

April 19, 2018



CODENEXT'S IMPACT ON SF-3 ZONES MAPPED AS R2C

What's This All About? CodeNEXT is the City of Austin's marketing term for the ongoing process to totally redo the zoning and land use regulations governing development in our neighborhoods and across our city.

CodeNEXT's mission is to redevelop most single-family neighborhoods within the urban core and to change land use rules throughout the City. With neighborhood redevelopment comes higher land prices, rents, and property taxes, and the less affluent are forced to move. Parked cars crowd streets, and bigger buildings displace yards and trees. Neighborhood character changes. Current owners and renters are forced out.

Areas currently zoned SF-3 Face Redevelopment. Under CodeNEXT, the urban core neighborhoods would be rezoned for higher intensity. The large majority would go from SF-3 to subzone "R2C". Minimum lot sizes would be reduced. As written, R2C allows the division of a 50'-wide lot into two lots and the construction of four units – one "Single-family Attached" building (essentially a duplex with one unit on each lot) plus two additional accessory dwelling units. That is twice the density allowed today.

Commercial Uses Within Residential Zones Would Be Expanded. CodeNEXT's "Home Occupation" use category would allow homes in R2C zones to be used as a business if one employee, *not necessarily the homeowner*, lives on site; an administratively given Minor Use Permit (MUP) would allow retail sales of merchandise between 9 a.m. and 5 p.m. and up to 3 additional workers in the house; signs (3' x 12') would be allowed on the property; and there would be no limitation on vehicular traffic or advertising the business across Internet platforms. There is no on-site parking requirement.

Less Parking. On-site parking requirements would be dramatically reduced. For a house, even with an accessory dwelling unit (ADU), parking standards are cut to 1 space (total); for a duplex, parking standards are cut to 1 space per side. For commercial uses, parking requirements would be eliminated in some cases or substantially reduced (20% to 50% or more) in others, even around schools. For arterials and neighborhood streets with Main Street zoning, businesses with less than 2,500 sq. feet would require ZERO parking spaces. That's right, these bars, brewpubs, restaurants, and retail stores would require *no parking*. Think, backing out of your driveway, pedestrian safety, or space for your solid waste bins.

In doing so, the City ignored the resolution of a unanimous Austin School Board for full on-site parking

around neighborhood schools to lessen street congestion, promote student-pedestrian safety and allow parking for parents. These parking rules are specifically designed to congest the streets, frustrate drivers and coerce people not to drive. If that works at all, it will only work after neighborhood streets are parked to capacity and the streets are virtually impassable. Less parking means less pedestrian safety in neighborhoods without sidewalks.

Losing Your Rights to Protest. CodeNEXT has taken away many of our rights of protest, requiring in many zoning districts 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. The removal of many hard-fought-for-rights held today by neighborhoods might be the most threatening long-term impact of CodeNEXT.

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, itself, is a massive rezoning application to change the zoning on properties all across the City. The City contends that neighbors cannot assert their petition rights in connection with CodeNEXT.

With regard to future zoning cases, CodeNEXT reduces neighbors' rights to file a petition with the Council in opposition to land use changes, because it would grant no petition rights for Minor Use Permits or for Conditional Use Permits. Only Conditional Use Permits are appealable to the City Council. So, what now requires a zoning change would be an administrative action by the office of the Planning Director. Once issued, the burden of undoing a MUP is placed on neighbors who must act within two weeks to file an appeal to the Planning Commission. There would be no appeal to our elected City Council. As a practical matter, wherever CodeNext provides for a MUP for a use, neighborhoods should consider it as not much different than a use allowed by right.

Spot-zoning in Mapping Nonconforming Properties. The CodeNEXT map is replete with instances of individual properties currently zoned SF-3 being up-zoned to more intense zones. In some cases, properties have on them longstanding nonconforming uses. These spot-zoned lots can be found in the middle of neighborhoods currently zoned as SF-3. Rather than uniformly map a street or neighborhood as R2C while maintaining these nonconforming uses, CodeNEXT rezones these lots to zones that are often more intense than the existing use, thereby destabilizing the block and incentivizing demolition and redevelopment in new higher intensity zones incompatible with the neighborhood, "seeding" future zoning changes in the neighborhood.

New Commercial Zones nearby. CodeNEXT eliminates the current six commercial zoning categories closest to neighborhoods, and replaces them with Mixed Use and Main Street zones. These new zones allow incompatible higher traffic-generating uses (e.g., banks, restaurants, commercial services, doctors' offices) – even near residences and schools – where they do not exist today. It 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. It would compound 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.

Cooperative Housing. “Cooperative Housing” would be allowed in current single-family neighborhoods. While the definition of Cooperative Housing in CodeNEXT is incomprehensible, it is at least this: a residential project of three or more units. Although the definition of Cooperative Housing is for three or more units, it would be allowed with a conditional use permit (CUP) in R2C and zones limited to two units. This provision is an example of the difficulty in assessing the implications of CodeNEXT.

Occupancy Rules Will Be Interpreted to Revive Dorm Duplexes. CodeNEXT would change the current rule for houses permitted after March 31, 2014 for R2C-zoned properties from 4 unrelated adults per site to 4 per structure. The Director of Planning has said that there is no intent to change the current rule for duplexes, which is 4 unrelated adults per site; however, the language in CodeNEXT will be construed by stealth dorm builders to mean 6 per building. A new and troubling addition is that a Conditional Use permit (CUP) may allow more unrelated occupants. Despite requiring Council approval, a CUP could allow City Hall insiders to get around occupancy rules in cases where the owner overbuilt in anticipation of operating a stealth dorm.

Countless other issues. Countless other issues raised by CodeNEXT, such as faulty data, missing forecasts of displacement of low- to moderate-income residents and seniors, safety, infrastructure, building heights on corridors, flooding, tree canopy, and historic preservation, are not addressed in this paper. We and many other people and organizations are studying them, but space does not allow this paper to address them.

The Big Picture For Austin. The full impact CodeNEXT will have on the City, neighborhoods, and residents is not easily discovered in the accelerated time frame the City has created for its adoption (before the end of July, 2018.). But we know enough to say that **this is a fundamentally flawed document and map born of a fundamentally flawed process and a flawed planning paradigm.**

We recommend that you and your neighbors study very carefully the map of your area and speak to your Council member. Links to the Map and Draft Code can be found at <https://www.austintexas.gov/codenext>

Go to www.CommunityNotCommodity.com for more information.