. We include those again as those concerns and suggestions were largely ignored.

CANPAC's most serious concerns continue to be:
1. the deletion of the neighborhood plan overlay
2. the violations of the future land use map
3. the replacement of zoning ordinances carefully crafted with stakeholder input by arbitrary, top-down zoning decisions
4. And, in addition, further changes made without announcement on April 20, 2018

If CodeNext is implemented, the only remainder of the neighborhood plan passed by Council is an aspirational document, the University Neighborhood Overlay (UNO), and the Neighborhood Conservation Combining District (NCCD) for the North University Neighborhood. Section 23-4D-8080 makes blatantly clear the City's intent to rezone properties within the NCCD, effectively eliminating all of the Central Austin Combined Neighborhood Plan except for UNO.

The Central Austin Combined Neighborhood Plan was an agreement approved by the City Council which
1) encouraged very high density in UNO and
2) protected the integrity and historic character of the Eastwoods, Hancock, Heritage, North University, Original West University, and Shoal Crest neighborhoods.

We find it patently disingenuous that CodeNext retains the first part and violates the second part of the agreement.

In addition to the attached comments from Draft 2, we have the following additional remarks about CodeNext Draft 3.
1. Residential Zoning: We requested that R3C be replaced with R2C. That change was done, although the problems worsened since the minimum lot size of R2C decreased in Draft 3. So now we must object to these smaller R2C lot sizes in Draft 3 that encourage demolition and redevelopment as well as the aggregation and re-subdivision of lots. We are even more concerned about the spot zoning of current SF-3 zoning with R4 zoned properties. R4 zones allow double the mass of the adjacent R2C zones providing another tool to incentivize demolition and redevelopment with incompatible buildings (and no compatibility requirements). In addition to the increased density, R4 allows uses such as multifamily and cooperative that are inappropriate adjacent to single family homes. The R4 zones will likely set a precedent for future zoning changes that will further destabilize our neighborhoods. In addition, we object to the commercialization of residential areas with home occupations and signs that may be as large at 36 square feet and 8 feet above grade.
2. Occupancy limits: Prior to 2014, CANPAC neighborhoods saw small, affordable homes being demolished and replaced by houses purposefully developed for high occupancy of unrelated adults. In 2014 Council passed and in 2016 made permanent occupancy limits on

new construction that successfully restrained this particular type of redevelopment. CodeNext Draft 3 undermines Council's intent by rewording the occupancy limits *to apply to structures instead of properties* and by spot zoning SF-3 properties with R4A and R4B zoning which have no occupancy limit.

3. <u>Cooperative Housing</u>: At a practical level this is the same as group residential as any group can term themselves a coop. This use should not be allowed in locations in which group residential is prohibited by the neighborhood plan.

4. <u>F25 zones</u>: Large amounts of properties have been spot zoned F25, often seemingly randomly. If base zones are to be updated, this should be done consistently.

5. <u>Compatibility and height</u>: Draft 3 allows buildings up to 85' tall (MS3 zones) only 100' away from single family homes. This radical reduction of compatibility standards negatively impacts the sunlight, privacy, neighborhood character, and quality of life of the surrounding homes.

6. <u>Affordable housing density bonus (AHDB)</u>: We oppose the use of the AHDB program in R4 zones. Requiring 5% of bonus units to be income restricted does not make sense when the bonus will be less than 1 unit. We continue to object to zoning that allows increased and inappropriate massing adjacent to house form zones and believe the bonus is more effective in larger buildings on the corridors including MS2 zones that are not eligible for AHDB in Draft 3.

7. <u>Parking</u>: We believe that some parking (and associated ADA parking) is needed even for offices and retail uses that are 2500 sq ft or smaller. We object to the parking reductions proposed in Draft 3 particularly near streets that are already affected by over parking. Parking needs to be context sensitive and not a blanket reduction throughout the entire city.

8. <u>ADU Preservation bonus</u>: No preservation is needed or sensible for houses that are only 10 years old. Instead, the preservation bonus should apply only to houses that are at least 50 years old. This is in line with current regulations that set the benchmark for a house to be declared historic at 50 years old.

