

## ORDINANCE AMENDMENT & REZONING REVIEW SHEET

**Amendment:** C20-2023-004 ETOD Overlay (Phase 1 Austin Light Rail alignment and Priority Extensions)

**Description:** Amend City Code Title 25 (Land Development) to create an Equitable Transit-Oriented Development (ETOD) Overlay combining district and an ETOD Density Bonus combining district (DBETOD), and to apply these combining districts to certain lots within a half-mile of the Phase 1 Austin Light Rail alignment and Priority Extensions. The ETOD Overlay combining district is proposed to prohibit or make conditional certain non-transit supportive uses. The ETOD Density Bonus combining district is proposed to create a density bonus program that allows residential uses, modifies development regulations to increase maximum height (up to 120 feet total), and modifies various site development standards including compatibility. DBETOD allows developments to participate in a density bonus program if they provide affordable rental or ownership housing or fees-in-lieu that meet certain requirements.

**Background:** Initiated by [Resolution No. 20230309-016](#) and [Resolution No. 20240201-054](#)

On March 9, 2023, City Council approved [Resolution No. 20230309-016](#) accepting the Equitable Transit-Oriented Development Policy Plan and directing the City Manager regarding next steps for implementation. To provide further direction on one of those next steps, the creation and application of an ETOD Overlay, Council approved [Resolution No. 20240201-054](#). The ETOD Overlay is one of the [transit-supportive code amendments staff is prioritizing in Spring 2024](#) to help ensure adopted regulations intended to benefit the Project Connect Phase 1 Austin Light Rail project can be considered as part of the preliminary ratings package for federal funding that will be submitted in Summer 2024.

### **Summary of Proposed Code Amendment:**

The proposed code amendment will create two new combining districts:

1. ETOD Overlay combining district (ETOD) will prohibit or make conditional those land uses that are not transit-supportive, and
2. ETOD Density Bonus combining district (DBETOD) will create a density bonus program that:
  - Allows residential uses,
  - Modifies development regulations to increase maximum height (up to 120 feet total), and
  - Modifies various site development standards.

The two new combining districts will be applied to certain lots through a rezoning within a half-mile of the Phase 1 Austin Light Rail alignment and Priority Extensions as shown on Figure 1.

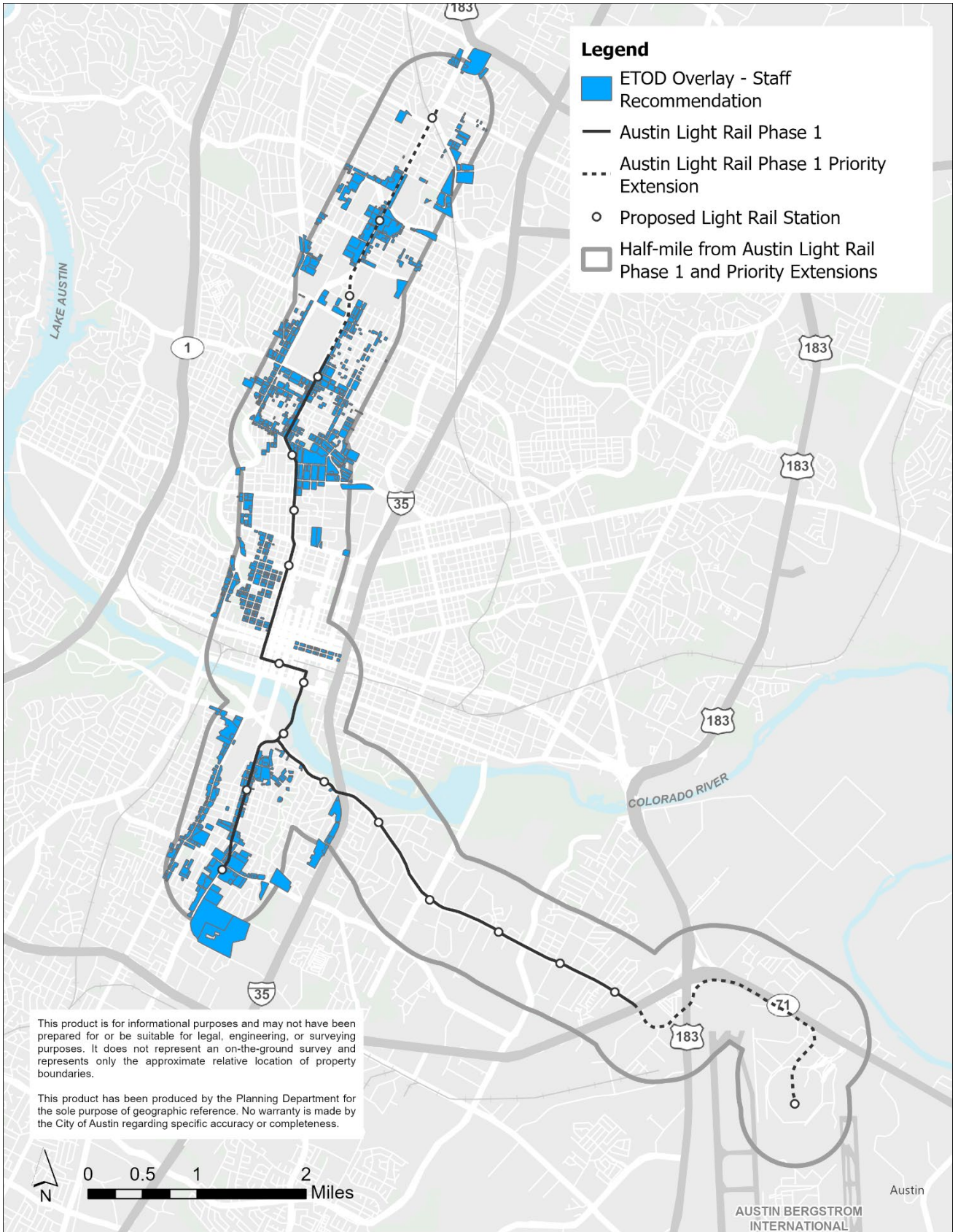


Figure 1: Parcels Proposed for Rezoning into the ETOD and DBETOD Combining Districts

## **ETOD Overlay Combining District (ETOD) – Proposed Uses to Prohibit or Make Conditional**

The following lists delineate land uses that will be either prohibited or made conditional for properties in the ETOD Overlay combining district (ETOD). When there is conflict between the use designations in the ETOD combining district and another provision of code that applies to uses allowed on a parcel, the more restrictive regulation of the two would control.

### **PROHIBITED USES**

#### COMMERCIAL

Automotive Sales  
 Agricultural Sale and Services  
 Automotive Rentals  
 Automotive Repair Services  
 Building Maintenance Services  
 Campground  
 Carriage Stable  
 Convenience Storage  
 Drop-off Recycling Collection Facility  
 Electronic Prototype Assembly  
 Electronic Testing  
 Equipment Repair Services  
 Equipment Sales  
 Exterminating Services  
 Funeral Services  
 Marina  
 Recreational Equipment Maintenance & Storage  
 Recreational Equipment Sales  
 Research Assembly Services  
 Research Testing Services

#### COMMERCIAL (Continued)

Research Warehousing Services  
 Scrap and Salvage  
 Service Station  
 Stables  
 Vehicle Storage

#### INDUSTRIAL

Basic Industry  
 General Warehousing and Distribution  
 Limited Warehousing and Distribution  
 Recycling Center  
 Resource Extraction

#### AGRICULTURAL

Animal Production  
 Crop Production  
 Horticulture  
 Indoor Crop Production

### **CONDITIONAL USES**

#### COMMERCIAL

Alternative Financial Services  
 Automotive Washing  
 Bail Bond Services  
 Commercial Blood Plasma Center  
 Commercial Off-Street Parking  
 Communications Services  
 Construction Sales and Services  
 \**Electric Vehicle Charging (new use)*  
 Kennels

#### COMMERCIAL (Continued)

Monument Retail Sales  
 Off-Site Accessory Parking  
 Pawn Shop Services  
 Pedicab Storage and Dispatch  
 Special Use Historic

#### INDUSTRIAL

Custom Manufacturing  
 Light Manufacturing

Definitions for each of these land uses is governed by the Land Development Code (LDC) and can be found in [LDC 25-2, Subchapter A](#) and specific use and development regulations for these land uses can be found in [LDC 25-2, Subchapter C](#). Existing conforming land uses that are prohibited by the ETOD Overlay combining district upon adoption and rezoning by Council will be allowed to continue to operate as nonconforming uses subject to the nonconforming use provisions of LDC, with the intention that any future new development of prohibited uses or expansion of existing prohibited uses will not be allowed. See [LDC 25-2, Subchapter C, Article 7](#) for more information about nonconforming uses.

## **ETOD Density Bonus Combining District (DBETOD) – Proposed Density Bonus Program**

### **Overview**

Developments will be able to participate in the new ETOD density bonus program (DBETOD) if they provide affordable rental or ownership housing units or fees-in-lieu that meet certain requirements and comply with redevelopment provisions and design standards set out in the DBETOD program.

The additional entitlements offered by the DBETOD program include:

- allowing residential uses on parcels that do not currently allow for residential uses,
- modifying development regulations to increase maximum height by up to 60 feet (up to 120 feet total) and waiving any limits on the maximum number of stories,
- modifying various site development standards, and
- superseding certain more restrictive regulations that may otherwise apply to a property because of a Neighborhood Conservation Combining District (NCCD), Conditional Overlay (CO), and LDC 25-2, Subchapter F: Residential Design and Compatibility Standards (McMansion Ordinance).

If a property owner chooses to develop using any or all of the additional entitlements (above) within the DBETOD program, they must meet all program requirements, including:

- providing community benefits in the form of income-restricted housing units or fees-in-lieu to be used by the City to subsidize affordable housing,
- complying with applicable residential redevelopment requirements,
- complying with applicable non-residential redevelopment requirements, and
- complying with standards similar to those found in Subchapter E (Design Standards and Mixed Use) Article 4.3 (Vertical Mixed Use Buildings)

### **DBETOD Program: Requirements for Participating Developments**

#### *Affordability Requirements*

The applicant must provide affordable housing units or fees-in-lieu to participate in DBETOD.

For ownership developments:

- 12% of total units must be set-aside at rents affordable to households earning 80% MFI or below
  - Requirement may be satisfied by a fee in-lieu of on-site units

For rental developments:

- 15% of total units must be set-aside at rents affordable to households earning 60% MFI **or**
- 12% of total units must be set-aside at rents affordable to households earning affordable at 50% MFI
  - All required affordable rental units must be on-site

#### *Residential Redevelopment Requirements*

To meet Council's direction to achieve ETOD Policy Plan goals, the proposal requires development utilizing the DBETOD program to comply with residential redevelopment requirements to preserve existing affordable and/or attainable housing opportunities for low- and middle-income households.

The proposed residential redevelopment requirements are intended to mitigate displacement pressures of increasing entitlements on existing non-subsidized affordable units and, consequently, create more new affordable units at the same or greater level of affordability than the total number of existing

income-restricted and market-rate affordable housing within the ETOD and DBETOD combining districts, per Council direction in [Resolution No. 20240201-054](#).

If an existing qualifying multi-family use is present on the property that would be redeveloped using the provisions of the DBETOD program, the developer must:

- Establish that extensive repairs exceeding 50% of market value are necessary as determined by the Building Official.
- Establish that average rents for all units that were affordable to a household earning 60% MFI or below were NOT raised by more than 10% within the previous 24 months.
- Provide current tenants with notice and information about the proposed development on a Housing Director approved form.
- Provide current tenants with relocation benefits that are consistent with Federal Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (Uniform Act).
- Replace all existing units that were affordable to a household earning 60% MFI or below in the previous 12 months AND have at least as many bedrooms as those units.
- Grant current tenants the option to lease a unit of comparable affordability and size following redevelopment completion.

#### Non-Residential Redevelopment Requirements

To meet Council's direction to achieve ETOD Policy Plan goals, the proposal requires new development utilizing the DBETOD program to provide the right to return to certain qualifying businesses in the new development with leases for affordable, comparably sized spaces. These non-residential redevelopment requirements would apply to redevelopment of certain existing non-residential spaces under the provisions of the DBETOD program.

Categories of qualifying non-residential uses that must be replaced when utilizing DBETOD are:

- Small format retail, commercial, and restaurant uses (10,000 square feet gross floor area or less) with a minimum of 5 years of continuous operation:
  - General Retail Sales
  - Personal Improvement Services
  - Personal Services
  - Pet Services
  - Veterinary Services
  - Restaurant (General)
  - Restaurant (Limited)
  - Food Sales
  - Cocktail Lounge
  - Custom Manufacturing
- Creative space uses (all sizes) with a minimum of 12 months of continuous operation:
  - Art Gallery
  - Art Workshop
  - Cocktail Lounge
  - Performance Venue
  - Personal Improvement Services
  - Theater
  - Other related uses as approved by the Director
- Food/Grocery uses (40,000 square feet gross floor area or less) with a minimum 5 years of continuous operation:
  - Food Sales
- Child Adult Care Centers (all sizes) with a minimum of 12 months of continuous operation:
  - Adult Care Services (General)
  - Adult Care Services (Limited)
  - Childcare Services (General)
  - Childcare Services (Limited)
- Medical Offices (5,000 square feet gross floor area or less) with a minimum of 10 years of continuous operation:
  - Medical Offices
  - Counseling Offices

If an existing qualifying non-residential use is present on the property that would be redeveloped using the provisions of the DBETOD program, the developer must:

- Provide current non-residential space operators with notice and information about the proposed development on an approved form.
- Provide current non-residential space operators with relocation benefits as specified.
- Redevelop the site to replace all existing qualifying non-residential spaces with non-residential spaces of comparable size and grant a non-residential space operator the option to lease a non-residential space of comparable size that is affordable following the completion of redevelopment for a period of at least 10 years.
  - “Affordable” for this non-residential redevelopment requirement section refers to a rate to be determined by the Director of Economic Development, not to exceed an annual escalation of 2% per year.
  - “Comparable size” for this non-residential redevelopment requirement section means that the redeveloped comparable space is within 10% of the gross floor area of space allocated to the use at the time of application for redevelopment.

