

ORDINANCE AMENDMENT REVIEW SHEET

Amendment: C20-2023-045 | Site Plan Lite, Phase 2 & Infill Plats

Amendment Overview:

This report summarizes proposed code amendments and related administrative actions that seek to better calibrate non-zoning regulations and review procedures to the scale of missing middle housing. The amendments respond to two separate council initiatives, Resolution No. [20221201-048](#) (“Site Plan Lite”) and Resolution No. [20230504-023](#) (“Infill Plats”), both of which address regulatory challenges to construction of small-scale infill development under current regulations.

The code amendments focus primarily on drainage regulations, which are a significant cost-driver for smaller residential projects, while the administrative items focus on additional department-level efforts that will help to improve the regulatory landscape for missing middle housing.

Planning Commission Action and Staff Response:

For detailed background on the original staff proposal, see the [staff report](#) and accompanying [presentation](#) previously considered by the Planning Commission at its public hearing on August 27, 2024, and at subsequent deliberations on October 22 and November 12, 2024.

The Planning Commission voted at its November 12 meeting to recommend an amended version of the staff proposal that would relax drainage regulations more significantly and for larger developments than recommended by staff. See Attachment A (Planning Commission Recommendations). An ordinance reflecting the Planning Commission’s primary recommendation is posted in backup for this item.

In response to the Planning Commission’s recommendation, staff has revised its original proposal to include a wider range of project types while also ensuring a greater level of protection from drainage impacts associated with infill development than the Planning Commission proposal. The revised staff proposal is also posted in backup for this item and is recommended for adoption on all three readings.

Comparison of Staff and Planning Commission Proposals

1. *Drainage Regulations*

The proposed code amendments focus primarily on drainage regulations, which can account for as much as 30-40% of project costs for infill development. The following table summarizes modifications to drainage regulations included in the original staff proposal, the Planning Commission recommendation, and the revised staff proposal.

Comparison of Drainage Regulations in Planning Commission & Staff Proposals			
<i>Project Type</i>	<i>Original Staff Proposal</i>	<i>Planning Commission Proposal</i>	<i>Revised (Current) Staff Proposal</i>
Site Plans (5-16 units)	<ul style="list-style-type: none"> For projects not exceeding 0.50 acres, no drainage studies or onsite detention required if applicant demonstrates that stormwater runoff flows to public right-of-way or storm drain system without altering natural topography. If grading is necessary to achieve required stormwater flow, then applicant would be required to provide drainage studies and onsite detention or participate in the Regional Stormwater Management Program. 	<ul style="list-style-type: none"> For projects not exceeding 1.5 acres, no drainage or onsite detention required if impervious cover does not exceed the amount allowed by applicable zoning regulations on the date of ordinance adoption. For projects that exceed impervious cover allowed on the date of ordinance adoption, applicant would be required to demonstrate that stormwater runoff flows to the public right-of-way or storm drain system (with or without grading) and to pay fees towards drainage and water quality infrastructure for portion of development exceeding the impervious cover cutoff. 	<ul style="list-style-type: none"> For projects not exceeding 1.0 acres, no drainage studies or onsite detention required if applicant demonstrates that stormwater runoff flows to public right-of-way or storm drain system with or without grading. If a grading plan is required, it would be reviewed & inspected by DSD with no payment required for drainage or water quality infrastructure.
Infill Resubdivision	<ul style="list-style-type: none"> For resubs that do not exceed 11,500 sf, no drainage review required. For resubs over 11,500 sf, but no more than 1.0 acres, applicant would be required to provide drainage plan per site plan requirements (above). 	<ul style="list-style-type: none"> For resubs that do not exceed 1.5 acres, same requirements as for site plan projects (above). 	<ul style="list-style-type: none"> For resubs that do not exceed 1.0 acres, same requirements as for site plan projects (above), except that no drainage review is required if site area does not exceed 11,500 sf.

2. ***Additional Background***

Benefits of Revised Staff Proposal:

In addition to amending applicable drainage regulations, the original staff proposal modified review procedures for site plans of 5-16 units, revised impervious cover assumptions to accommodate small-lot resubdivisions, and highlighted several administrative changes (see Attachment B | Department-Level Improvements) that will improve the review process for infill development across multiple city departments. All of these non-drainage changes are carried forward in the revised staff proposal.

