



PLANNING COMMISSION RECOMMENDATION 20231114-02

Date: November 14, 2023

Subject: Changes to Residential Uses and Standards (HOME Amendments)

Motioned By: Commissioner Azhar

Seconded By: Vice-Chair Hempel

Recommendation:

Recommend City Council amend City Code Title 25 to accomplish the changes described in the draft documents provided for the November 14, 2023 Planning Commission meeting, as amended by affirmative vote.

Please see attachment for amendments approved by affirmative vote.

Vote: 11-2

Aye: Chair Shaw, Vice-Chair Hempel, Commissioners Anderson, Azhar, Barrera-Ramirez, Connolly, Haynes, Howard, Maxwell, Phillips and Woods

Nay: Commissioners Cox and Mushtaler

Attest:

Andrew D. Rivera
Land Use Commission Liaison

Planning Commission Amendments

Topic	Proposed Amendment	Justification	Notes
Floor Area Ratio (FAR) Cap Per Development, Cap Per Unit, and Gross Floor Area Calculation	<p>Regarding floor area ratio (FAR) cap per development, for a development within the Subchapter F boundary:</p> <ul style="list-style-type: none"> The maximum amount of development permitted on a property subject to this ordinance with 2 units is limited to the greater of 0.55 floor-to-area ratio or 3,200 square feet of gross floor area as defined below. The maximum amount of development permitted on a property subject to this ordinance with 3 units is limited to the greater of 0.65 floor-to-area ratio or 3,750 square feet of gross floor area as defined below. <p>No change is recommended for a development outside the Subchapter F boundary.</p> <p>Regarding floor area ratio (FAR) cap per unit, for a multi-unit development within the Subchapter F boundary:</p> <ul style="list-style-type: none"> The maximum amount of development permitted for one unit on a property subject to this ordinance is limited to the greater of 0.40 floor-to-area ratio or 2,300 square feet of gross floor area as defined below for a two unit and three-unit development, with an exception for an existing unit on the site that would not comply with this requirement, as it related to FAR. The maximum amount of development permitted for two units on a property subject to this ordinance is limited to the greater of 0.50 floor-to-area ratio or 2,800 square feet of gross floor area as defined below for a three-unit development, with an exception for existing units on the site that would not comply with this requirement, as it related to FAR. The maximum amount of development permitted for three units on a property subject to this ordinance is limited to the greater of 0.65 floor-to-area ratio or 3,750 square feet of gross floor area as defined below for a three-unit development, with an exception for existing units on the site that would not comply with this requirement, as it related to FAR. <p>No change is recommended for a development outside the Subchapter F boundary.</p> <p>Gross Floor Area is defined as in § 25-1-21, with carports and parking structures such as garages exempted from the FAR calculation.</p> <p>Garages are excluded from gross floor area per unit for purposes of this ordinance:</p> <p>A. Up to 450 square feet of:</p> <ol style="list-style-type: none"> A detached rear parking area that is separated from the principal structure by not less than 10 feet; A rear parking area that is 10 feet or more from the principal structure, provided that the parking area is either: <ul style="list-style-type: none"> a. detached from the principal structure; or b. attached by a covered breezeway that is completely open on all sides; <p>B. Up to 200 square feet of:</p> <ol style="list-style-type: none"> An attached parking area; or A garage that is less than 10 feet from the rear of the principal structure, provided that the garage is either: <ul style="list-style-type: none"> a. detached from the principal structure; or b. attached by a covered breezeway that is completely open on all sides. 	Limiting the size of developments and making sure there is alignment with Subchapter F. Based on staff, AIA, and other feedback. Clarifying that carports are exempt from the FAR up to the limits established in Subchapter F.	Existing § 25-1-21 definition: "GROSS FLOOR AREA means the total enclosed area of all floors in a building with a clear height of more than six feet, measured to the outside surface of the exterior walls. The term includes loading docks and excludes atria, airspace, parking facilities, driveways, and enclosed loading berths and off-street maneuvering areas."
1,100 sq ft Limitation Removal	Remove the limitation that "One of the dwelling units may not exceed 1,100 total square feet."	Limitations on unit size are meant to be accomplished through FAR. Based on staff and AIA feedback. This is to be replaced with the per unit FAR caps in the previous amendment as a control on unit size.	
Preservation Bonus	<p>A development can utilize the Preservation Bonus if it preserves a structure built in 1960 or earlier.</p> <ul style="list-style-type: none"> For a development utilizing a Preservation Bonus, the FAR of the preserved existing structure does not count against the FAR limits for any additional allowable dwelling units. A development utilizing a Preservation Bonus is entitled to an optional bonus unit in addition to other allowable dwelling units, with no additional FAR allowed, subject to review by the Law Department. Revise the definition of "multifamily residential" and other terms accordingly. A development utilizing a Preservation Bonus must preserve at least 50 percent of the existing structure and preserve 100 percent of the street-facing façade with remodeling or alterations allowed using the criteria below: <ul style="list-style-type: none"> any remodeling or alterations to a side-gabled, cross-gabled, hipped, or pyramidal roof form must be located behind the existing roof ridge/line or peak. any remodeling or alterations to a front-gabled, shed roof or flat roof form must be located the lesser of 15 feet from the front façade or one-half of the width of the front wall. If a development requires a 15 feet clearance on the side of the existing structure in order to build other allowable dwelling units, staff shall permit the removal or alteration of an existing or converted carport or garage to provide such a clearance. All modifications to the portion of the existing structure subject to the preservation requirements must meet the requirements of the Historic Design Standards as determined by the Historic Preservation Office. 	Creating an incentive to preserve historically significant homes. Based on Preservation Austin feedback	