#### Compliance with Subchapter E Article 4.3 Vertical Mixed-Use (VMU) Building Standards

The DBETOD combining district would mirror DB90 and apply certain Subchapter E Vertical Mixed Use building standards (4.3.3) to developments utilizing the DBETOD program. These provisions under 4.3.3 are typically applied to *non-residential* parcels in the VMU and DB90 bonus programs. However, the DBETOD program will be available to Multi-Family (MF) base zone parcels that currently do not allow commercial uses. Neither ETOD nor DBETOD combining districts grant any additional commercial uses for multi-family residential parcels. Therefore, staff recommends that DBETOD projects with MF base zones allow fully residential buildings (i.e., the usual VMU and DB90 requirements for a mix of uses and pedestrian-oriented commercial spaces would be waived for parcels with a MF base zone).

#### **DBETOD Program: Additional Entitlements for Participating Developments**

##### Modification of Maximum Height/Stories for DBETOD Projects

Developments meeting all requirements of the DBETOD bonus program will be allowed additional height beyond the base zoning district’s maximum allowed height (up to 60 feet of additional height possible, for a total maximum height of 120 feet). Any restriction on the maximum number of stories that would otherwise apply to the property will also be waived.

##### Modification of Other Site Development Standards for DBETOD Projects

Setbacks:

- Complying DBETOD projects are exempt from side and interior yard setbacks.
- Complying DBETOD projects are exempt from front yard setbacks, except where the right of way is less than 60 feet in width, the minimum front yard setback for buildings three or more stories in height shall be 30 feet from the centerline of the street to ensure adequate Fire Department access.

Floor Area Ratio (FAR), Building Cover, and Minimum Site Area:

- No maximum FAR, building coverage limits, or minimum site area requirements for projects that comply with the DBETOD requirements.

Compatibility:

- Complying DBETOD projects will be allowed to develop under modified compatibility standards as compared to the proposed new [Citywide Compatibility standards](#). This partial relaxation of compatibility standards for DBETOD projects is as follows:

- Compatibility applies within 25 feet of triggering property where a compatibility buffer including landscaping is required. This requirement is consistent with DB90 regulations that were approved by Council on February 29, 2024.
- Compatibility regulations allow for up to 90 feet total height between 25 feet and 50 feet from triggering property (i.e., up to 90 feet in height is allowed in this portion of the site). This requirement is consistent with DB90 regulations that were approved by Council on February 29, 2024.
- Citywide compatibility standards do not apply 50 feet and beyond from a triggering property (i.e., DBETOD program buildings would be allowed to reach the full height allowed under the provisions of their base zone and bonus program, which could be up to 120 feet for certain base zones in this portion of the site and beyond).

### *Superseding Certain More Restrictive Regulations for DBETOD Projects*

Council directed staff in [Resolution No. 20240201-054](#) to address “conflicting regulations, including Neighborhood Conservation Combining Districts, that apply to non single family zoned properties when those regulations are more restrictive” than the ETOD Overlay. DBETOD projects would be eligible to supersede provisions within the following “more restrictive regulations” under the proposal:

- **Neighborhood Conservation Combining Districts (NCCDs)**
- **Conditional Overlays (COs)**, specifically those COs that restrict development in ways that the DBETOD combining district proposes to relax
- **Subchapter F Residential Design and Compatibility Standards (McMansion Ordinance)**

The DBETOD combining district does not alter or supersede any impervious cover limits that apply to a development.

### **Summary of Proposed Zoning Change (Rezoning):**

The proposed rezoning would apply the ETOD combining district and DBETOD combining district to properties shown within the “Subject Tracts” on the maps included in Appendix A. An [interactive map](#) that shows the subject tracts is also available online. Base zones would not be amended, and the ETOD Overlay combining district (ETOD) and ETOD Density Bonus combining district (DBETOD) will apply in addition to any combining districts or overlays that may already apply to the property and may modify certain regulations of each applicable combining district or overlay.

**Proposed Text Amendment:** See attached draft ordinance.

### **Staff Recommendation: Recommended**

Staff recommends approval to create two new combining districts, the ETOD Overlay combining district (ETOD) and the ETOD Density Bonus combining district (DBETOD) and rezone subject tracts into the two combining districts.

Transit-supportive uses encourage more intentional and equitable land stewardship with increased bicycle, pedestrian, and transit connectivity, housing options and opportunities, public realm activation, and new economic opportunities near transit. Other uses are considered non-transit-supportive uses because they have a history of using large amounts of land for parking or non-active uses and decreasing pedestrian activity. The density bonus combining district (DBETOD) is a tool to encourage affordable housing and housing opportunity near transit.

These two new ETOD Overlay combining districts (ETOD and DBETOD) help the city achieve the ETOD Policy Plan goals:

- Goal 1: Enable All Residents to Benefit from Safe, Sustainable, and Accessible Transportation
- Goal 2: Help to Close Racial Health and Wealth Gaps
- Goal 3: Preserve and Increase Housing Opportunities That Are Affordable and Attainable.

- Goal 4: Expand Access to High-Quality Jobs and Career Opportunities
- Goal 5: Support Healthy Neighborhoods That Meet Daily Needs
- Goal 6: Expand Austin’s Diverse Cultural Heritage and Small, BIPOC-owned and Legacy Businesses

See Attachment B for additional information and analysis on the recommended code amendment and rezoning.

### **Staff Recommended Modifications to Proposal:**

- Staff recommends removing the following parcels for rezoning into the ETOD and DBETOD combining districts from the original staff proposal:
  - Parcels that are within the Pecan Street (PS) overlay have been removed from the ETOD Overlay staff proposal. Ordinance No. 20230720-160 recently modified the maximum building height to allow for 140 feet for a portion of the PS combining district if development complies with established design standards for the area. Upon further staff coordination, staff has determined that the ETOD Overlay is not appropriate to apply to PS parcels and has reflected this change in the draft staff ordinance.
  - Parcels that have recently been added to the South Central Waterfront (SCW) staff proposal based on public feedback have now been removed from the staff proposal for the ETOD Overlay. Council directed staff to exclude existing areas of regulating plans and transit-supportive regulations, including property within the SCW boundary. After the ETOD Overlay staff proposal was initially developed and notices were sent based on that proposal, SCW staff received public feedback that ultimately led to the inclusion of three additional parcels in the staff proposed SCW boundaries. Therefore, upon further coordination, the parcels have been removed from the proposal to rezone properties into the ETOD and DBETOD combining districts.

### **Board and Commission Actions**

- **April 30, 2024:** The Planning Commission held a public hearing on the proposed changes and recommended approval on a 9-3 vote. The commission recommended 26 amendments to the staff recommendation. For more details on the amendments, please see ETOD Overlay Planning Commission Amendments and Staff Responses. Several of the Planning Commission recommended amendments would change the way that Chapter 4-18 redevelopment requirements are applied under the DBETOD proposal, which would significantly alter protections for existing multifamily residents and weaken protections for small businesses, increasing the risk of displacement. Displacement prevention is a defining goal of Equitable Transit-Oriented Development, and the proposed redevelopment requirements are an important policy tool to implement the ETOD Policy Plan. If Council amends DBETOD or Chapter 4-18 to provide less protection for existing multifamily units and non-residential space, then staff may recommend significantly reducing the properties that are rezoned to DBETOD to ensure that we are not incentivizing replacement of existing ETOD-supportive uses including small businesses, childcare, creative spaces, and naturally occurring affordable multifamily housing.

### **Council Action**

**May 16, 2024:** To be considered by City Council.

**Sponsor Department:** Planning Department

### **City Staff:**

Warner Cook, Principal Planner, Planning Department, LDCupdates@austintexas.gov, 512-974-7220

Attachments:



Attachment A: Applicability of Proposed Rezoning to ETOD and DBETOD  
Attachment B: Additional Information and Analysis for ETOD and DBETOD

**Attachment A: Applicability of Proposed Rezoning to ETOD and DBETOD**

The proposed rezoning would apply the ETOD combining district and DBETOD combining district to properties shown within the “Subject Tracts” on the maps in this Attachment. An [interactive map](#) that shows the location of subject tracts is available online. Base zones would not be amended, and the ETOD Overlay combining district (ETOD) and ETOD Density Bonus combining district (DBETOD) will apply in addition to any combining districts or overlays that may already apply to the property and may modify certain regulations of each applicable combining district or overlay.

From (Existing Zoning)	To (Zoning Under the Proposal)
CBD	CBD-ETOD-DBETOD
CBD-CURE	CBD-CURE-ETOD-DBETOD
CBD-H	CBD-H-ETOD-DBETOD
CS	CS-ETOD-DBETOD
CS-1	CS-1-ETOD-DBETOD
CS-1-CO-NP	CS-1-ETOD-DBETOD-CO-NP
CS-1-H-NCCD-NP	CS-1-H-ETOD-DBETOD-NCCD-NP
CS-1-MU-CO-NP	CS-1-MU-ETOD-DBETOD-CO-NP
CS-1-MU-NCCD-NP	CS-1-MU-ETOD-DBETOD-NCCD-NP
CS-1-MU-V-CO-NP	CS-1-MU-V-ETOD-DBETOD-CO-NP
CS-1-MU-V-NCCD-NP	CS-1-MU-V-ETOD-DBETOD-NCCD-NP
CS-1-MU-V-NP	CS-1-MU-V-ETOD-DBETOD-NP
CS-1-NCCD-NP	CS-1-ETOD-DBETOD-NCCD-NP
CS-1-NP	CS-1-ETOD-DBETOD-NP
CS-1-V	CS-1-V-ETOD-DBETOD
CS-1-V-CO-NCCD-NP	CS-1-V-ETOD-DBETOD-CO-NCCD-NP
CS-1-V-CO-NP	CS-1-V-ETOD-DBETOD-CO-NP
CS-1-V-H-CO-NCCD-NP	CS-1-V-H-ETOD-DBETOD-CO-NCCD-NP
CS-1-V-MU-CO-NP	CS-1-V-MU-ETOD-DBETOD-CO-NP
CS-1-V-NCCD-NP	CS-1-V-ETOD-DBETOD-NCCD-NP
CS-1-V-NP	CS-1-V-ETOD-DBETOD-NP
CS-CO	CS-ETOD-DBETOD-CO
CS-CO-NCCD-NP	CS-ETOD-DBETOD-CO-NCCD-NP
CS-CO-NP	CS-ETOD-DBETOD-CO-NP
CS-CO-V-NP	CS-V-ETOD-DBETOD-CO-NP
CS-H-CO-NP	CS-H-ETOD-DBETOD-CO-NP
CS-HD-NCCD-NP	CS-HD-ETOD-DBETOD-NCCD-NP
CS-H-HD-NCCD-NP	CS-H-HD-ETOD-DBETOD-NCCD-NP
CS-MU-CO	CS-MU-ETOD-DBETOD-CO

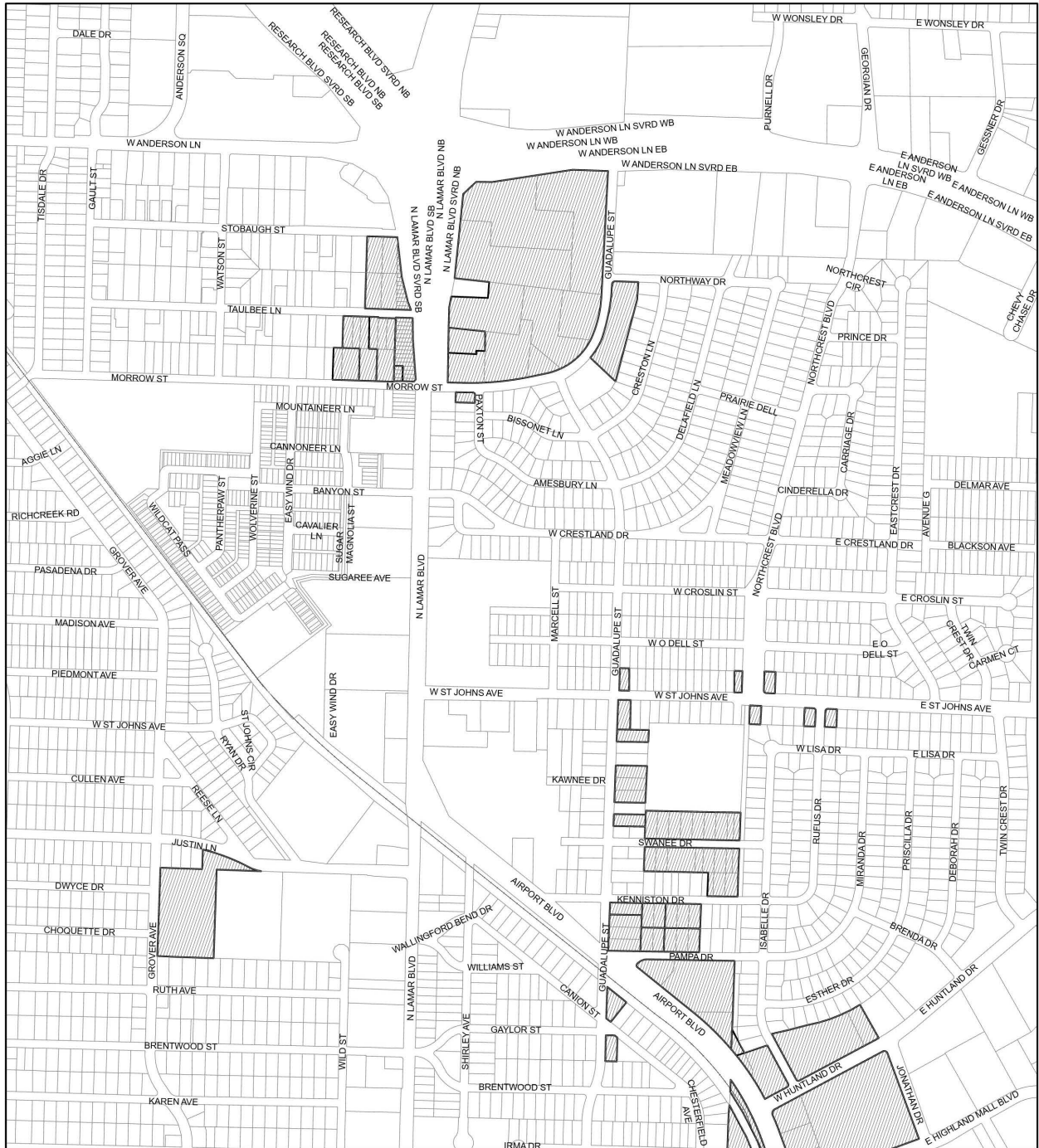
From (Existing Zoning)	To (Zoning Under the Proposal)
CS-MU-CO-NP	CS-MU-ETOD-DBETOD-CO-NP
CS-MU-H-CO-NP	CS-MU-H-ETOD-DBETOD-CO-NP
CS-MU-NCCD-NP	CS-MU-ETOD-DBETOD-NCCD-NP
CS-MU-NP	CS-MU-ETOD-DBETOD-NP
CS-MU-V-CO-NP	CS-MU-V-ETOD-DBETOD-CO-NP
CS-MU-V-NCCD-NP	CS-MU-V-ETOD-DBETOD-NCCD-NP
CS-MU-V-NP	CS-MU-V-ETOD-DBETOD-NP
CS-NCCD-NP	CS-ETOD-DBETOD-NCCD-NP
CS-NP	CS-ETOD-DBETOD-NP
CS-V	CS-V-ETOD-DBETOD
CS-V-CO-NP	CS-V-ETOD-DBETOD-CO-NP
CS-V-NCCD-NP	CS-V-ETOD-DBETOD-NCCD-NP
CS-V-NP	CS-V-ETOD-DBETOD-NP
DMU	DMU-ETOD-DBETOD
DMU-CO	DMU-ETOD-DBETOD-CO
DMU-H	DMU-H-ETOD-DBETOD
DMU-H-CO	DMU-H-ETOD-DBETOD-CO
GO	GO-ETOD-DBETOD
GO-CO-NP	GO-ETOD-DBETOD-CO-NP
GO-H	GO-H-ETOD-DBETOD
GO-H-NCCD-NP	GO-H-ETOD-DBETOD-NCCD-NP
GO-MU	GO-MU-ETOD-DBETOD
GO-MU-CO	GO-MU-ETOD-DBETOD-CO
GO-MU-CO-NP	GO-MU-ETOD-DBETOD-CO-NP
GO-MU-H	GO-MU-H-ETOD-DBETOD
GO-MU-H-CO	GO-MU-H-ETOD-DBETOD-CO
GO-MU-NP	GO-MU-ETOD-DBETOD-NP
GO-MU-V-NP	GO-MU-V-ETOD-DBETOD-NP
GO-NCCD-NP	GO-ETOD-DBETOD-NCCD-NP
GO-NP	GO-ETOD-DBETOD-NP
GO-V	GO-V-ETOD-DBETOD
GO-V-CO	GO-V-ETOD-DBETOD-CO
GO-V-NP	GO-V-ETOD-DBETOD-NP