Additionally, while the revised staff proposal does not relax drainage regulations as significantly as Planning Commission recommended, it would greatly expand the number of projects that could develop without providing onsite detention facilities or participating in the Regional Stormwater Management Program (“RSMP”). These changes, which are summarized in the above table (3rd column), would improve the development process for infill development in the following ways:

- *Doubles the maximum area for site plans of 5-16 units, from 0.5 acres (original) to 1.0 acres (revised).* This will permit more sites to achieve higher unit yields without developing stacked units, which stakeholders believe are too challenging to build and market.
- *For both site plans and resubdivisions, allows grading of property to achieve required stormwater flows without participation in RSMP.* Depending on project details, eliminating the RSMP requirement may reduce costs by anywhere from \$10,000 to \$100,000 beyond cost savings associated with not having to provide onsite detention.

While these changes are significant, staff believes the proposal also retains sufficient protection from drainage impacts associated with infill development by requiring all projects other than 11,500 sf or smaller resubdivisions to direct runoff to public right-of-way or a storm drain system. These requirements provide a roughly comparable level of drainage protection to other Texas cities and are better calibrated to small-scale infill projects for which onsite detention is not the best solution.

Staff Concerns Regarding Planning Commission Proposal:

As summarized in Attachment A and the above table, the Planning Commission recommended that no drainage review be required for infill projects of up to 1.5 acres provided that development does not exceed the amount of impervious cover allowed by applicable zoning regulations on the date Council adopts the proposed ordinance. (In most cases, this would amount to maximum impervious cover of 45% for infill resubdivisions and 65% for site plans.)

Staff does not recommend eliminating all drainage review for such a broad category of development because the resulting runoff could negatively impact surrounding residents by increasing instances of lot-to-lot flooding and, for projects exceeding one acre, strain the

capacity of local drainage systems. Additionally, staff believes the Planning Commission proposal would result in a lower level of drainage protection in Austin than any other major Texas city.

Among the three Texas cities closest to Austin in size and susceptibility to flash flooding—San Antonio, Dallas, and Fort Worth—none exempt development of more than one acre from applicable drainage regulations. While the particular requirements vary among cities, in most cases projects that do not naturally drain to public right-of-way or a storm drain system are required to provide an engineered grading plan and onsite detention if needed to manage peak flows. This is comparable to staff’s revised proposal and, for projects of four or fewer units, generally more restrictive than the City of Austin’s current regulations.

In an effort to increase housing supply and improve affordability, the City of San Antonio also lowered its threshold for drainage requirements to encourage development of small-scale infill housing. Initially, projects no greater than 20,000 square feet were exempted from submitting drainage plans and payments-in-lieu of detention. Initially, projects of up to 20,000 square feet were exempted from drainage review and onsite detention or payment in-lieu of detention. However, the cutoff for these reduced standards was subsequently recalibrated to 10,000 square feet to better manage drainage outcomes.

Staff also studied the City of Dallas’s use of “drainage affidavits,” per the Planning Commission’s recommendation that staff evaluate this option. In lieu of submitting an engineered grading plan, Dallas authorizes a landowner to attest that their proposed development will not cause lot-to-lot flooding and commit to correcting any resulting drainage problems. However, Dallas only permits these affidavits for single-family and duplex development—and the City of Austin’s regulations already go much further by exempting development of up to four units from applicable drainage regulations. For this reason, staff does not recommend adopting the Planning Commission’s recommendation to permit use of drainage affidavits without further review.

Staff Recommendation:

Staff supports the proposed revisions to the Land Development Code and requests a 90-day delayed implementation to provide the time necessary for departmental process updates and staff training.

Board and Commission Action:

April 1, 2024: Codes and Ordinances Joint Committee supported the staff recommendation.

May 1, 2024 & August 21, 2024: Environmental Commission supported the staff recommendation.

August 27, 2024: Planning Commission held a public hearing and took public comments.

October 22, 2024: Planning Commission held a public hearing and took public comments.

November 12, 2024: Planning Commission held a public hearing and voted in favor, subject to several amendments to the staff recommendation.

Council Action:

December 12, 2024: A public hearing will be held.