9. <u>Nonconformity</u>: As homes in CANPAC were typically built long before the current lot size and set back standards were specified, there are many properties and structures that will be nonconforming if CodeNext is implemented. In addition, there are neighborhood businesses on both Guadalupe and Lamar that will be nonconforming uses in the Main Street zones that are proposed. The regulations and stated intent in section 23-2G is reminiscent of the Urban Renewal program of the 1970s where residents were displaced because their structures and properties did not conform to the land code at the time. Current legal uses and structures should be grandfathered and maintenance of existing homes on substandard lots should continue to be allowed so that neighborhoods are not destabilized.

In 2004 the Austin City Council approved a Neighborhood Plan for the Central Austin Combined Neighborhood (CANPAC) planning area. The neighborhood plan represented a careful compromise involving homeowners, renters, business owners, and students that established the University Neighborhood Overlay (UNO) for the West Campus area that allows high density multifamily development up to 175' tall and encourages mixed use developments along the core transit corridors.

The neighborhood plan was designed protect the integrity and historic character, of the Eastwoods, Hancock, Heritage, North University, Original West University, and Shoal Crest neighborhoods. These are dense, walkable, urban neighborhoods comprised of homes mostly built by the mid 1930s, some from the 1800s mixed with many "missing middle" residences (duplexes, triplexes, accessory dwelling units, row houses, small apartment buildings, and condominiums) and mixed in. The residences are within walking distance of schools, restaurants, shops, grocery stores, offices, and transit. In other words, CANPAC neighborhoods exemplify the goals of the Imagine Austin Comprehensive Plan.

The Imagine Austin Comprehensive Plan states that "where a small area plan exists, recommendations shall be consistent with the text of the plan and its Future Land Use Map, and that "Changes to the small area plans (e.g. neighborhood plans) will continue to include public input from affected parties and will follow the adopted neighborhood plan amendment process." CodeNEXT Draft 2, released on September 15, 2017, deleted the neighborhood plan overlay and proposed maps that deviate significantly from the Central Austin Combined Neighborhood Plan. In addition, the Planning Staff has not provided a description of the process or timeline for updating and amending neighborhood plans.

Given the extent of the changes in the second CodeNEXT draft, the lack of a red-lined document, and the incompatibility of much of the proposed zoning with the Central Austin Combined Neighborhood Plan, six weeks is an insufficient period for a complete evaluation. CANPAC requests that the Draft 2 public input period be extended to allow CodeNEXT to be reconciled with the existing Central Austin Combined Neighborhood Plan.

Despite the limited time frame which made a comprehensive evaluation of the proposed code impossible, CANPAC makes the following recommendations for changes to be incorporated into the next draft.

1. Floor Area Ratios: FAR limits are essential to preventing the extensive demolition of residences within the CANPAC neighborhoods. The FAR limits added to Draft 2 of CodeNEXT are an improvement from Draft 1 and should be retained.
2. Dwelling Unit Occupancy limits: It must be made clear that the occupancy limits are tied to the zoning and not the use. In addition, the R4A and R4B zones should be included in the list of applicable zones.
3. Cooperative and Group Housing: CANPAC recommends that the cooperative housing definition suggested by the CodeNext Citizen's Advisory Group, i.e. "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" be used with the additional specification that this use excludes housing for a club, lodge, fraternity, or sorority. Group Housing needs to be clearly defined. Clarify whether this use is intended to replace Group Residential. Both

cooperative and "group housing" should be prohibited in all CANPAC zones outside of the University Neighborhood Overlay.

4. <u>Residential Zoning</u>: We believe that increasing the number of residential units allowed on current SF-3 properties from 2 to 3 (R3C allows Duplex <u>and</u> ADU) and decreasing the minimum lot size will encourage redevelopment and the removal of residents. This is exacerbated by the allowed increase to 0.57 FAR for Duplexes on large lots, currently prohibited in the SF-3 zones within CANPAC. R3C allows 3 units on 5,000 sq. ft. lots, a density of 23 units per acre, a multifamily density and use. This clearly violates the Future Land Use Map for the Central Austin Neighborhood Plan. We object to this change and recommend that **residential zoned parcels in CANPAC currently zoned SF-3, should be zoned R2C or remain as SF3.**

5. <u>Infrastructure Capacity</u>: We are concerned that CANPAC neighborhoods and many other areas of the city have insufficient infrastructural capacity (water, wastewater, gas, storm water drainage, and roads) for the proposed density increases. Increased entitlements result in increased impervious cover and exacerbates flooding. Zoning changes should not occur without an evaluation of these resources.