Sustainability Bonus	<p>A development can utilize the sustainability bonus if it preserves a structure that is older than 20 years and built after 1960.</p> <ul style="list-style-type: none"> For a development utilizing a sustainability bonus, the FAR of the preserved existing structure does not count against the FAR limits for any additional allowable dwelling units. A development utilizing a sustainability bonus must preserve at least 50 percent of the existing structure. Staff should provide recommendations to Council for additional sustainability incentives, besides FAR, as a part of the adoption of the HOME ordinance. 	Creating an incentive to preserve existing homes and limit the amount of wasted material created through demolition. Based on staff feedback	
Front Yard Setback - From Subchapter F	<p>A. Minimum Setback Required. The minimum front yard setback required for development subject to this ordinance is the lesser of:</p> <ol style="list-style-type: none"> The minimum front yard setback prescribed by the other provisions of this Code; or The average front yard setback, if an average may be determined as provided in Subsection B, below. <p>B. Average Front Yard Setback. The following rules apply for purposes of the setback calculation required by Paragraph A.2:</p> <ol style="list-style-type: none"> A front yard setback is the distance between the front lot line and the closest front exterior wall or building façade of the principal residential structure located on the lot. Except as provided in paragraph 3, average front yard setback is determined using the front yard setback of the four principal residential structures that are: (a) built within fifty feet of the front lot line; and (b) closest to, and on the same side of the block, as the property subject to the setback required by this section. If less than four structures satisfy the criteria in paragraph B.2, average front yard setback is calculated using the number of existing residential structures on the same side of the street block as the property subject to the setback required by this section. If there are no structures on the same side of the block, average front yard setback is calculated using the front yard setbacks of the four structures on the opposite side of the block that are closest to the property subject to the setback required by this section. If there are less than four structures on the opposite side of the block, the lesser number of structures is used in the calculation. 	Align with existing Subchapter F policies. Based on AIA feedback	
Rear Yard Setback - Adapted From Subchapter F	All structures shall comply with the rear yard setback prescribed by other provisions of this Code, but the minimum rear yard setback of an additional dwelling unit may be reduced to five feet if the rear lot line is adjacent to an alley or lot with a non single-family use. Staff may consider other features to allow for this setback exception, while meeting other health, safety, and environment requirements.	Align with existing Subchapter F policies and create flexibility. Based on AIA feedback	
Reduce street side yard setback	For a multiunit development, reduce street side-yard set back to 10 ft. (allows for 5 ft. + room for sidewalk) in the case of a corner lot.	This provides incentive for 3 unit development or 2 and 3 unit development. Based on AIA feedback.	(utility, fire clearances will still apply)
Front Door and Driveway Requirements	<p>For a multiunit development:</p> <ul style="list-style-type: none"> The entryway of at least one unit must face the front lot line. The requirements for a garage door and driveway must match those allowed for one-unit or two-unit developments in the existing code. <p>Staff should develop design standards for Council to avoid a series of garages facing our residential sidewalks and encourage articulation and active street fronts.</p>	Ensure an activated street front and minimize the impact of driveways. Based on staff feedback	
General Recommendation: Annual Report	Require that an annual report be presented to the Planning Commission with information on program implementation.	Create an opportunity to assess success, identify issues, and make adjustments in the future. Based on stakeholder feedback.	
General Recommendations: FAR Limitations Inside and Outside Subchapter F Boundary	General Recommendations: After adoption of this ordinance, staff should present recommendations on FAR limitations for one, two and three-unit residential developments inside and outside the Subchapter F boundary to further accomplish the policy goals of this ordinance and incentivize different housing types, including but not limited to exemptions for parking structures and garages. Outside of subchapter F, staff should focus on ETOD areas and transit corridors.	Ensure better alignment with and reconsideration of Subchapter F. In addition, expanding future staff feedback and analysis to all aspects of FAR, to allow for a deeper analysis post-implementation and make any necessary adjustments.	
General Recommendation: Preservation Bonus Information	Staff should explore opportunities to proactively share educational information about the Preservation Bonus as a part of the permitting process, including for demolition permits.	Create an opportunity to inform those seeking a permit to consider utilizing the preservation incentive. Based on Preservation Austin feedback	
Duplex	Remove the distinction between duplex and two-unit residential uses and establish the same requirements for both, subject to review by the Law Department.	Removing difference between duplex and two-unit residential. Clarifying that the Law Department will assess this amendment, if adopted.	