From (Existing Zoning)	To (Zoning Under the Proposal)
GR	GR-ETOD-DBETOD
GR-CO	GR-ETOD-DBETOD-CO
GR-CO-NP	GR-ETOD-DBETOD-CO-NP
GR-HD-H-NCCD-NP	GR-HD-H-ETOD-DBETOD-NCCD-NP
GR-HD-NCCD-NP	GR-HD-ETOD-DBETOD-NCCD-NP
GR-MU-CO-NP	GR-MU-ETOD-DBETOD-CO-NP
GR-MU-NP	GR-MU-ETOD-DBETOD-NP
GR-MU-V-CO-NCCD-NP	GR-MU-V-ETOD-DBETOD-CO-NCCD-NP
GR-MU-V-CO-NP	GR-MU-V-ETOD-DBETOD-CO-NP
GR-MU-V-NP	GR-MU-V-ETOD-DBETOD-NP
GR-NCCD-NP	GR-ETOD-DBETOD-NCCD-NP
GR-NP	GR-ETOD-DBETOD-NP
GR-V	GR-V-ETOD-DBETOD
GR-V-CO-NCCD-NP	GR-V-ETOD-DBETOD-CO-NCCD-NP
GR-V-CO-NP	GR-V-ETOD-DBETOD-CO-NP
GR-V-NP	GR-V-ETOD-DBETOD-NP
LI-CO-NP	LI-ETOD-DBETOD-CO-NP
LO	LO-ETOD-DBETOD
LO-CO	LO-ETOD-DBETOD-CO
LO-CO-NP	LO-ETOD-DBETOD-CO-NP
LO-H	LO-H-ETOD-DBETOD
LO-HD-NCCD-NP	LO-HD-ETOD-DBETOD-NCCD-NP
LO-H-HD-NCCD-NP	LO-H-HD-ETOD-DBETOD-NCCD-NP
LO-H-NCCD-NP	LO-H-ETOD-DBETOD-NCCD-NP
LO-H-NP	LO-H-ETOD-DBETOD-NP
LO-MU	LO-MU-ETOD-DBETOD
LO-MU-CO	LO-MU-ETOD-DBETOD-CO
LO-MU-CO-NP	LO-MU-ETOD-DBETOD-CO-NP
LO-MU-NP	LO-MU-ETOD-DBETOD-NP
LO-MU-V-NP	LO-MU-V-ETOD-DBETOD-NP
LO-NCCD-NP	LO-ETOD-DBETOD-NCCD-NP
LO-NP	LO-ETOD-DBETOD-NP
LO-V	LO-V-ETOD-DBETOD
LO-V-CO	LO-V-ETOD-DBETOD-CO
LO-V-HD-NCCD-NP	LO-V-HD-ETOD-DBETOD-NCCD-NP
LO-V-NCCD-NP	LO-V-ETOD-DBETOD-NCCD-NP
LO-V-NP	LO-V-ETOD-DBETOD-NP
LR	LR-ETOD-DBETOD
LR-CO	LR-ETOD-DBETOD-CO
LR-CO-NP	LR-ETOD-DBETOD-CO-NP
LR-H	LR-H-ETOD-DBETOD

From (Existing Zoning)	To (Zoning Under the Proposal)
LR-H-CO-NP	LR-H-ETOD-DBETOD-CO-NP
LR-HD-NCCD-NP	LR-HD-ETOD-DBETOD-NCCD-NP
LR-MU-CO	LR-MU-ETOD-DBETOD-CO
LR-MU-CO-NP	LR-MU-ETOD-DBETOD-CO-NP
LR-MU-H-CO	LR-MU-H-ETOD-DBETOD-CO
LR-MU-HD-NCCD-NP	LR-MU-HD-ETOD-DBETOD-NCCD-NP
LR-MU-NP	LR-MU-ETOD-DBETOD-NP
LR-MU-V-HD-NCCD-NP	LR-MU-V-HD-ETOD-DBETOD-NCCD-NP
LR-NCCD-NP	LR-ETOD-DBETOD-NCCD-NP
LR-NP	LR-ETOD-DBETOD-NP
LR-V	LR-V-ETOD-DBETOD
LR-V-CO-NP	LR-V-ETOD-DBETOD-CO-NP
MF-1-CO-NP	MF-1-ETOD-DBETOD-CO-NP
MF-1-H-NCCD-NP	MF-1-H-ETOD-DBETOD-NCCD-NP
MF-1-NCCD	MF-1-ETOD-DBETOD-NCCD
MF-1-NCCD-NP	MF-1-ETOD-DBETOD-NCCD-NP
MF-1-NP	MF-1-ETOD-DBETOD-NP
MF-2	MF-2-ETOD-DBETOD
MF-2-CO-NP	MF-2-ETOD-DBETOD-CO-NP
MF-2-HD-NCCD-NP	MF-2-HD-ETOD-DBETOD-NCCD-NP
MF-2-H-HD-NCCD-NP	MF-2-H-HD-ETOD-DBETOD-NCCD-NP
MF-2-H-NCCD-NP	MF-2-H-ETOD-DBETOD-NCCD-NP
MF-2-NCCD-NP	MF-2-ETOD-DBETOD-NCCD-NP
MF-2-NP	MF-2-ETOD-DBETOD-NP
MF-3	MF-3-ETOD-DBETOD
MF-3-CO-NP	MF-3-ETOD-DBETOD-CO-NP
MF-3-HD-NCCD-NP	MF-3-HD-ETOD-DBETOD-NCCD-NP
MF-3-H-NCCD-NP	MF-3-H-ETOD-DBETOD-NCCD-NP
MF-3-NCCD-NP	MF-3-ETOD-DBETOD-NCCD-NP
MF-3-NP	MF-3-ETOD-DBETOD-NP
MF-4	MF-4-ETOD-DBETOD
MF-4-CO-NP	MF-4-ETOD-DBETOD-CO-NP
MF-4-H	MF-4-H-ETOD-DBETOD
MF-4-HD-NCCD-NP	MF-4-HD-ETOD-DBETOD-NCCD-NP
MF-4-H-NCCD-NP	MF-4-H-ETOD-DBETOD-NCCD-NP
MF-4-NCCD-NP	MF-4-ETOD-DBETOD-NCCD-NP
MF-4-NP	MF-4-ETOD-DBETOD-NP
MF-5	MF-5-ETOD-DBETOD

<b>From (Existing Zoning)</b>	<b>To (Zoning Under the Proposal)</b>
MF-5-H	MF-5-H-ETOD-DBETOD
MF-5-NCCD-NP	MF-5-ETOD-DBETOD-NCCD-NP
MF-5-NP	MF-5-ETOD-DBETOD-NP
MF-6-CO	MF-6-ETOD-DBETOD-CO
MF-6-CO-NP	MF-6-ETOD-DBETOD-CO-NP
MF-6-NCCD-NP	MF-6-ETOD-DBETOD-NCCD-NP
NO-H-CO	NO-H-ETOD-DBETOD-CO
NO-H-HD-NCCD-NP	NO-H-HD-ETOD-DBETOD-NCCD-NP

<b>From (Existing Zoning)</b>	<b>To (Zoning Under the Proposal)</b>
NO-H-NCCD-NP	NO-H-ETOD-DBETOD-NCCD-NP
NO-MU	NO-MU-ETOD-DBETOD
NO-MU-CO-NP	NO-MU-ETOD-DBETOD-CO-NP
NO-MU-NP	NO-MU-ETOD-DBETOD-NP
NO-MU-V-NP	NO-MU-V-ETOD-DBETOD-NP
NO-NCCD-NP	NO-ETOD-DBETOD-NCCD-NP
NO-NP	NO-ETOD-DBETOD-NP
NO-V-NCCD-NP	NO-V-ETOD-DBETOD-NCCD-NP




 SUBJECT TRACT

**CODE AMENDMENT AND REZONING**

**CASE#: C20-2023-004**



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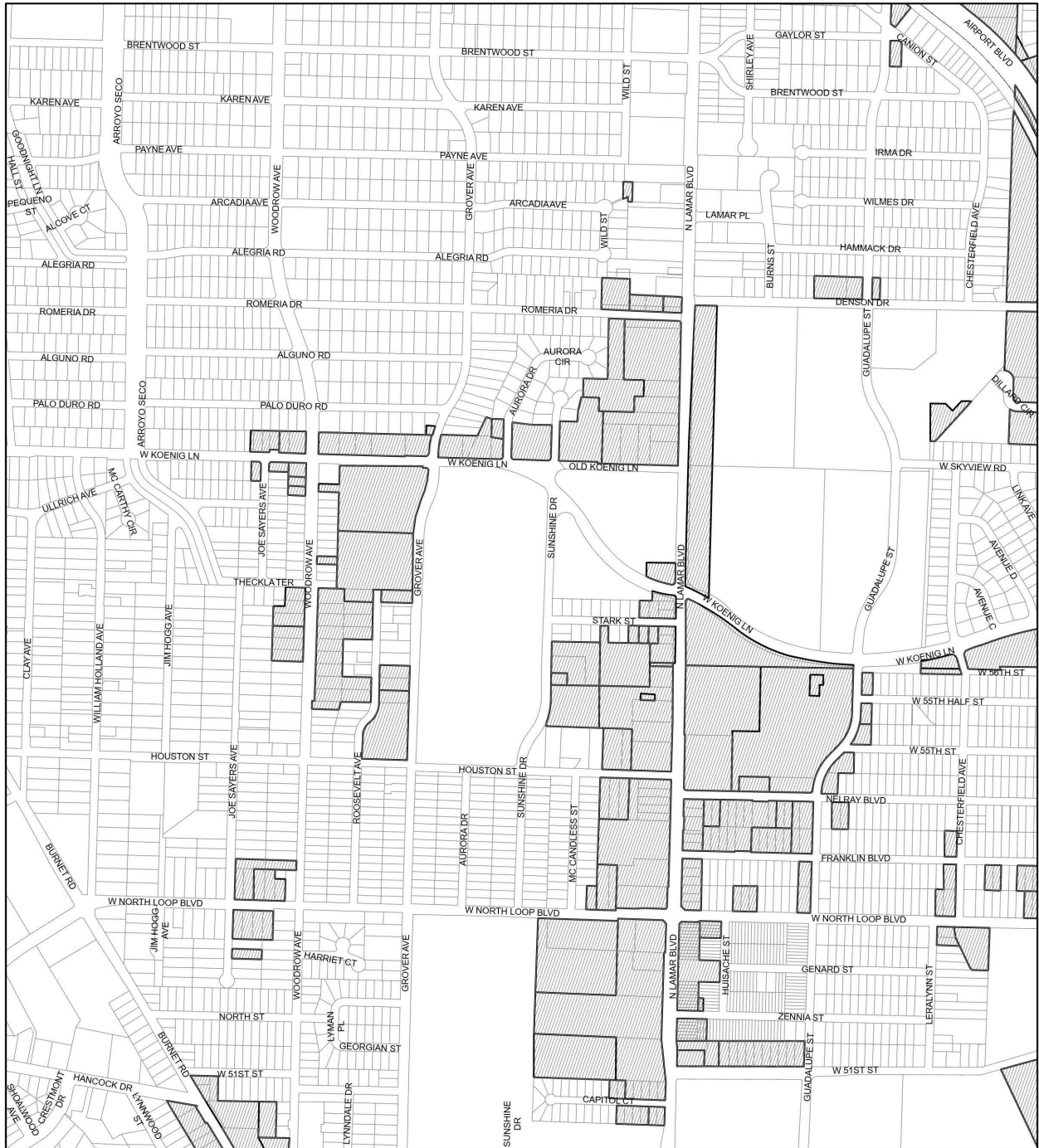