6. <u>Site Development Standards</u>: CANPAC objects to the elimination of Subchapter E standards to create pedestrian-friendly environments in CodeNEXT. We recommend that the current Subchapter E sidewalk requirements be maintained and be spelled out.

7. <u>Guadalupe Street</u>: The draft map recommends that the portion of Guadalupe between Martin Luther King Jr. Blvd and 28th Street, i.e. "The Drag" be zoned MU4B. This zone includes numerous uses that are inappropriate for the street that divides student housing and the University of Texas. For example, hospital, residential care, drive through restaurants and services, bars, nightclubs, alcohol sales, and even manufacturing are allowed by right in this zone. CANPAC recommends that this be changed to a main street (MS) zone with inappropriate uses either prohibited or requiring use permits.

8. <u>University Neighborhood Overlay</u>: Many of the base zones in UNO have been replaced. The UNO Overlay (23-4-0110(A)) specifies that "In addition to the uses allowed in the base zone, the following uses are allowed in the UNO Overlay Zone" and then lists uses that have previously been deemed appropriate in UNO. By changing the base zones, particularly to Mixed Use (MU) zones new uses that should be prohibited (such as drive-through uses, bars, and nightclubs in MU4B) are allowed by-right and uses that should be allowed (such as Cooperative Housing in MU2A and MU2B) are prohibited. CANPAC recommends that the base zones in UNO remain unchanged and that the height map be retained.

9. <u>Setback consistency</u>: 29th and 34th Streets include both Main Street and Mixed Use zones. As the front setback of these two types of zones are radically different (5' vs 25'), CANPAC recommend that the Main Street zones on these streets be changed to Mixed Use zones. Some properties with current multifamily zoning, including some with single family use, were zoned R4B with a 15' setback. R4A should be used instead to maintain consistency with the setbacks of adjacent residential house form zones.

10. <u>Min. Lot Sizes in Residential Zones</u>: Footnote 1 allowing for 25' lot width and 2500 sq. ft. for zones existing at time of code adoption provides a loophole that could be exploited to modify parcels. This should be limited to exclude lots subdivided after January 15, 2017.

11. <u>Drive Through Uses</u>: Main Street and Mixed Use zones proposed for CANPAC allow drive-through restaurants by right. Some also allow drive through services. In order to maintain a safe environment for pedestrians and cyclists, drive-through uses were prohibited in the Neighborhood Plan except where "grandfathered." Drive-through uses are a direct contradiction to the Imagine

Austin Compact and Connected priority. CANPAC continues to oppose any new drive-through uses and recommends that these uses be prohibited in all Main Street zones.

12. Telecommunications uses are according to 23-4D-2030, permitted without use permits in all residential zones (except LA), but restricted by 23-4E-6370 in "Residential House Scale Zones." CANPAC recommends that telecommunications use be Not Allowed in Residential House Scale Zones and that those uses require a conditional use permit in mixed-use, multi-family residential, and main street zones.

13. Poorly Defined Uses: CodeNEXT allows for uses that are either not defined or defined too broadly. All of the following uses, which are permitted without use permit, should be clearly defined:
   - Accessory Uses (category is far too broad)
   - Food Sales (unclear what is meant by "on and off site")
   - Retail in residential zones (clarify and limit)
   - Medical Services (should limit sizes and prohibit surgery centers)
   - Outdoor Formal and Outdoor Informal (not defined in the code)

14. Parking: Most CANPAC neighborhoods currently suffers from over-parking on residential streets making it difficult and dangerous for emergency responders, school buses, utility trucks, cars and pedestrians to navigate. We recommend that reductions in required parking should be moderated and sensitive to development pressures as follows:
   a. On-site Duplex parking should be reduced to 1.5 spaces per unit, not 1 (which is a 50% reduction) for a total of 3 spaces per Duplex.
   b. Elimination of required parking for Accessory Dwelling Units should be allowed only as a preservation bonus (see below).
   c. Tandem parking should not be allowed to meet the requirement of multiple units.