Sponsor Department: Development Services Department (DSD)

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ATTACHMENT A | PLANNING COMMISSION RECOMMENDATION

City of Austin

Council Meeting Backup: December 12, 2024

File ID: 24-6377

No.	Item (Site Plan Lite / Infill Plat)	Commissioner Proposing Amendment	Reference Document	Pg #/ Section # of document	Proposed Amendment	Proposed Text Change, IF necessary (Underline added text/Strikethrough deleted text)	Text Change Included in Amendment (YES/NO)	References and Notes (if needed)
<p>Base Motion, as amended (Azhar/Hempel): Staff Recommendation (passes 10-1, Haynes no) Amendment 1 (Azhar/Hempel): Group No.s 4, 5, 6, 7, 8, 9, 11, 12, 13, 14 (passes, Haynes no on all, Skidmore no on 6 and 13) Amendment 2: (Azhar/Maxwell) Revised No. 1 V2 (passes, Haynes no) Amendment 3: (Azhar/Hempel) Revised No. 2 - group V2 - combined (passes) Amendment 4: (Azhar/Hempel) Revised No. 3 - group (passes, Haynes no) Amendment 5: (Azhar/Maxwell) No. 10 - group (passes) Amendment 6: (Haynes/Azhar) Haynes Individual No. 1 (passes, Skidmore abstain) Amendment 7: (Azhar/Johnson) Staff recommendation - cleanup (passes)</p>								
Revised No. 1 V2 (combined)	Site Plan Lite / Infill Plat	Anderson, Azhar, Haney, Johnson, Maxwell, Skidmore	Planning Commission Ordinance version three: https://services.austintexas.gov/edims/document.cfm?id=439445	Pg 12 of 15, line 2 and new section	Align the definition of Residential Infill with the initiating resolutions and define in the definitions section. Define Residential Infill in using units and maximum tract size in low-intensity single-family zoning categories as the only criteria.	AN ORDINANCE AMENDING CITY CODE SECTIONS 25-1-21, 25-8-64 AND 25-5-3... 25-1-21 is amended to add: <u>RESIDENTIAL INFILL means development of a site not exceeding 1.5 acres that consists of:</u> <u>A) Five to sixteen dwelling units; or</u> <u>B) Any subdivision of land within an SF-1, SF-2, or SF-3 zoning district.</u>	Yes	Resolution No. 20221201-048 ("Site Plan Lite") and Resolution No. 20230504-023 ("Infill Plats")
Revised No. 2 (group V2)	Site Plan Lite / Infill Plat	Anderson, Azhar, Haney, Johnson, Maxwell	Align the definition of Residential Infill with the initiating resolutions and add the 90 business day review time.	Pg 13 of 15, line 37 to 39	Align the definition of Residential Infill with the initiating resolutions and add the 90 business day review time in this and other sections of the code, as appropriate, and look at S.M.A.R.T Housing application process regarding review cycle timelines.	Subsection (B) of City Code Section 25-5-3 (Small Projects) is amended to read: ... (7) <u>a residential infill project meeting all code requirements, with a site development permit to be issued within 90 business days</u> construction of five to 16 dwelling units that meet all applicable requirements for review under Section 25-7-67 (Modified Drainage Standards for Residential Infill);	Yes	Resolution No. 20221201-048 ("Site Plan Lite") and Resolution No. 20230504-023 ("Infill Plats")
Revised No. 3 (group)	Site Plan Lite / Infill Plat	Anderson, Azhar, Haney, Johnson, Maxwell, Skidmore	Planning Commission Ordinance version three: https://services.austintexas.gov/edims/document.cfm?id=439445	Pg 14 and 15 of 15, line 62 onward, § 25-7-67 MODIFIED DRAINAGE STANDARDS FOR RESIDENTIAL INFILL	Utilize impervious cover requirements as the governing factor for modified drainage standards, establish a small project drainage fee and a scaled water quality fee in lieu, and renumber the section accordingly. Limit impervious cover for infill plat at 45% and for site plan lite at 65% as it relates to this amendment.	Strike § 25-7-67 (A) and (B) and replace with: <u>(A) Except as provided in (C) and (D), a residential infill applicant is not required to provide infrastructure, studies, fees or analyses to demonstrate a development application complies with Section 25-7-61 (Criteria for Approval of Development Applications), Section 25-7-151 (Stormwater Conveyance and Drainage Facilities), or Section 25-7-152 (Dedication of Easements and Right-of-Way) for any portion of a residential infill development that does not exceed the maximum amount of impervious cover allowed under the applicable zoning district regulations as of the date of this ordinance.</u> <u>(B) For any portion of a Residential Infill development that exceeds the maximum amount of impervious cover allowed under the applicable zoning district regulations as of the date of this ordinance, the applicant must:</u> <u>(1) provide a drainage plan demonstrating that all stormwater runoff from that portion will be discharged:</u> <u>(a) to an existing storm drainage system; or</u> <u>(b) into right-of-way; and pay a small project drainage fee and a scaled fee-in-lieu of water quality (FILQ) only for the increase in impervious cover above the maximum amount allowed as of the date of this ordinance; or</u> <u>(2) Provide infrastructure, studies, fees or analyses to demonstrate that the increase in impervious cover above the maximum amount allowed as of the date of this ordinance complies with Section 25-7-61 (Criteria for Approval of Development Applications), Section 25-7-151 (Stormwater Conveyance and Drainage Facilities), or Section 25-7-152 (Dedication of Easements and Right-of-Way).</u>	Yes	