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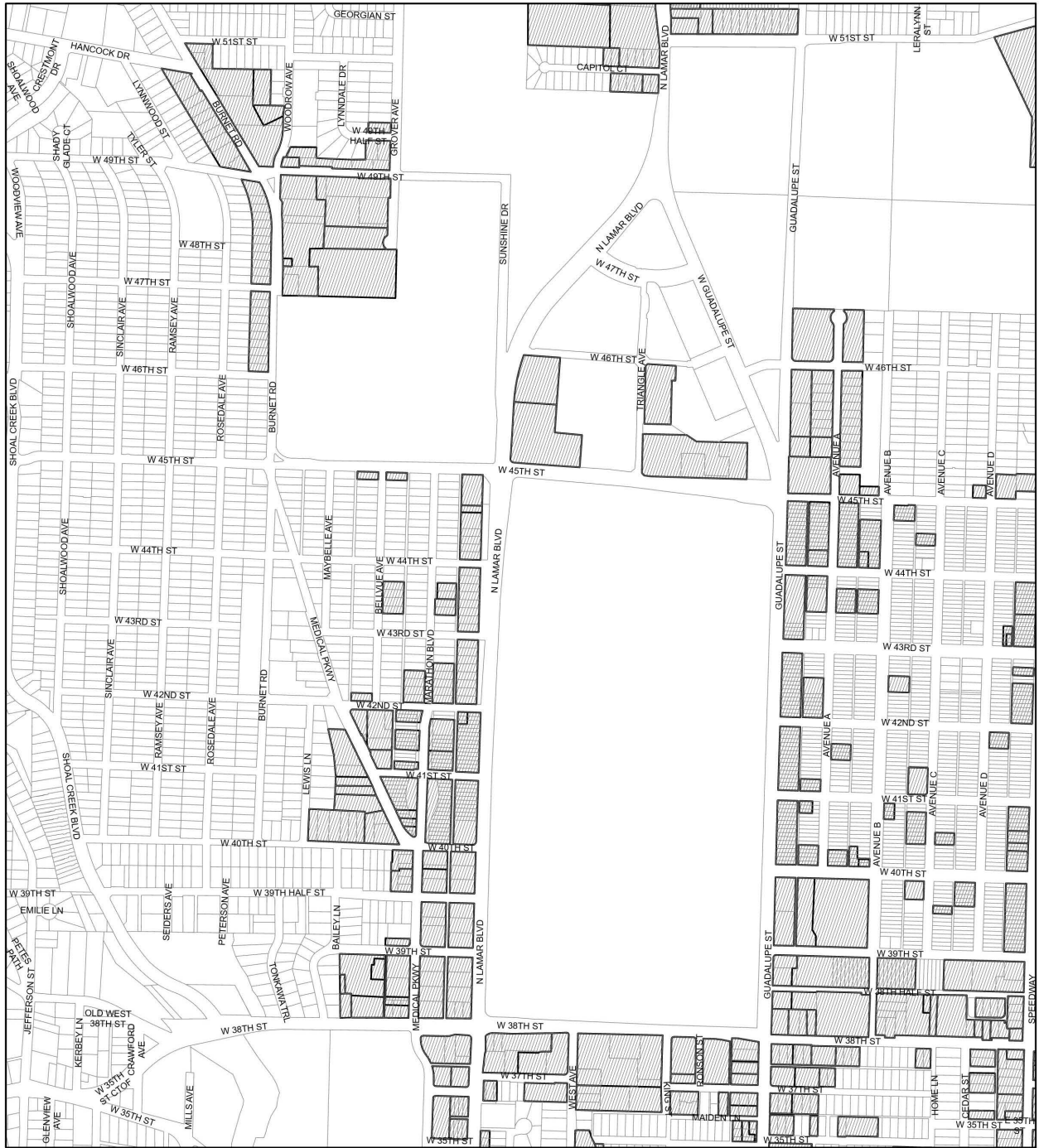


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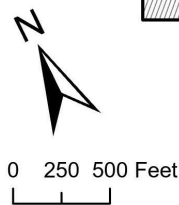
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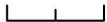
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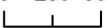
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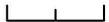
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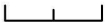
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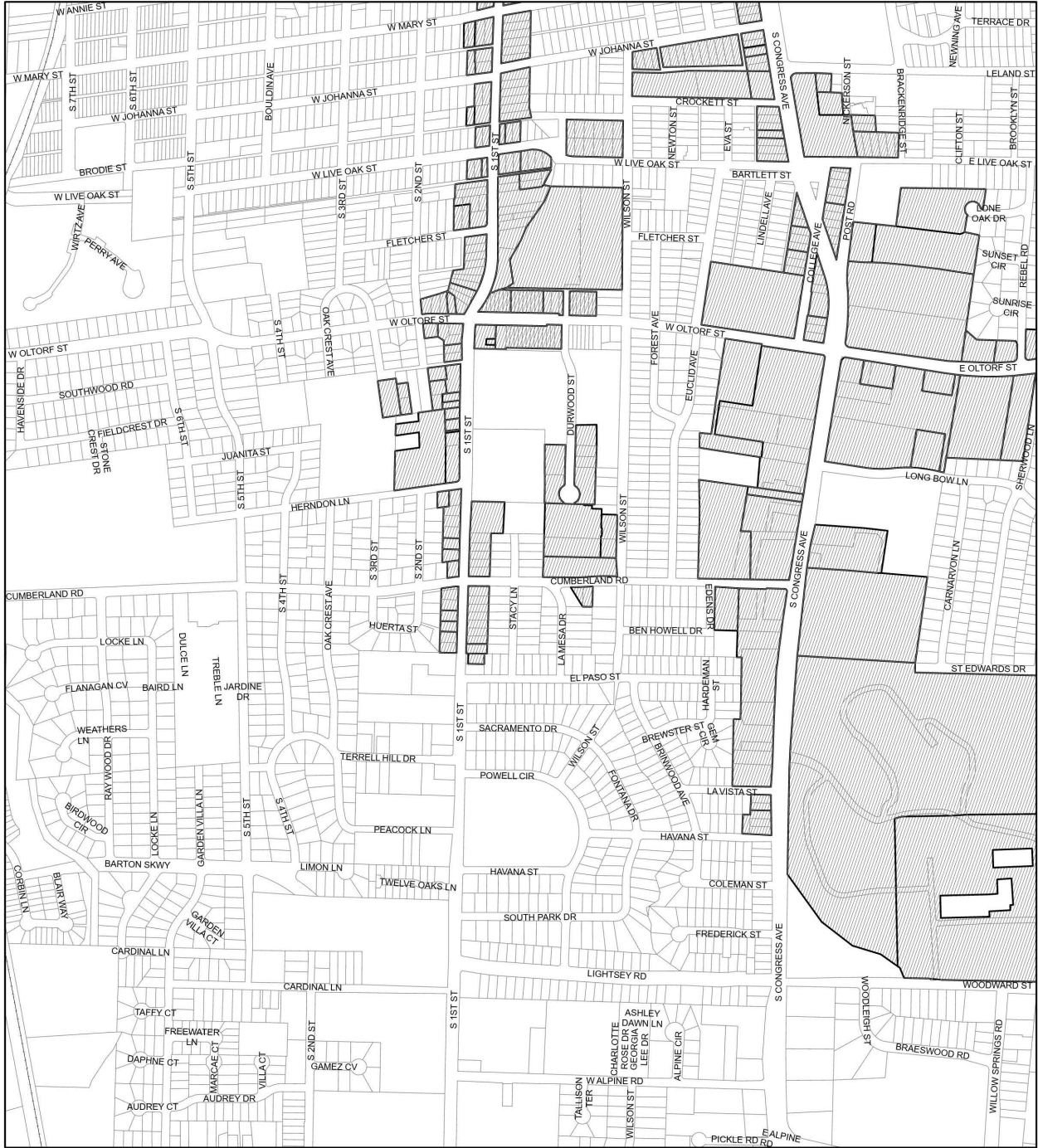
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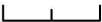


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## **Attachment B: Additional Information and Analysis for ETOD and DBETOD**

### **Contents of Attachment B**

This attachment includes additional information and analysis supporting creating the proposed ETOD and DBETOD combining districts and rezoning subject tracts into the two combining districts, divided into the following topics:

1. Recommended Rezoning of Parcels into ETOD and DBETOD Combining Districts
2. Uses Prohibited or Made Conditional by the ETOD Combining District
3. Superseding Certain More Restrictive Regulations in the DBETOD Combining District
4. Modification of Compatibility Standards for DBETOD Projects
5. Analysis of Potential for Increased Commercial Displacement Pressure
6. Potential Tools for Mitigating Commercial Displacement Pressure
7. Affordability Requirements for DBETOD Projects
8. Analysis of Potential Participation in the DBETOD Bonus Program
9. Illustrative Examples of Possible DBETOD Projects
10. Analysis of Acres of Potential Impact by Council District and by Base Zone
11. Analysis of Acres of Potential Impact by Displacement Risk Areas
12. Analysis of Example Impacts of Residential Redevelopment Requirements
13. Future Items of Consideration for the ETOD and DBETOD Combining Districts

### **1. Recommended Rezoning of Parcels into ETOD and DBETOD Combining Districts**

Council directed staff to apply the ETOD Overlay combining districts to all non-single family zoned properties within a 1/2 mile of the Phase 1 Austin Light Rail alignment and Priority Extensions, except parcels:

- Within the Airport Overlay, or
- Within the East Riverside Corridor (ERC) Regulating Plan, or
- Within the South Central Waterfront (SCW) Combining District, or
- Within the Downtown Density Bonus (DDB) Program applicability area, or
- Within the University Neighborhood Overlay (UNO), or
- Within existing Transit-Oriented Development (TOD) Regulating Plan areas (such as the N. Lamar / Justin Ln. TOD and the Plaza Saltillo TOD).

Upon further analysis, staff recommends a slightly narrower application of Council's direction to apply the two combining districts. **The criteria that further narrow the applicability of the ETOD Overlay in staff's proposal are:**

- Parcels with non-multi-family residential base zones:
  - Mobile Home Residence (MH)
  - Lake Austin Residence (LA)
  - Rural Residence (RR)
    - Reasoning: Council directed staff to apply the ETOD Overlay to non-single-family properties. Staff interpreted this to include both Single-Family Residence (SF) base zones as well as other residential base zones that are more similar to SF zones than they are to Multi-Family (MF) base zones.
- Parcels with special purpose base zones that may not be appropriate for DBETOD projects:
  - Aviation Services (AV)
    - Reasoning: Council directed staff to exclude properties within the Airport Overlay from the ETOD Overlay. Staff interpreted this to also mean that Council did not intend for AV base zones to be eligible for the ETOD Overlay.
  - Lake Commercial (L)
    - Reasoning: Few parcels in Austin have this base zone, and all "L" parcels that would have had ETOD and DBETOD applied based on Council direction are within South Central Waterfront

boundaries. Staff can further consider whether ETOD and DBETOD should be applied to “L” base zones in future phases of the ETOD Overlay.

- Public (P)
  - The Public base zone is used in many unique parcels throughout Austin (such as for greenbelts and parkland, city facilities like fire stations and libraries, etc.). Development standards for P properties are determined by comparable adjacent properties or a conditional use site plan and are not consistent across the base zone. Based on the additional analysis necessary to account for these complexities, staff recommends not applying the ETOD Overlay to P base zone parcels during this phase of work.
- Development Reserve (DR)
  - Reasoning: This base zone is a designation for temporary uses or a use that will not commit land to a particular use pattern or intensity. If an application is filed for a parcel with DR to rezone in order to develop, then during the same rezoning process the addition of ETOD and DBETOD could be considered if appropriate.
- Parcels with other existing base zones or combining districts that further complicate adding the ETOD and DBETOD combining districts:
  - Planned Unit Development (PUD)
  - Planned Development Area (-PDA) Combining District
    - Reasoning: Council directed staff to exclude existing areas of regulating plans and transit-supportive regulations. Staff interpreted this to include PUD base zoned properties and -PDA combining district properties, as both have unique regulations applied to them.
- Parcels that are physically separated from the light rail alignment by major geographic or infrastructure barriers such as bodies of water and Interstate Highways:
  - Reasoning: Without adequate time to complete a more robust analysis of walkability to future light rail transit within the ½ mile buffer, staff has identified these types of geographic barriers as reasonable proxies for limiting walksheds to light rail transit.
- Parcels near the ERC Regulating Plan boundary and/or that would otherwise be included in the ETOD Overlay in this phase of work based solely on being within the ½ mile distance to E. Riverside Dr.
  - Reasoning: ERC Regulating Plan updates have been initiated by Council and council members have expressed a strong interest in engaging the community to amend the ERC Plan. Staff plans to bring forward amendments to the ERC Plan for consideration by the end of 2024, which could include expansion of the ERC Regulating Plan boundaries. Staff recommends addressing parcels near East Riverside through this process.
- Parkland parcels that had not already been removed based on another criteria:
  - Reasoning: The ETOD Policy Plan envisions parkland as one of many community benefits that should be within ETOD station areas. Staff does not recommend redeveloping existing parkland for other uses.

## **2. Uses Prohibited or Made Conditional by the ETOD Combining District**

To encourage transit-supportive development in the vicinity of the Phase 1 Austin Light Rail alignment and Priority Extensions that furthers the goals of the ETOD Policy Plan, staff has identified a list of land uses that should be prohibited or made conditional in the proposed ETOD combining district. Staff analyzed existing land uses in Austin’s Land Development Code and national best practices and applied professional knowledge to identify uses that are not transit-supportive.