STRs - New General Recommendation	General Recommendation: Council and staff should highly prioritize amending codes for permitting and enforcement rules for short term rentals that comply with State Law and recent court rulings and to limit the impact that large quantity of short term rentals have on housing availability.	This is a major concern of neighborhoods. State Laws and recent court decisions have limited City of Austin ability to regulate short term rentals. As additional units are constructed within single family neighborhoods, the City needs regulations to manage the number of short term rentals (especially STR2) to assure adequate housing capacity.	
Infrastructure - New General Recommendation	General Recommendation: Council should require all relevant departments assess the impacts of additional units in single family neighborhoods and the infrastructure required.	This is a major concern of neighborhoods. This will allow City Utility Departments to estimate resources needed as units increase over time within SF1, SF2, SF3 zoned neighborhoods.	
Code Consistency	Ensure that all provisions of Title 25 that do not apply to one or two units do not apply to three units. This section supersedes the other provisions of Title 25 (Land Development), except for the applicability provisions of this ordinance."	Supersedes any other code elements that may be redundant, inconsistent or confusing and unnecessarily complicate the practical application of HOME Phase I. Clarifying that this amendment does not change what geographic areas this ordinance applies to.	
Preservation Bonus Compliance	Staff should develop guidelines on how to manage a situation where a development participating in the Preservation Bonus makes changes to the existing structure, that make it non-compliant with the bonus requirements.	Ensuring that the effectiveness of the Preservation Bonus is not diminished and issues with legal non-compliance are managed.	
	The City should identify opportunities to create well-calibrated density bonus programs that maximize participation in the bonus, while also maximizing community affordability benefits, within the HOME Initiative for mission driven developers to increase homeownership opportunities for underserved communities. The City should also consider how existing, planned, and future density bonus programs can align with the HOME initiative to incentivize the creation of subsidized affordable units. Mission driven developers would be eligible for the low-interest lending program, but also density bonuses that permit them to use creative tools, including the right of return that are deemed legal.		
	The City of Austin would look at the feasibility of establishing a low-interest lending program (with or without the private sector) with favorable terms up to forgiving loans for a developer or homeowner who builds three (or four if preservation is used) units and designates one of the three (or four) affordable, meaning for 60% to 80% of the MFI. This is to provide incentives but also offset losses developers or homeowners who want to help solve Austin's affordability housing crisis. That lending program also would be available for qualifying homeowners who have had barriers to credit and lending programs due to historic factors, or lower-resourced homeowners, or first-time homeowners, who build 1 unit on their property. The latter is to help stabilize the communities that have been disproportionately impacted by gentrification and forced relocations since 1928 to the present. This also would serve to avoid risk that several in the public told us regarding losing their homes that would serve as collateral. In addition, the City should explore opportunities to explore allowing those wishing to utilize the HOME initiative to develop using pre-approved plans to ease the creation of units.		
Effective Date	Ensure that the effective date for this ordinance is 60 days after final adoption.	Allowing staff sufficient time to be ready for implementation.	
	The HOME Initiative would be implemented in accordance with Austin's historic Climate Equity Plan to ensure racial and environmental justice in how Austin implements the HOME Initiative on Communities of Color and underserved Austin communities.		
Flood Risk and Insurance	General Recommendation: The City should proactively share information about flood insurance and information from FloodSmart.gov with residents who live in areas designated as being at flood risk, including areas designated in the Atlas 14 study.	Ensuring that residents are aware of flood insurance and other flood safety resources.	
	General Recommendation: Direct staff to look at the issue of HOA and Restrictive Covenants and how they would work or impact the implementation of the HOME Initiative and if the existence of HOA and Restrictive Covenants and or other tools and/or legal contracts contribute to further forced relocation/gentrification of Communities of Color and lower wealth neighborhoods in which those tools generally don't exist and provide feedback and modeling regarding this recommendation to assess the real impact of the HOME Initiative on underserved and BIPOC communities. In addition, understand the disparity in our community's enforcement of these restrictions in our communities of color and low-income communities.		