15. Affordability Housing Bonus Program: CodeNEXT includes an Affordable Housing Bonus Program (AHBP). While we support the desire to provide affordable housing in Austin, we object to the bonus applying in R4 and MU zones that are adjacent to residential house form zones. As a result of the "spot-zoning" of multi-family parcels in CANPAC, the bonus allows a floor to area ratio (FAR) up to 0.8 in R4 and 1.6 in MU1C or MU1D despite being adjacent to R3C zones. This can result in incompatible buildings in the house scale zones. In addition, we object to the Additional Affordable Housing Incentives in Section 23-3E-5010 that allow for reduced parking requirements and impervious cover up to 65% in R3C zones. The Housing Bonus Program would be better utilized on the activity corridors. CANPAC recommends that the AHBP should apply in all main street (MS) zones.

16. Preservation: Preservation incentives added to Draft 2, such as restricting heights of ADUs for new developments, are a positive step and one tool to avoid extensive demolitions. We recommend that these incentives be expanded and strengthened as follows:
   a. Require (1) parking space for new ADUs unless existing home is preserved.
   b. Consider changing the penalty for demolition from a height to an FAR restriction so that new construction doesn't result in more impervious cover.
   c. Provide clear requirements for the preservation bonus including the minimum age of the existing house, how much must be preserved, and for how long.

17. Neighborhood Conservation Combining Districts (NCCDs)- is a tool that should be allowed to be used in the future. It is more flexible than form-based zoning, and it is a respected planning tool in the State of Texas. The NUNA (North University Neighborhood Association) NCCD needs to be honored, respected, and followed as written, based on the old Euclidean Code and Compatibility Standards as its basis. Other ordinances such as the McMansion Ordinance, contributed

significantly to the content and context of the NCCD. We still do not understand how the NCCD will be impacted or preserved and honored with the new code. The Planning Director has promised answers to our questions which have not been not forthcoming. F-25 zoning is not an adequate answer. There is no equivalency chart listed in draft 2.

The NCCD tool is a planning tool supported by the State of Texas. It has had the capacity to be more flexible tool than a traditional neighborhood plan and form-based zoning. It is particularly helpful to older areas of town where the zoning is not as homogeneous as in the suburbs and newer areas of Austin. This beneficial conservation tool needs to remain available for other neighborhoods to use.

18. <u>Main Street and MU</u> should not be used in the interior of neighborhoods on Duval Street- the neighborhood plan was constructed to preserve existing uses in the Hancock Neighborhood. To ensure compatibility, MU zones used on 34th and 29th Streets should not have the density bonus.

19. <u>Keep UNO as is and the rest of the neighborhood plan.</u> The prevailing point within CANPAC is and should remain to keep UNO and its base zoning with the height map as it was adopted in 2004. It was a part of a whole plan which is delicately balanced. The reason the UNO overlay works and has worked is because it is a piece of a larger neighborhood plan where sacrifices were made (and the Planning Department received a national award for this plan with its density node creation.).

20. <u>There is a need and a role for keeping contact teams.</u> CANPAC is a good example.

21. <u>Neighborhood plans are part of Imagine Austin.</u> Imagine Austin states that "where a small area plan exists, recommendations shall be consistent with the text of the plan and its Future Land Use Map (FLUM)". The CodeNext draft 2 maps include changes to multifamily use (R3) in areas marked for single family use on the FLUM. This is not allowed without a neighborhood plan amendment. The Neighborhood Plan Overlay, removed from the text in Draft 2.0 and not included in any CodeNext map is a clear, simple mechanism to alert users that a Neighborhood Plan exists and applies to a particular parcel. The Neighborhood Plan Overlay must be restored and CodeNext maps must conform to Imagine Austin and the included small area plans.

Adopted unanimously on October 16, 2017