Transit-supportive uses encourage more intentional and equitable land stewardship with increased bicycle, pedestrian, and transit connectivity, housing options and opportunities, public realm activation, and new economic opportunities near transit. Non-transit-supportive uses have a history of using large amounts of land for parking and low-density development or creating unsafe or uninteresting environments that generally lack or decrease pedestrian activity.

In determining uses to prohibit or make conditional, staff also generally attempted to be equally or less restrictive than the uses in the staff recommendation for the South Central Waterfront Combining District and Density Bonus Program.

Lastly, some uses (such as pawn shops and commercial blood plasma commercial uses) might generate transit-supportive levels of activity. People who access these uses may especially benefit from them being located conveniently near transit service. However, these uses have historically been restricted in many places throughout Austin, leading to an uneven distribution of them today, with concentrations in areas with more low-income communities and communities of color. Because of these equity considerations, staff proposes these uses be conditionally allowed in order to allow additional consideration through a conditional use permit process.

### **3. Superseding Certain More Restrictive Regulations in the DBETOD Combining District**

Council directed staff in [Resolution No. 20240201-054](#) to address “conflicting regulations, including Neighborhood Conservation Combining Districts, that apply to non single family zoned properties when those regulations are more restrictive” than the ETOD Overlay. Staff considered the most common types of more restrictive development regulations that would interact with parcels within the proposed ETOD and DBETOD combining districts. When considering which more restrictive regulations to address with this code amendment proposal, staff looked at both the scale of parcels that are impacted by a particular regulation, the complexity introduced with the interaction between the new combining districts and the existing regulation, and to the ETOD Goals for guidance.

Ultimately, the following “more restrictive regulations” that could limit the effectiveness of the ETOD and DBETOD combining districts in meeting Council’s policy goals were deemed important to address in this effort:

- **Neighborhood Conservation Combining Districts (NCCDs)**
- **Conditional Overlays (COs)**, specifically those provisions of COs that restrict development in ways that the DBETOD combining district proposes to relax
- **Subchapter F Residential Design and Compatibility Standards (McMansion Ordinance)**

While other regulations may also restrict development that would participate in the DBETOD program, those regulations either impact a smaller number of parcels and/or were deemed too complex to address in the timeline for development of the current phase of the ETOD Overlay. Additional interactions with other “more restrictive regulations” will be considered in future phases of the ETOD Overlay.

#### Neighborhood Conservation Combining Districts (NCCDs)

There are four distinct NCCDs that fall within a ½ mile of the Phase 1 Austin Light Rail alignment and Priority Extensions: Hyde Park, North Hyde Park, North University, and Fairview Park. These NCCDs substantially impact the geography of the proposed ETOD Overlay, with almost 190 acres currently zoned -NCCD (or almost 17%) out of the total 1,118 total acres of land that staff proposes to rezone into the ETOD and DBETOD combining districts. NCCDs apply specific regulations covering many topics of development, including but not limited to:

- use allowances,
- driveway design and placement,
- fencing and waste receptacle placement,
- sign requirements,
- building entrance locations, and
- site area of accessory buildings

Staff determined that allowing developments participating in the DBETOD program to supersede the provisions of NCCDs on these non-single-family zoned parcels would significantly simplify the development process and could result in additional housing, and especially affordable housing capacity, within a ½ mile of the future light rail investment. Further, NCCD regulations are highly unique and create additional restrictions on development that if not addressed would impact the viability of the ETOD and DBETOD combining districts and Austin’s ability to support the light rail transit investment with appropriate density and the resulting community benefits envisioned by the ETOD Policy Plan.

Properties that are within NCCDs and are either local landmarks (-H) or designated as part of a local historic district (-HD) would still be required to meet the those design guidelines and processes if they were to redevelop under the DBETOD program, which staff determined balanced the ETOD Goals appropriately to both **“Preserve and Increase Housing Opportunities That Are Affordable and Attainable”** (Goal 3) while also at the same time **“Expand Austin’s Diverse Cultural Heritage and Small, BIPOC-owned and Legacy Businesses”** (Goal 6).

Finally, research has extensively documented decades of various restrictive land use policies within central Austin, including areas that are currently covered by NCCDs. These restrictions stemmed both from private real estate practices that often prevented non-white Austinites from living and buying in certain areas of town and also from publicly sanctioned segregation of neighborhoods throughout Austin via adopted plans. The result is an engrained pattern of segregation that prevented and continues to prevent many low-income and Black, Indigenous, and People of Color households from buying or living in neighborhoods within a ½ mile of the Phase 1 Austin Light Rail alignment and Priority Extensions. Allowing for more people of diverse means and backgrounds to live near transit, through applying the DBETOD combining district, helps to meet ETOD Goal 2 **“Help to Close Racial Health and Wealth Gaps.”**

#### Conditional Overlays (COs)

Conditional Overlays are site-specific combining districts that may be applied to any base zone district, the details of which are included in each individual ordinance zoning or rezoning parcels with -CO in their zoning string. Regulations imposed by COs are always more restrictive than the regulations that are otherwise applicable to a property. COs can prohibit or make conditional uses that would otherwise be permitted, and they also can create more restrictive site development regulations than would otherwise be allowed.

To incentivize participation in the DBETOD program, meet the goals of the ETOD Policy Plan, and support Austin’s light rail transit investment, staff recommends allowing developments using the DBETOD program to supersede most existing CO provisions, including:

- Any limits on the density of dwelling units on a site,
- Any increases to minimum lot size or lot width requirements than would otherwise be required,
- Any restrictions to a site’s maximum floor area ratio,
- Any limits on maximum height on a site,
- Any increases to minimum setback requirements on a site,
- Any limits on a site’s maximum building coverage,
- Any restrictions on access to abutting or nearby roadways, or
- Any restrictions on any other specific site development regulations except those related to impervious cover.

Staff recommends that DBETOD projects would not be allowed supersede two types of existing CO provisions. First, staff does not recommend allowing DBETOD projects to supersede impervious

cover restrictions in place today without first completing additional analysis that is not possible during the current phase of ETOD Overlay development. Second, staff does not recommend superseding use-based restrictions within various COs without more analysis on existing uses and impacts that removing those restrictions could have that cannot be completed as part of the current phase of work on the ETOD Overlay.

#### Subchapter F – Residential Design and Compatibility Standards (McMansion Ordinance)

Subchapter F applies to property within a certain geography specified in the Land Development Code that is used for specific residential purposes. The geographic area overlaps completely with the ½ mile radius around the Phase 1 Austin Light Rail alignment and Priority Extensions where staff proposes applying the ETOD and DBETOD combining districts. The two proposed combining districts will apply to multi-family base zone parcels that allow residential uses, and therefore there is a need to address the interaction of Subchapter F and the ETOD and DBETOD districts.

Uses to which Subchapter F may apply currently that are also permitted or conditionally allowed in at least one MF base zone include, but may not be limited to:

- Bed and breakfast (group 1) residential,
- Bed and breakfast (group 2) residential,
- Condominium residential,
- Retirement housing (small site),
- Retirement housing (large site),
- Single-family attached residential,
- Single-family residential,
- Townhouse residential, and
- Club or lodge.

In order to incentivize participation in the DBETOD program, meet the goals of the ETOD Policy Plan, and support Austin’s light rail transit investment, staff recommends allowing developments that meet the requirements of the DBETOD program on a property that would otherwise be subject to Subchapter F to be exempted from complying with Subchapter F. This ensures that the DBETOD program, which allows for relaxed site development standards, is not restricted by more stringent standards that could be applied based on Subchapter F. To achieve this exemption, staff proposes an explicit exemption to Subchapter F for complying DBETOD developments. Rather than Subchapter F, specific compatibility standards will apply to DBETOD projects (see next section on the rationale for the compatibility standards that are proposed to apply to DBETOD projects).

#### **4. Modification of Compatibility Standards for DBETOD Projects**

Staff reviewed options for partially relaxing compatibility requirements for the DBETOD program. The methodology for this compatibility analysis is [available for review online](#). The options in the table below compare different allowable heights after setbacks of 0’, 25’, and 50’ from a triggering property and the corresponding estimated unit capacity lost due to compatibility requirements. In this theoretical calculation, zero units would be lost if a building could be built to its maximum height allowed by zoning requirements (for the DBETOD program this would be up to an additional 60’ in height beyond the base zone standard) starting immediately at the property line.

Of the options studied, staff recommends the option allowing 90’ in height after 25’ from a triggering property and a full height after 50’ from a triggering property. “Full height” for a DBETOD project in the base zones that the staff recommendation applies the combining district to would range from 95 feet (e.g., NO base zone) to 120 feet (e.g., MF-4, MF-5, MF-6, GO, GR, and CS) Staff chose this option for the DBETOD program as it would balance the need to be compatible with nearby development while resulting in the least potential loss of unit capacity due to compatibility requirements, an estimated 8,354 total units (or an estimated 2,241 units when excluding the

compatibility buffer between 0-25'). This option also aligns with recent Council policy direction by matching the compatibility requirements adopted as part of the DB90 program for the first 50 feet from a triggering property. Reducing compatibility for density bonus projects that create affordability and other community benefits also is an approach recommended by both staff in the [September 5, 2023 Compatibility Regulations Analysis report](#) and by Council via [Resolution No. 20230608-045](#).

Distance from triggering property	DB90-style Compatibility, if applied to ETOD parcels: No Building w/in 25'; full height allowed after 25'		ETOD Overlay Compatibility Staff Proposal: No Building w/in 25'; up to 90' height between 25'-50' deep; full height allowed after 50'		Alternative Option A: No Building w/in 25'; up to 40' height between 25'-50' deep; full height allowed after 50'		Alternative Option B: No Building w/in 25'; up to 40' height between 25'-50'; up to 90' height between 50'-75'; full height after 75'		Citywide Compatibility Proposal, if applied to ETOD parcels	
	Units Lost	Allowed Height (stories)	Units Lost	Allowed Height (stories)	Units Lost	Allowed Height (stories)	Units Lost	Allowed Height (stories)	Units Lost	Allowed Height (stories)
0-10'	1,905	0	1,905	0	1,905	0	1,905	0	1,905	0
10'-25'	4,208	0	4,208	0	4,208	0	4,208	0	4,208	0
25'-50'	0	10	2,241	7	5,458	3	5,458	3	5,458	3
50'-75'	0	10	0	10	0	10	2,907	7	4,963	5
<b>TOTAL</b>	<b>6,113</b>	<b>-</b>	<b>8,354</b>	<b>-</b>	<b>11,571</b>	<b>-</b>	<b>14,478</b>	<b>-</b>	<b>16,533</b>	<b>-</b>
Estimated Total Units Lost	-	-	<b>2,241</b>	-	<b>5,458</b>	-	<b>8,365</b>	-	<b>10,420</b>	-

Table 2: Estimated Housing Unit Loss Impacts of Various Options Analyzed for DBETOD Compatibility Standards

### 5. Analysis of Potential for Increased Commercial Displacement Pressure

The ETOD consultant team evaluated parcel and small business data for several station areas within a ½ mile radius of the Phase 1 Austin Light Rail alignment and Priority Extensions, and summarized information by station area to contextualize current and future displacement risk in those communities and the types of businesses present. Stations chosen for this analysis included:

- Capitol West
- Hemphill Park
- Hyde Park
- Montopolis
- Oltorf
- Riverside
- SoCo
- UT/West Mall
- Waterfront
- Crestview
- Koenig
- Triangle

Part of this analysis also included considering both the existing land value to improvement ratio of a parcel and the future land value to improvement ratio under three different growth scenarios:

Improvement Value Scenarios	
Land to Improvement Underutilization Threshold <sup>1</sup>	1.0
Scenario 1: Conservative Improvement Value Premium	1.2
Scenario 2: Moderate Improvement Value Premium	1.5
Scenario 3: Aggressive Improvement Value Premium	2.0

<sup>1</sup> Structures on land with a ratio greater than 1 are worth less than the land itself and may be considered for redevelopment.

Table 3: Land to Improvement Ratio Threshold and Growth Scenario Assumptions

Finally, the consultant team considered impacts to specific industry sectors that align particularly with meeting the goals of the ETOD Policy Plan, such as small businesses, child care businesses, and arts/creative small businesses.

Preliminary findings from this analysis of commercial displacement pressures include:

- Most commercial parcels in the station areas studied are currently already considered "underutilized" when considering the land to improvement value ratio. The most significant increase in the proportion of underutilized parcels occurs in higher growth scenarios for 38<sup>th</sup> Street, Montopolis, and UT station areas.
- Only a few additional parcels will become underutilized in a conservative land value growth scenario (Scenario 1) for most station areas; however, a much higher number of parcels become underutilized in an aggressive land value growth scenario (Scenario 3).
- The largest amounts of commercial area are built in the 15<sup>th</sup> Street, 38<sup>th</sup> Street, and Waterfront station areas, and represent a large portion of the commercial space built on underutilized parcels.
- Most station areas can experience a small amount of land value growth without a significant increase to the amount of building space on underutilized land, but rapid growth would have an outsized impact on stations like 15<sup>th</sup> Street, 29<sup>th</sup> Street, 38<sup>th</sup> Street, and 45<sup>th</sup> Street.
- Due to their low property values, high average land to improvement ratios, and high proportion of underutilized parcels for commercial uses, Oltorf, Koenig, and 45<sup>th</sup> Street station areas had the most elevated risk for commercial displacement, with Oltorf the highest of the three.
- Pleasant Valley was also identified as a potentially higher displacement risk due to its riverfront location, proximity to downtown, lower land values, higher proportion of small business employees, and average commercial parcel size; however, staff is not recommending applying the ETOD and DBETOD combining districts in the Pleasant Valley station area through this rezoning process.
- Montopolis may be at increased risk of commercial displacement in the future as land values increase; currently the station has relatively lower land values but relatively large commercial parcel sizes that also indicate a higher redevelopment potential. Montopolis also has high numbers of workers in the childcare sector, which should be preserved to meet ETOD Goals.
- 15<sup>th</sup> Street and 38<sup>th</sup> Street stations have a lot of commercial space and therefore have the greatest total amount at risk; however, these stations tend to be high value improvements on small lots, and therefore may be less prone to redevelopment. Waterfront also has a high share and total amount of commercial space, but a much larger average lot size, indicating a higher likelihood of redevelopment; staff is not proposing to apply the ETOD and DBETOD combining districts within the immediate Waterfront station area, as it is anticipated to be part of the South Central Waterfront combining district and density bonus program instead.
- Oltorf, Pleasant Valley, and Waterfront represent the largest areas dedicated to commercial uses in areas already recognized for experiencing elevated rates of residential displacement. Office and mixed-use parcels may be less likely to be redeveloped given their typically higher values. Parking and undeveloped land could alternatively offer redevelopment opportunities without displacement risk in the 15<sup>th</sup> Street and 38<sup>th</sup> Street stations, but the redevelopment of underutilized land may exacerbate the rate of change and speculation in Montopolis.
- The highest number of art and childcare small businesses exist in stations close to downtown such as 15<sup>th</sup> Street, 38<sup>th</sup> Street, UT, and Waterfront. Incentivizing and



supporting these businesses in other areas can help make childcare more equitably accessible, particularly in areas with displacement risk.