Group 4	Site Plan Lite	Anderson, Azhar, Haney, Johnson, Maxwell, Skidmore	Planning Commission Ordinance version three	General Amendment	Create a small project and scaled drainage fee that can be applied to address localized flooding issues in the same watershed. (Re-calibrate RSMP fee to apply only to increases in IC above what is allowed as of date of ordinance.)	No	
Group 5	Site Plan Lite	Anderson, Azhar, Haney, Johnson, Maxwell, Skidmore	Planning Commission Ordinance version three	General Amendment	Re-calibrate Water Quality Fee in Lieu for Residential Infill projects to lower costs to levels appropriate to development. Allow water quality fee in lieu for residential infill projects.	No	
Group 6	Site Plan Lite	Anderson, Azhar, Haney, Johnson, Maxwell	Planning Commission Ordinance version three	General Amendment	Develop simpler, standardized methods to control lot to lot drainage based on regulations enacted by peer cities in Texas.	No	
Group 7	Site Plan Lite	Anderson, Azhar, Haney, Johnson, Maxwell, Skidmore	Planning Commission Ordinance version three	General Amendment	Residential infill projects that increase impervious cover above what is allowed as of the date of the ordinance must provide a lot to lot drainage affidavit at building permit (similar to peer cities in Texas)	No	Example: residential infill grading waiver affidavit
Group 8	Site Plan Lite / Infill Plat	Anderson, Azhar, Haney, Johnson, Maxwell, Skidmore	Planning Commission Ordinance version three	General Amendment	Revise, and reduce wherever possible, all existing development fees, such as RSMP, SIF, Parkland etc., for residential infill projects based on the size of the project and the number of units.	No	
Group 9	Site Plan Lite / Infill Plat	Anderson, Azhar, Haney, Johnson, Maxwell, Skidmore	Planning Commission Ordinance version three	General Amendment	Establish a dedicated rapid interdepartmental conflict resolution team for residential infill projects	No	
Group 10	Site Plan Lite / Infill Plat	Anderson, Azhar, Haney, Johnson, Maxwell, Skidmore	Planning Commission Ordinance version three	General Amendment	Approve residential infill projects within 90 calendar days by reducing departmental response times for all departments to less than 10 days. Dedicate all necessary resources and revise processes to achieve this goal.	No	Time for approval is the biggest barrier to residential infill projects. It is impossible to approve quickly with 21 day response times. Prioritize residential infill projects with dedicated staff. Institute a case manager system to ensure deadlines are met and conflicts resolved.
Group 11	Site Plan Lite	Anderson, Azhar, Haney, Johnson, Maxwell, Skidmore	Planning Commission Ordinance version three	General Amendment	Remove the requirement that a detention pond cannot be located within 50' of a residence.	No	

Group 12	Site Plan Lite	Anderson, Azhar, Haney, Johnson, Maxwell, Skidmore	Planning Commission Ordinance version three	General Amendment	Do not require a stormwater system tie to an existing system beyond the frontage of the lot.	No	
Group 13	Site Plan Lite	Anderson, Azhar, Haney, Johnson, Maxwell	Planning Commission Ordinance version three	General Amendment	Develop simpler, standardized methods and processes for the design, approval and construction of residential infill detention ponds, similar to those used by other cities.	No	Staff should explore how other cities consider downstream impacts as compared to Austin's "no adverse impact" (to anyone downstream) engineering standard, which is a very stringent standard and requires more extensive study to ensure compliance? Can the same pond design be built with or without 'no adverse impact' standard applied like other cities that use standard designs for cisterns, rain gardens etc. for drainage requirements, reducing review time and expense?
Group 14	Site Plan Lite	Anderson, Azhar, Haney, Johnson, Maxwell, Skidmore	Planning Commission Ordinance version three	General Amendment	Utilize infrastructure and climate resiliency general obligation bonds and leverage the Capital Improvement Program to address flooding concerns by creating regional stormwater infrastructure based on comprehensive watershed drainage studies.	No	
Haynes Individual No. 1	Site Plan Lite / Infill Plat	Haynes/Azhar	Planning Commission Ordinance version three	General Amendment	Encourage staff to explore the application of drainage payments or other funds to residential infill projects to support the affordability of premiums paid by low-income residents to the National Flood Insurance Program.	No	
Staff recommendation - cleanup	Site Plan Lite	Azhar/ Johnson	Planning Commission Amendments	General Amendment	In all amendments approved by Planning Commission to the base motion, change the word fee to payment, as appropriate	No	

DEPARTMENT-LEVEL IMPROVEMENTS

Below is a summary of important department-level changes that would help to support development under the proposed Infill Plat and Site Plan Lite amendments. The improvements are responsive to stakeholder feedback received as well as ongoing efforts of individual departments.