- The 29<sup>th</sup> Street, Pleasant Valley, UT, and Waterfront station areas have high proportions of small business employees, yet low amounts of workers in childcare to support workers and nearby residents.

Stations	All Businesses	# Small Businesses	% Small Businesses	# Arts Small Businesses	% Art Small Businesses	# Childcare Businesses	% Childcare Businesses
15 <sup>th</sup> Street	1893	1828	97%	57	3%	6	0%
29 <sup>th</sup> Street	321	314	98%	11	3%	11	3%
38 <sup>th</sup> Street	607	585	96%	25	4%	25	4%
Montopolis	99	91	92%	3	3%	3	3%
Oltorf	295	286	97%	5	2%	5	2%
Pleasant Valley	277	269	97%	6	2%	6	2%
SoCo	364	352	97%	12	3%	12	3%
UT	466	452	97%	11	2%	11	2%
Waterfront	308	295	96%	19	6%	19	6%
Crestview	287	267	93%	10	3%	10	3%
Koenig	307	297	97%	10	3%	10	3%
45 <sup>th</sup> Street	201	190	95%	6	3%	6	3%
<b>TOTAL</b>	<b>5425</b>	<b>5226</b>	<b>96%</b>	<b>175</b>	<b>3%</b>	<b>124</b>	<b>2%</b>

Table 4: Number and Percentage of Select Business Types in Analyzed Station Areas, by Station Area

## 6. Potential Tools for Mitigating Commercial Displacement Pressure

Commercial parcels with less expensive land and low improvement values are more likely to turn over and redevelop, likely displacing current tenants and replacing retail spaces with larger configurations. Further, rising rents, higher credit requirements to rent space, and a changing clientele make it difficult for small businesses to find and afford space in the same area.

Responding to these pressures, the ETOD consultant team also recommended commercial anti-displacement strategies for further consideration in Phase 2 of the ETOD Overlay, broadly organized under three categories:

- **retail restrictions** to preserve market access and opportunity for small businesses,
- **direct preservation** through policies, programs, and planning strategies, and
- **fee and finance structures to fund ongoing small business support.**

**Retail restrictions** such as *store size caps*, *formula business restrictions*, and *neighborhood commercial zoning* can all be used to help ensure that appropriately sized spaces are available for small businesses. Examples of store size caps nationally can range anywhere from 5,000 to 50,000 square feet, but a context-specific analysis would be needed to identify an appropriate cap for Austin’s commercial market if this strategy is pursued. Formula business restrictions can help limit chain businesses in specific districts, which preserves market share and space for smaller businesses. In some cities, particular zoning regulations have been crafted in lower density and mixed-use commercial zones to preserve and create an environment that favors local independent and small businesses.

**Direct preservation** can include *regulatory protections* like giving small businesses the *right of first refusal* to purchase their own spaces (similar in some ways to the Non-residential

Redevelopment Requirement in the DBETOD staff proposal) and providing *voluntary incentives to set-aside space for small businesses* in new development. *Direct support programs* can be paired with regulatory protections, with examples like Prosper Portland’s Affordable Commercial Tenanting Program that works alongside a density bonus program to reduce barriers to entry and preserve the vitality of small businesses in the face of rising retail rents and decreased vacancy rates. Additionally, *planned phasing of development* can help mitigate land speculation and control the pace of commercial displacement pressure increases by only finalizing zoning changes once a new use is already identified to take its place. A programmatic financial approach (as opposed to a regulatory approach) could also be more appropriate depending on small business needs. Funds for *relocation assistance, property acquisition funds*, and other direct assistance can prevent small business displacement or reduce economic harm caused by relocation (similar anti-displacement tools are considered the Non-residential Redevelopment Requirement in the DBETOD staff proposal). Austin’s existing *legacy small business designation* could be a useful mechanism to help prioritize funding or other support services. Policy approaches for direct preservation of small businesses include creating *relocation plans, phasing public development projects*, and providing *technical assistance and training* can also reduce the severity of displacement impacts.

Finally, regional value capture strategies such as **fee and finance structures** can be used to fund support programs and uplift underserved areas with small businesses. *Business Improvement Districts (BIDs), Tax Increment Financing (TIF) Districts*, and requirements for *impact and mitigation fees* or *community benefits agreements (CBAs)* are potential systems in many cities for collecting funding or community amenities from higher value developments and high-growth areas. A portion of potential funding could be used to provide programmatic interventions like *small business support programs, streetscape improvements, and placemaking* which can improve the success of small businesses areas. However, it is important to note that this research of anti-displacement strategies includes examples from across the U.S., and that fee-based and financial strategies to preserve and promote small businesses would particularly need to be evaluated in light of the legal and fiscal context of Austin before implementation could begin. The City considers all available funding tools when making financial decisions based on the individual needs of the project or program and the City’s financial policies.

## 7. Affordability Requirements for DBETOD Projects

Based on the limited timeframe to develop and analyze the DBETOD program structure, staff approached the task from a starting point of attempting to mirror existing density bonus programs such as Vertical Mixed Use (VMU) and DB90. This streamlined structure that includes only residential affordability as a community benefit (instead of additional types of contemplated community benefits that can be better addressed in Phase 2) allowed for a limited analysis of potential conditions for and likelihood of developments choosing to participate in the voluntary DBETOD program. The proposed affordability requirements within the DBETOD program are:

- For ownership developments:
  - 12% of the total units as affordable @ 80% MFI
    - Requirement may be satisfied by a fee in-lieu of on-site units
- For rental developments:
  - 15% of the total units as affordable at 60% MFI **OR**
  - 12% of the total units as affordable at 50% MFI
    - All affordable rental units must be provided on-site

The set-aside rates for *rental* developments were chosen at percentages slightly higher than those for DB90 projects because the DBETOD program offers additional height beyond DB90 as well as the opportunity to supersede certain more restrictive regulations (DB90 does not provide complying projects with the ability to supersede NCCDs, COs, or McMansion/Subchapter F). Further, the staff proposed DBETOD rental set-aside percentages match the transit-specific requirements previously found in the Vertical Mixed Use 2 (VMU2) program (now invalidated and replaced by DB90); VMU2 had similarly envisioned a higher set-aside percentage of on-site affordable units for properties in proximity to Austin's light rail investments as compared to those not in proximity to light rail.

The set-aside rate for *ownership* developments utilizing DBETOD was chosen to match the rate of on-site ownership set-aside in the DB90 program. Staff's intention by not increasing the percentage of ownership units under the DBETOD program as compared to the DB90 program was to provide an incentive for ownership projects over rental projects. Ownership units in general have not been delivered in scale through existing density bonus programs and carry additional challenges to incentivize as compared to rental units, so staff determined that, without additional analysis only possible in future phases of the ETOD Overlay effort, further increasing the set-aside rate for ownership developments in DBETOD was not advisable.

Lastly, staff included an option to allow for fee-in-lieu to meet affordability requirements for ownership developments, consistent with the DB90 program structure. The option of a fee-in-lieu for ownership units is equivalent to the otherwise required on-site set-aside percentage of the total residential units, including the mix of bedrooms required, at the rate set in the fee schedule at the time of final site plan submission. Staff recommends calculating the fee-in-lieu rate for ownership units by subtracting the annually set [Maximum Sale Price under the Development Incentive Programs](#) by the Director of the Housing Department from the citywide median Condominium Sales Price by Bedroom Count, as reported by the Austin Board of Realtors. This fee will reflect the cost associated with selling the units at an affordable sales price, as opposed to the market price. If Council supports the proposed methodology, staff recommends adopting the fee as part of the FY25 budget cycle and then updating the fee annually.

## **8. Analysis of Potential Participation in the DBETOD Bonus Program**

In order to better understand the financial implications and likelihood of uptake for the DBETOD program, the consultant team performed a basic entitlement and benefit exchange analysis for the proposed DBETOD program structure. The analysis tested various scenarios combining different prototypes of existing developments and potential height increases to determine whether the value of the bonus to a potential developer sufficiently offsets the additional costs incurred by providing the affordable units on-site. This analysis helps establish whether *in theory* developers would voluntarily opt into the DBETOD program; since the City cannot require participation, it is important to understand whether the DBETOD program is attractive for developers to use, while also ensuring the City receives appropriate levels of community benefits in exchange for the increased entitlements.

Results of the consultants' analysis show that in some scenarios, the development bonus creates enough additional value to offset the additional incurred costs of creating affordable housing units. In most baseline scenarios, based on the modeled assumptions reflecting current market conditions, there would not be enough additional value created by the height increase to offset the

costs of construction and required income-restricted units. However, the consultants subsequently completed testing to evaluate various sensitivities to understand which component affected results the most.

Scenario	Development Type Allowed Under Existing Zoning	Additional Height Obtained through DBETOD Program	Development Type Built Using with DBETOD	Baseline Analysis Feasibility	Feasibility with at Least 1 Sensitivity Factor Reconsidered
1A	Low-rise development (2 to 3 stories)	+ 30 feet	Mid-rise development (5 stories)	☑	☑
1B	Low-rise development (2 to 3 stories)	+ 60 feet	Podium style development (8 stories)	☒	☑
2A	Mid-rise development (5 stories)	+ 30 feet	Podium style development (8 stories)	☒	☑
2B	Mid-rise development (5 stories)	+60 feet	High-rise development (10 stories)	☒	☑
3	Podium style development (8 stories)	+ 30 feet <sup>1</sup>	High-rise development (10 stories)	☒	☑

<sup>1</sup> Some existing podium style development could only take advantage of an additional 30 feet in the proposed DBETOD program, because of the 120 feet total height maximum. Therefore, only one scenario for podium style development was modeled.

Table 5: Scenarios Evaluated for DBETOD Program Participation Feasibility

Sensitivity factor assumptions that were evaluated included:

- Units restricted to higher MFI levels
  - Instead of analyzing units set-aside at the 50% and 60% MFI levels as proposed by staff, analysis was also done to understand what the bonus program participation may look like if the target level of affordability was raised to 60% and 80% MFI, respectively. However, based on the limited nature of this analysis to capture differences across sub-markets, and based on previous community input that has favored deeper levels of affordability, staff does not recommend increasing the MFI thresholds of the DBETOD program.
- Lower construction loan interest rates
  - Construction loan interest rates are higher in the current market than they may be in the future, so testing lower interest rates (like 8% instead of 12%) can help us understand whether participation in the bonus program may improve if the market improves.
- Decreased parking construction ratios
  - Parking is frequently a high-cost portion of an overall development's construction costs. Current market conditions show that a typical parking ratio today for developments that we might see built through the DBETOD program is around 1.4 parking spaces provided per unit. Because DBETOD developments will be within close proximity to transit where the need for personal motor vehicles is lessened and the ETOD Policy Plan includes looking at ways to shift parking demand downward over time, consultants modeled parking ratios of 1.0 and 0.0 to see how much the cost of providing parking affected the likelihood of participation in the bonus program.
- Higher rents for market-rate units
  - The baseline analysis considered rents that are typical today in Austin but did not account for variations based on differences in different real estate sub-markets. It did also not consider any additional rent premium that may be charged in the future for market-rate units due to their proximity to transit service. Higher assumptions for market-rate rents (+ 10%) were tested to understand how much future increases to market-rate rents impact the viability of participating in the DBETOD program.

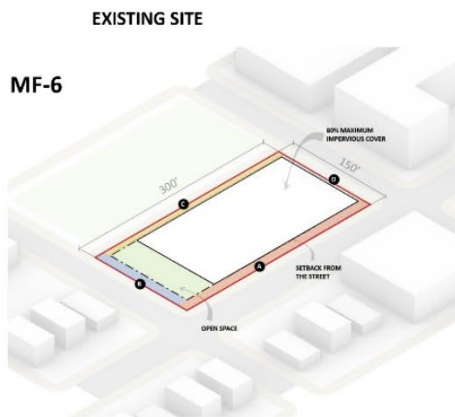
Overall, the sensitivity analysis coupled with the baseline financial analysis showed that increasing rents and decreasing parking ratios have the largest and second-largest impact on

feasibility results, respectively. Raising the affordability threshold to higher MFI levels or lowering construction loan interest rates also contributed to greater bonus program feasibility, but to a lesser extent than decreased parking ratios or higher rents for market-rate units.

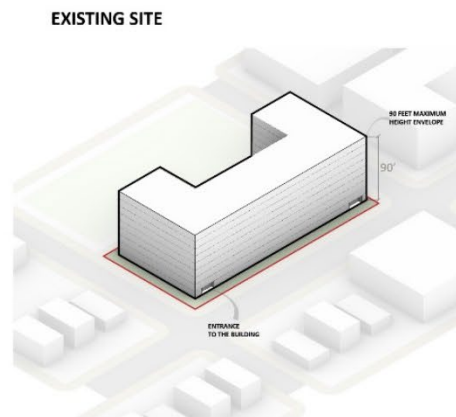
Taken together, the analysis shows that a 30- and 60-foot height bonus is potentially feasible for all development scenarios. Therefore, staff feels confident that the proposed bonus program structure is feasible for some development scenarios today and will become increasingly feasible for developments in the future as market conditions change. Further analysis that is more fine-tuned and that considers sub-market variations in different neighborhoods across the Project Connect system will be undertaken when developing Phase 2 of the ETOD Overlay, and additional types of community benefits beyond residential affordability will be considered in order to achieve the goals of the ETOD Policy Plan.

### **9. Illustrative Examples of Possible DBETOD Projects**

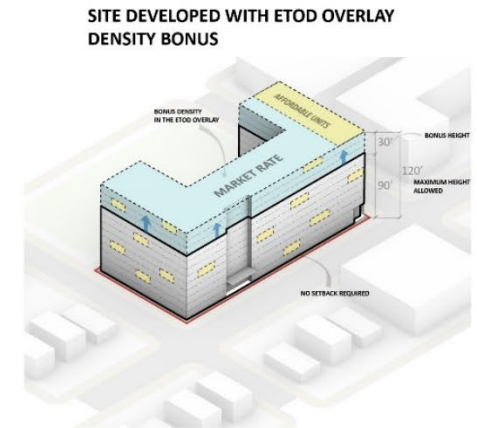
Several examples of potential DBETOD projects that could be built on theoretical sites have been visualized to provide context, including half-block sites in MF-6, CS, and LO base zones. The images help place possible DBETOD projects in context for scale. These examples, since they are based on theoretical sites, do not account for site-specific constraints that may be present that would limit developable area (like environmental constraints or water quality and stormwater management needs). Likewise, these examples do not necessarily represent a “maximum” building envelope and instead do try to account for some realistic building needs like enough daylighting for each unit.



Site Area: 45,000 sq ft  
 Max Impervious Cover: 36,000 sq ft (80% lot coverage)  
 Existing Setbacks:  
 A: 15 ft (Front Yard)  
 B: 15 ft (Street Side Yard)  
 C: 10 ft (Interior Side Yard)  
 D: 5 ft (Rear Yard)

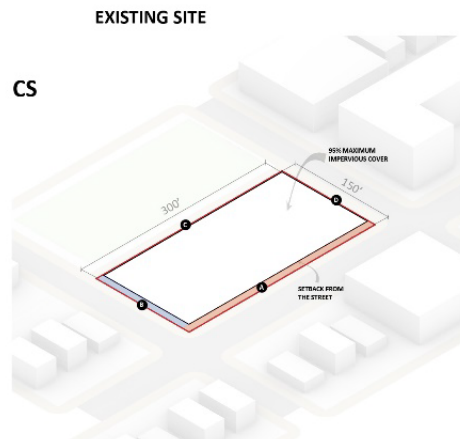


Site Area: 45,000 sq ft  
 Max Impervious Cover: 36,000 sq ft  
 Building Footprint: 26,000 sqft  
 Gross sq ft: 234,000 sq ft

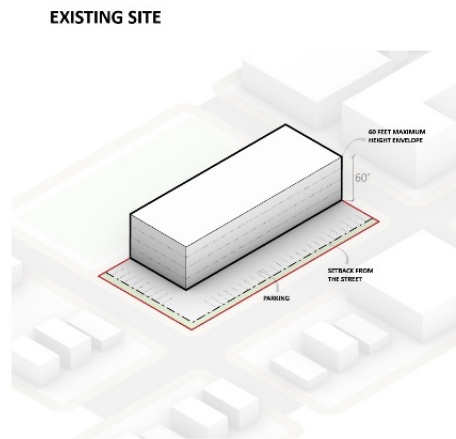


Site Area: 45,000 sq ft  
 Max Impervious Cover: 36,000 sq ft  
 Building Footprint: 26,000 sqft  
 Gross sq ft: 312,000 sq ft (As per Design)  
 Total Number of Units: 283 (@1100 Sq ft/ unit)  
 AHU: 34 Units (12% @80% MFI - Ownership)  
 43 Units (15% @60% MFI - Rental)  
 34 Units (12% @50% MFI - Rental)

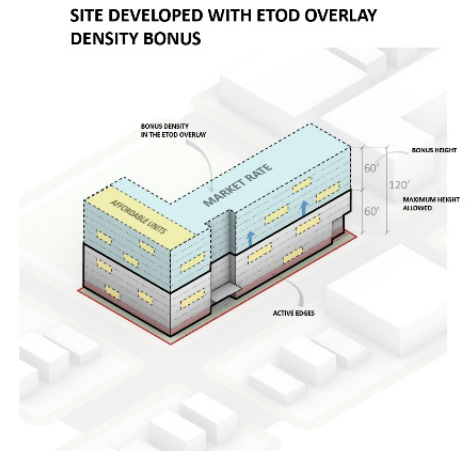
Figure 2: Example DBETOD Project Visualization in MF-6 Base Zone



Site Area: 45,000 sq ft  
 Max Impervious Cover: 42,750 sq ft (95% lot coverage)  
 Existing Setbacks:  
 A: 10 ft (Front Yard)  
 B: 10 ft (Street Side Yard)  
 C: 0 ft (Interior Side Yard)  
 D: 0 ft (Rear Yard)

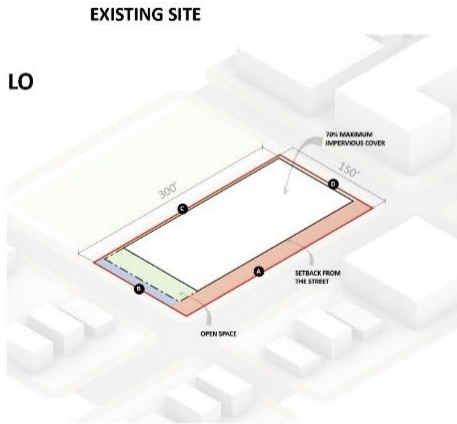


Site Area: 45,000 sq ft  
 Max Impervious Cover: 42,750 sq ft  
 Building Footprint: 22,500 sqft  
 Gross sq ft: 90,000 sq ft

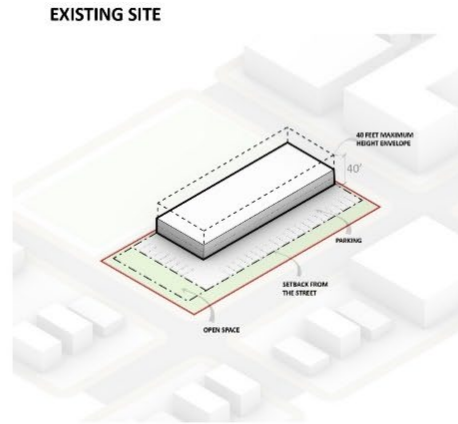


Site Area: 45,000 sq ft  
 Max Impervious Cover: 42,750 sq ft  
 Building Footprint: 23,725 sqft  
 Gross sq ft: 284,700 sq ft (As per Design)  
 Total Number of Units: 260 (@1100 Sq ft/ unit)  
 AHU: 31 Units (12% @80% MFI - Ownership)  
 39 Units (15% @60% MFI - Rental)  
 31 Units (12% @50% MFI - Rental)

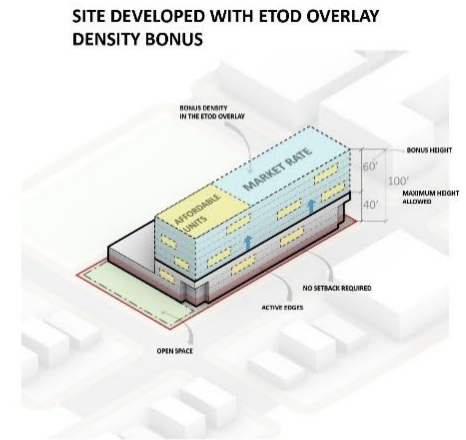
Figure 3: Example DBETOD Project Visualization in CS Base Zone



Site Area: 45,000 sq ft  
 Max Impervious Cover: 31,500 sq ft (70% lot coverage)  
 Existing Setbacks:  
 A: 25 ft (Front Yard)  
 B: 15 ft (Street Side Yard)  
 C: 5 ft (Interior Side Yard)  
 D: 5 ft (Rear Yard)



Site Area: 45,000 sq ft  
 Max Impervious Cover: 31,500 sq ft  
 Building Footprint: 15,750 sq ft  
 Gross sq ft: 31,500 sq ft



Site Area: 45,000 sq ft  
 Max Impervious Cover: 31,500 sq ft  
 Building Footprint: 31,500 sq ft  
 Gross sq ft: 177,750 sq ft (As per design)  
 Total Number of Units: 160 (@1100 Sq ft/ unit)  
 AHU: 20 Units (12% @80% MFI - Ownership)  
 24 Units (15% @60% MFI - Rental)  
 20 Units (12% @50% MFI - Rental)

Figure 4: Example DBETOD Project Visualization in LO Base Zone



### 10. Analysis of Acres of Potential Impact by Council District and by Base Zone

The land proposed to be rezoned ETOD and DBETOD within the ½ mile radius of the Phase 1 Austin Light Rail and Priority Extensions stretches across five Council districts (Districts 3, 4, 7, 9, and 10). The majority of the area that would be rezoned, 55%, is within District 9. Other Council districts would be considered for application of an ETOD Overlay in Phase 2 of staff’s work on this effort, anticipated to be brought for Council consideration in spring 2025.

Council District	Acres	Percent of Area
3	229	20%
4	118	10%
7	115	10%
9	617	55%
10	38	3%
<b>Total</b>	<b>1,118</b>	<b>100%</b>

Table 6: Acres of Land Impacted Through Proposed Rezoning, by Council District

Staff also analyzed the total acres of land proposed to be rezoned ETOD / DBETOD, by the base zoning district type. A total of 1,118 total acres of land are identified for rezoning under the staff proposal.

Base Zoning District	Acres	Percent of Area
CBD	12	1.1%
CS	411	36.8%
DMU	18	1.6%
GO	172	15.3%
GR	50	4.5%
LI	1	0.1%
LO	54	4.9%
LR	14	1.2%
MF	380	34.0%
NO	6	0.5%
<b>Total</b>	<b>1,118</b>	<b>100%</b>

Table 1: Acres of Land Recommended to be Rezoned into ETOD and DBETOD, by Base Zoning District

### 11. Analysis of Acres of Potential Impact by Displacement Risk Areas

ETOD Goal 2: “**Help to Close Racial Health and Wealth Gaps**” seeks to address historic racial inequities that have led to health and wealth gaps across the community and uneven displacement pressures. ETOD Goal 3: “**Preserve and Increase Housing Opportunities That are Affordable and Attainable**” also acknowledges that existing affordable housing opportunities need to be preserved to have equitable outcomes. To evaluate the impact on different communities, staff analyzed the geographic area within the proposed ETOD and DBETOD rezoning that falls within Displacement Risk Areas. The City of Austin’s Displacement Risk Index defines four categories of displacement risk (Active, Vulnerable, Chronic, and Historic), with other areas classified as Stable.

Staff found that a majority, 58%, of the area proposed for rezoning is in areas classified as Stable. 22% of the area proposed for rezoning to ETOD and DBETOD is within Chronic and Historic

displacement risk areas, which have already undergone significant displacement and neighborhood change. Therefore, collectively, 80% of the area proposed for rezoning is in areas of comparatively lower displacement risk.

However, staff also found that 18% of the area proposed for rezoning is in areas classified as Active Displacement and 1% is in areas classified as Vulnerable to Displacement. The residential redevelopment requirement included within the DBETOD program (see next section on residential redevelopment requirements) provides crucial regulatory preservation of existing affordable units that helps to not further exacerbate displacement pressure near transit, especially for these areas of higher displacement risk.

Displacement Risk Area	Acres	Percent of Area
Vulnerable	9	1%
Active	202	18%
Historic	115	10%
Chronic	138	12%
Stable	654	58%
<b>Total</b>	<b>1,118</b>	<b>100%</b>

Table 7: Acres of Land Impacted by Proposed Rezoning, by Displacement Risk Category

## 12. Analysis of Example Impacts of Residential Redevelopment Requirements

Utilizing data on existing Naturally Occurring Affordable Housing (NOAH) units within a ½ mile of the Phase 1 Austin Light Rail alignment and Priority Extensions, staff conducted an analysis to understand the implications of implementing the proposed residential redevelopment requirements for a one-to-one replacement of affordable housing units (as envisioned in the residential redevelopment requirement), compared to applying set-aside rates proposed under the DBETOD program (as envisioned in the affordability requirements). The affordability set-asides are proposed to be 12% or 15% of total units set-aside at 50% or 60% MFI, respectively. This analysis is not comprehensive, but it does serve to highlight several cases of how the separate unit requirements would interact on example sites. A development that would need to comply with residential redevelopment requirement would be allowed to count units created under that requirement toward the total units required as part of the affordability requirements of the DBETOD program; in other words, the two separate requirements do not add together, but the larger of the two requirements would equal the total number of income-restricted units that would need to be created in the DBETOD project.

Council recently adopted [Ordinance No. 20240229-070](#) amending City Code Chapter 4-18: General Permitting Standards), which among other things added regulations for both residential and non-residential redevelopment requirements that certain density bonus programs may use, based on the design of the bonus program. In adopting Ordinance No. 20240229-070, Council set the terms for the residential redevelopment requirement to require replacement of “all existing units that were affordable to a household earning 80 percent MFI or below in the previous 12 months” (§4-18-32 Existing Multi-Family Structure). In subsequent coordination between departments, staff has determined that a more appropriate threshold for triggering replacement of units through this requirement would be to replace all existing units affordable to a household earning 60% MFI or below. Therefore, for the purpose of this analysis, staff defined NOAH units to be units affordable to households at 60% MFI or below. Staff will be bringing forward an item

on a future Council agenda that would update this provision of Chapter 4-18 to align with more recent coordination, as well as update the non-residential redevelopment requirement (§4-18-31 Existing Non-residential Space) relocation benefit standard.