1. Watershed Protection Department (WPD)

Drainage Criteria Manual (DCM) Sec. 1.2.3.C – Street Drainage

This DCM provision requires proposed development to connect to an existing storm drain system if it is located within 550 feet. While WPD grants waivers where appropriate, stakeholder feedback indicates that compliance with this requirement may in some instances be cost prohibitive for infill development. In response to these concerns, WPD has stated its intent to initiate amendments to DCM Sec. 1.2.3.C along the following lines:

- For infill projects, connection to an existing storm drain system would only be required if a project is located within 300 feet, rather than 550 feet.
- Regardless of distance, no connection would be required for projects that are limited to residential use and:
 - The existing lot is 0.50 acres or less in gross site area; or
 - The existing lot is over 0.50 acres, but no greater than one acre, and the applicant provides necessary calculations indicating that the street, gutter, and storm drain inlet contains the 100-year fully developed flow rates for the entire drainage area that drains to the existing storm drainage system.

While the details of these changes remain under review, WPD has stated its intent to initiate them at a future DCM amendment cycle following Council action on the proposed Site Plan Lite and Infill Plats ordinance. Review by the Technical Advisory Review Panel (TARP) would also be provided.

DCM Sec. 1.2.2.G – Detention Alternatives

WPD has stated its intent to consider potential improvements to the Regional Stormwater Management Program (RSMP) to benefit infill projects that exceed the cutoffs for streamlined drainage review under the newly proposed LDC Sec. 25-7-67 (*Modified Drainage Standards for Residential Infill*), as summarized in the staff report. In particular, WPD plans to initiate a DCM amendment that would allow “Site Plan Lite” projects of 5-16 units to participate in RSMP if they do not exceed one acre in gross site area.

2. Transportation & Public Works Department (TPW) [UPDATED]

In response to stakeholder feedback and TPW's ongoing efforts to improve the review process, the department has stated its intent to initiate amendments to the Transportation Criteria Manual (TCM) to reduce the need for unnecessary waiver requests when permitting a project under the proposed Infill Plat and Site Plan Lite amendments. These amendments include:

- Reducing the width for a "Minor Driveway" to 10 feet;
- Allowing ribbon or "Hollywood" strips as a permitted driveway design without requiring a waiver; and
- Reducing requirements for Joint Use Access easements.

TPW has also stated its intent to continue improving the review process to better meet the needs of infill development. These changes include:

- For both Site Plan Lite and Infill Plat projects on Level 1 streets, automatically approving requests for relief from right-of-way dedication under LDC 25-6-55 (*Dedication of Right-of-Way*) without requiring a formal waiver if certain criteria are met.
- Improving the review process for waiver requests from driveway spacing standards so that technical review is only required when necessary and more requests can be considered informally, without additional review time.
- Updating the "Site Plan Master Comment Report" to clarify that back-of-curb pedestrian improvements under the LDC are required, but TCM improvements are optional.
- Where street impact fees are assessed, provide the MAX/RP calculation whenever dedication of ASMP-compliant right-of-way dedication is requested in a Master Comment Report.
- Work with review staff to clarify applicability of street tree requirements and ensure that they're not applied to existing streets.

3. Austin Water (AW)

AW has expressed its willingness to explore potential improvements to the SER process to help applicants achieve greater certainty on likely infrastructure costs earlier in the development process. These measures may emphasize greater education regarding the SER process and options for obtaining earlier determinations, as well as guidelines for applicants considering concurrent SER/SP review.

Additionally, AW is aware that greater use of utility easements may be necessary to facilitate development of small-lot single-family uses under HOME-2.

4. Parks and Recreation Department (PARD) [NEW]

With the goal of increasing efficiency for infill projects, the Parks and Recreation Department (PARD) is establishing a predictable and streamlined process for approving fee-in-lieu of parkland dedication for infill projects meeting certain criteria. The specifics of the process are still in development but are anticipated to be finalized prior to the November 7, 2024, Council meeting.