There is an estimated total of 3,797 NOAH units that would have ETOD and DBETOD applied to them under staff’s rezoning proposal, and therefore conservatively that is the number of NOAH units that could potentially be required to be replaced with the residential redevelopment requirement. Of those 3,797 NOAH units, more than 85% (3,312 units) are located on parcels with MF base zoning. The base zoning district with the second highest amount of existing NOAH units is CS (306 units). Staff found that the average multifamily NOAH site within the staff proposal for rezoning is zoned MF-4, has about 30 housing units, is slightly less than 1 acre in size, and has 2 stories with a base district maximum height allowance of 60 feet.

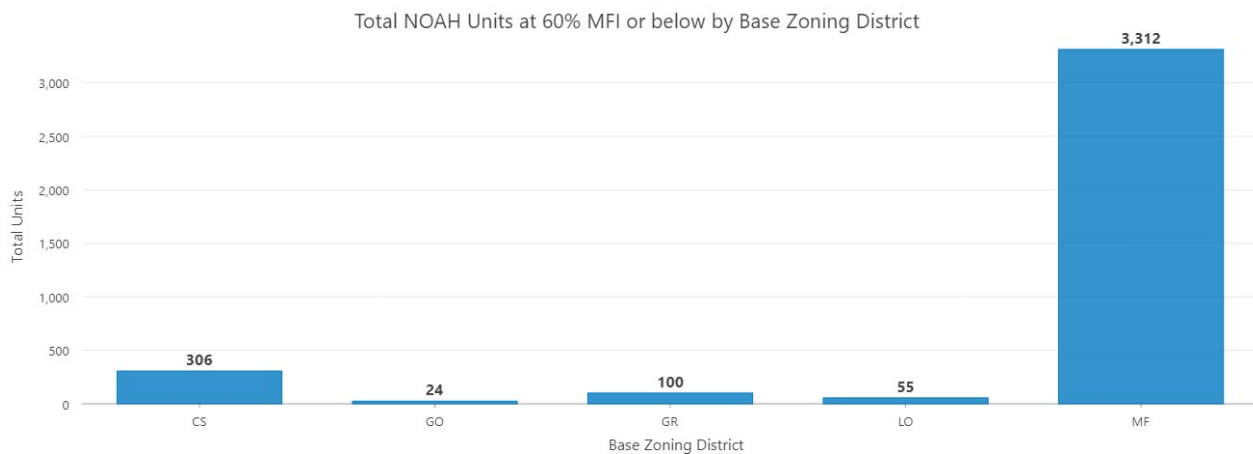


Figure 5: Estimate of Existing NOAH Units in Parcels Proposed to be Rezoned DBETOD, By Base Zoning District

Staff examined characteristics of different parcels, by base zone, recommended for rezoning to ETOD and DBETOD that have existing NOAH units according to information obtained from CoStar. Based on observable trends, staff developed four hypothetical example sites to model the impacts of residential redevelopment requirements. Lastly, impacts were compared between both the DBETOD set-aside rates (12% and 15%) and the DBETOD redevelopment requirements (one-to-one unit replacement).

Example sites were determined based on reviewing similarities between sites in the staff proposed DBETOD combining district:

Characteristics of Example Parcel	Example 1: Average MF NOAH Site	Example 2: Larger MF NOAH Site	Example 3: CS NOAH Site	Example 4: LO NOAH Site
Zoning	MF-4	MF-4	CS	GO-MU-V
Existing Number of NOAH Units	42	48	20	16
Existing Number of Stories	2	2	2	2
Existing Site Area in Acres	1.17	2.02	0.29	0.30
Year Built	1963	1966	1966	1970

Table 8: Characteristics of Example Sites Analyzed for Impacts of Residential Redevelopment Requirements

Based on several assumptions about development restrictions, including the compatibility standards proposed by staff for DBETOD projects, staff estimated how many units could potentially be built on each example site under the provisions of DBETOD.

Site Development Assumptions for DBETOD Example Projects	MF-4	CS	LO
Maximum Impervious Cover (IC) %	70%	95%	70%
Maximum Height (feet)	120	120	100
Maximum Stories	10	10	8
Minimum unit size (square feet)	1,200	1,200	1,200
Limitation factor applied to account for other regulations	0.6	0.6	0.6

Table 9: Site Development Assumptions Analyzed for Impacts of Residential Redevelopment Requirements

Using those development assumptions, the following total unit counts (both market-rate and affordable) could theoretically be achieved using the DBETOD program on these example sites:

Characteristics of Example Parcel	Example 1: Average MF NOAH Site	Example 2: Larger MF Zoned NOAH Site	Example 3: CS NOAH Site	Example 4: LO NOAH Site
Zoning	MF-4	MF-4	CS	GO-MU-V
Existing Number of NOAH Units	42	48	20	16
Estimated Total Units Using DBETOD	186	409	52	59
Affordability Requirements (12% or 15% of Total)	23 or 28	50 or 62	7 or 8	8 or 9
Units Differential	<b>14 or 19 MORE units</b> required by residential redevelopment requirements	<b>14 or 2 FEWER units</b> required by residential redevelopment requirements	<b>13 or 14 MORE units</b> required by residential redevelopment requirements	<b>7 or 8 MORE units</b> required by residential redevelopment requirements

Table 10: Comparison of Total Units for Example Sites and Impacts of Residential Redevelopment Requirements

As evidenced by Examples 1, 3, and 4 above, in some cases a DBETOD development would be required to create more income-restricted units when subject to the residential redevelopment requirements than if they were only subject to the affordability requirements (set-aside percentages). In Example 2, however, the existing number of NOAH units is small enough and the total site capacity large enough that a DBETOD project could theoretically meet their full residential redevelopment requirement before meeting their affordability set-aside requirement.

While some developers may choose to not utilize the DBETOD program if they are subject to residential redevelopment requirements, this analysis shows there are cases where the requirements can be met. Further, one of the ETOD Goals is “**Goal 3: Preserve and Increase Housing Opportunities That are Affordable and Attainable.**” In order to preserve existing attainable housing opportunities for low- and middle-income households, staff strongly recommends applying the residential redevelopment requirements. Council also specifically directed in their initiation of the ETOD Overlay that staff should attempt to “create more new affordable units at the same or greater level of affordability than the existing income-restricted

and market-rate affordable housing within the ETOD Overlay.” Because achieving this policy goal of the same or more affordable units is more difficult than the typical goal of achieving a specific number of units created through a voluntary incentive-based bonus program, staff has recommended that residential redevelopment requirements be put in place. Without residential redevelopment requirements in place, increasing entitlements on existing affordable non-subsidized units will increase displacement pressure on the roughly 3,800 NOAH units to which the DBETOD combining district would be applied and would likely result in fewer total affordable units than exist along the Phase 1 Austin Light Rail alignment and Priority Extensions today.

### **13. Future Items of Consideration for the ETOD and DBETOD Combining Districts**

Per Council direction, staff considered whether and how to incorporate greater heights and additional community benefits into the current phase of the ETOD Overlay. However, portions of Council’s direction in [Resolution No. 20240201-054](#) will need to be addressed in the next phase of this work (anticipated for consideration in early 2025). Items that will be carried forward into the next phase include:

- Total heights above 120’, where appropriate
- Incentivizing transit-supportive features
- Incentivizing development of new affordable commercial / community space

Additional heights beyond 120 feet will be best considered through the consultant calibration effort for the density bonus program and in the context of planned community engagement to occur as part of Phase 2 of developing the systemwide ETOD Overlay. Similarly, adding more types of community benefits to the DBETOD program will need to be calibrated to ensure feasibility and additional coordination will be necessary to create processes to certify and/or monitor new types of community benefits (like affordable commercial space or on-site transit-supportive features) for participating developments. These items can be better addressed holistically after additional market analysis and staff coordination during future phases of ETOD Overlay development.

Other items to explore that staff has noted but were either not relevant to the areas staff proposes to be rezoned or needed additional consideration that was not possible due to the timeline include:

- Application of ETOD and DBETOD within existing TODs that are without regulating plans (and that are therefore subject to existing interim TOD regulations).
  - Staff’s recommended proposal for rezoning for the ETOD Overlay did not require this interaction to be addressed but expanding the geography in Phase 2 will require staff to determine how to address the existing TOD interim regulations.
- Interaction of ETOD and DBETOD with the Waterfront Overlay.
  - Staff’s recommended proposal for rezoning for the ETOD Overlay overlaps with a small number of parcels subject to the Waterfront Overlay. Staff recommends completing further analysis in a future phase on the small number of parcels where both combining districts would apply.
- Restriction of additional uses within the ETOD combining district.
  - There may be additional non-transit-supportive uses, including civic uses that should be restricted; however, additional analysis is necessary to ensure there are not unintended consequences for restricting additional uses.
- Updates to development review processes to further the goals of ETOD.
  - Process and programmatic changes may be explored during the next phase of ETOD Overlay work that build on on-going development review process improvements and support use of the DBETOD program.



## Affordability Impact Statement

### Equitable Transit Oriented Development Phase 1

Initiated by: Resolution No. 20230309-016 and Resolution No. 20240201-054

Case number: C20-2023-004

Date: March 26, 2023

### Proposed Regulation

The proposed amendment would do the following:

- Create the -ETOD and -DBETOD combining districts, with uses that are restricted to those best supporting transit
- Create a development incentive program to be used by properties with -DBETOD zoning, offering extra height and modifications to site development standards in exchange for onsite income-restricted housing (or a fee-in-lieu for ownership units)
- Apply those districts to a variety of properties without single family zoning within ½ mile of the Phase 1 Austin Light Rail alignment and Priority Extensions

### Land Use/Zoning Impacts on Housing Costs

The proposed changes would have a **positive** impact on housing costs via land use and zoning.

- The City of Austin's Displacement Risk Index defines four categories of displacement risk: Active, Vulnerable, Chronic, and Historic. Active and Vulnerable areas have the highest displacement risk, with Chronic and Historic representing areas that have already undergone significant displacement and neighborhood change. The proposal minimizes applying the new zoning to parcels in Active and Vulnerable areas, with only 19% of proposed rezonings applying to parcels in these areas. Conversely,

81% of the parcels that would receive increased entitlements are in areas of comparatively lower displacement risk.

- The proposal recommends that -DBETOD development standards supersede when they conflict with certain restrictive zoning overlays such as Neighborhood Conservation Combining Districts (NCCDs). The proposal's changes are aligned with existing policies and recommendations from the Central Texas Assessment of Fair Housing, an analysis required by the Housing and Urban Development (HUD).<sup>1</sup> The assessment noted Austin's overly restrictive neighborhood plans as hindrances to promoting fair housing, especially considering a significant number of properties lie within a half-mile radius of the Phase I light rail corridor. This DBETOD zoning would not only increase the number of parcels eligible to provide income-restricted housing but will increase the amount of income-restricted housing that can be built in close proximity to high-quality transit. This would help the Phase 1 Austin Light Rail project and the Priority Extensions to be accessible to more Austinites of marginalized economic status and racial backgrounds.
- ETOD Overlay Proposal recommends that the overlay is not applied to parcels zoned Mobile Home Residence (MH). This could prevent the potential loss of an important source of affordable housing, and the displacement of these residents.<sup>2,3</sup>

## Impact on Development Cost

The proposed changes would have a **neutral** impact on development costs.

- Developers using the -DBETOD program will be able to use alternative site development standards, increasing flexibility and potential developable site area. The -DBETOD program also includes affordability protections for existing market affordable units, which may increase overall project costs for residential redevelopment, while providing substantial public benefit.

## Impact on Affordable Housing

The proposed changes would have a **positive** impact on subsidized affordable housing.

- This incentive program would create an additional pathway to increasing subsidized affordable rental supply at 50 and 60% MFI for 40 years and ownership supply at 80% MFI for 99 years without direct public subsidies.
- Recently, the City Council approved changes to City Code Chapter 4-18, impacting both residential and non-residential redevelopment. These changes included regulations for density bonus programs, with specific focus on residential redevelopment requirements. Initially, the ordinance called for the

replacement of all units affordable to households earning 80% or less of the Median Family Income (MFI). However, subsequent collaboration among various City departments led staff to conclude that a more finely-tuned threshold for triggering unit replacement under this requirement would be to replace existing units affordable to a household earning 60% MFI or below. This adjustment aligns with the goals outlined in the Strategic Housing Blueprint, prioritizing deeper levels of affordability, and aiming to enhance participation in density bonus programs. Staff recommends bringing forward an item on a future Council agenda to update this provision of Chapter 4-18.

- Staff estimates that there are roughly 3,800 naturally occurring affordable housing (NOAH) units in the DBETOD combining district where rents are affordable to households earning 60% MFI or below. To redevelop these existing multifamily structures using the -DBETOD program, an applicant would need to:
  - Prove that the current structure needs repairs that will exceed 50% of the structure's market value
  - Prove that average rents for below-market-rate units did not increase more than 10% in the previous 24 months
  - Provide tenants with notice and relocation benefits consistent with federal requirements
  - Replace units affordable to a household earning 60% MFI or below
- Outside of acquiring existing multifamily NOAH properties, the City is constrained in its ability to protect residents from displacement through redevelopment. The proposal takes steps to protect NOAH properties and the households that rely on them.

## City Policies Implemented

The proposed amendment aligns with council adopted plans, including the ETOD Policy Plan, Imagine Austin, and the Austin Climate Equity Plan.

## Other Housing Policy Considerations

None.



Manager's Signature Marla Torrado

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1. Rep. [Central Texas Assessment of Fair Housing](#). Denver, CO: Root Policy Research, 2019.
2. Louet, E., & Rifkin, C. (2023, December 4). Manufactured Homes: An Underutilized Source of Affordable Housing? <https://www.ncsl.org/human-services/manufactured-homes-an-underutilized-source-of-affordable-housing>
3. (2024, February 29). HUD Announces New Actions to Support Affordability for Manufactured Homes and Communities as Part of the Biden-Harris Administration's Housing Supply Action Plan. [https://www.hud.gov/press/press\\_releases\\_media\\_advisories/hud\\_no\\_24\\_041](https://www.hud.gov/press/press_releases_media_advisories/hud_no_24_041)