



All the Dirt

(The Intersection of Real Estate and Politics in Austin, Texas)

November 2015

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CodeNext: Last Chance to Save Austin's Soul?

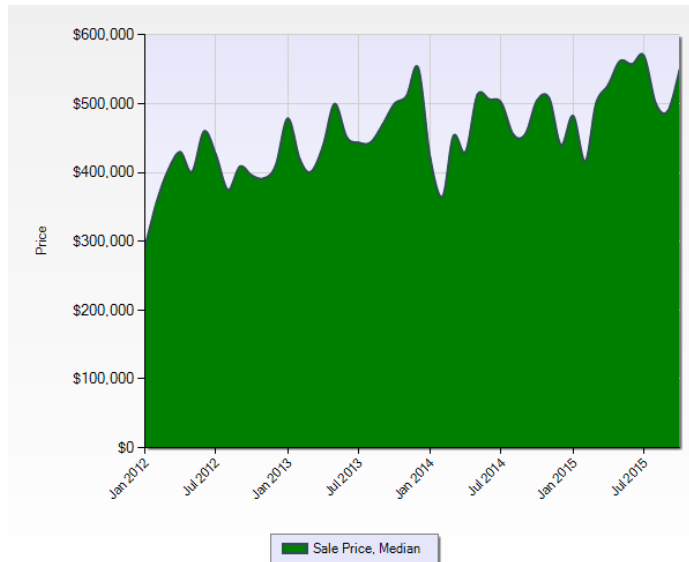
Affordability, Fairness, Density, Neighborhood Character, and
"Keeping it Weird"

Introduction and Summary

Austin's distinctive character used to be that our city was eclectic, diverse, very affordable and well, you know, "weird". But folks who have been advocating in recent years for the preservation of a distorted version of the term "neighborhood character" have actually accomplished the reverse of preservation – they have effectively forced us as a community to become less eclectic, less diverse, less affordable and yes, less weird. [See "The Fight Over Keeping Austin Weird – Is the hippest city in Texas selling out its oddball charm?" Time Magazine, July 5, 2013]

The rest of us, until very recently, have responded to this push for preservation of "neighborhood character" by allowing ourselves to be increasingly regulated into becoming, more and more, a city where only the well-to-do can afford to live. From January 2012 to July 2015, the median price of a home in Austin's core neighborhoods (zip codes 78701 – 78705, inclusive) rose by a heart-stopping 95%,

from less than \$300,000 in January 2012 to \$565,000 in July 2015, to become what Fitch rating service has called the most overvalued large metro area in America.



[Source: Austin Multiple Listing Service]

Instead of continuing this recent trend of stricter government regulation of our built environment, which clearly isn't working, we should be busy getting back to what worked in the past and what made Austin such a great and quirky city in the first place. We should be working hard to give Austin back to the people, letting the citizens, not our municipal government, decide what types and sizes of homes they want to live in, and where in the city they want to live.

Our Neighborhoods Should Be Economically Diverse

A city core dominated by the affluent is the antithesis of what Austin used to represent. Instead of "preserving" the core of Austin as a low-density, unaffordable place where the vast majority of Austinites cannot afford to live, we should be preserving Austin's true history and character – a history and character that is one of constant growth, constant dramatic change and terrific levels of affordability, a city designated by HUD as recently as 1990 as America's most affordable major city.

With the proper implementation of our unanimously adopted comprehensive plan ("Imagine Austin") and current revamping of the Land Development Code ("the LDC"), we have an opportunity to return to our city's true character, if we'll just decide to do so.

In a nutshell, by allowing certain special interests to co-opt and misuse the term "neighborhood preservation" over the last 30 years as code for resistance to change (and in particular, resistance to urban density, which since 1950 has actually decreased by a whopping 40%), we have been moving away from preserving what has historically made Austin truly special. We are losing Austin's soul. And

in the process, we have created a set of significant problems that threaten Austin's reputation around the world, threaten the survival of a live music industry that is at the heart of our city's identity, and threaten Austin's ability to function efficiently on a daily basis. In return, the only thing we are "preserving" is an outdated and none too special development pattern that was prevalent during the first half of the twentieth century and which has had disastrous negative consequences. Not only have we recently been named America's most overvalued market, we have also just been given the dubious title of America's most economically segregated large metro area (Martin Prosperity Institute, University of Toronto, Feb 2015). We have become a city that does not treat its residents with basic fairness. Most of Austin's citizens can no longer afford to buy or rent inside our central neighborhoods. It's time for drastic change.

Affordability – Is it too Complicated or Does Austin Not Really Care?

As with most important issues that present themselves in the course of our local political discourse, affordability is something we talk about a lot, but rarely do much about. The longer we continue talking without taking meaningful action, the more intractable the problem becomes. As noted above, as we lose affordability, we are also losing some of Austin's other critically important attributes – social and economic diversity and inclusiveness, eclecticism, a healthy dose of our own brand of libertarianism, and yes, even our widely touted "weirdness". All of these potential losses are, to a significant degree, caused by the same flawed policies. But let's begin with a simple question: is household affordability just too complicated a goal for us to achieve once again (the typical excuse we hear constantly), or do certain influential political factions just not care about including people of modest financial means in our neighborhoods? Keep in mind as we examine this question that we had incredible levels of affordability just 25 years ago (see above referenced 1990 HUD affordability study). What happened?

Affordability is in fact quite simple. Density + square footage = affordability. More homes, smaller homes, per square mile. That's it. There's no way around this principle. There's no way to regain a reasonable level of affordability without increased density.

Terry Mitchell, one of the most experienced and capable homebuilders in Austin, who has been involved in the development and construction of thousands of homes in Austin selling at a very wide range of price points, has publicly asserted for years (with no rational contradiction from anyone that I'm aware of) that he and other builders have only two major tools with which to impact affordability: a combination of more density and less square footage. There's no way around this simple truth. If there were some other magic bullet out there, someone somewhere would have found it long ago. If one asks a density opponent to name that magic bullet, he will not get a coherent answer. That's because there isn't one.

Some people have resisted, and will continue to resist, densification, deciding that it's more important to remain a low- density city than to be an affordable city again. That's unfortunate. Most of us come to the opposite conclusion, and for most us, it's not even a close call. The consequences of urban density, for most us, are positive while the consequences of low density and rampant sprawl are negative. The choice is clear, and the policy direction of Imagine Austin exhibits that choice, a choice

that was made after a three-year public process. Imagine Austin was undertaken in part because Austin had become the most sprawling city in America during the decade from 2000 to 2010 (another unfortunate “worst of” title for our city directly attributable to our rejection of appropriate urban density)(See CityLab, from Atlantic Monthly, June 4, 2014, “The U.S. Cities that Sprawled the Most (and Least) Between 2000 and 2010”). Imagine Austin aims to significantly reduce the percentage of our growth that occurs as sprawl, with a basic objective of accommodating approximately half of our future metro area’s growth within Austin’s planning area, made up of the city limits and the city’s extra-territorial jurisdiction.

Many of those who assert that low density is more important than affordability simply try to disguise their position because they themselves are embarrassed to admit what it is. They try to maintain that low density and affordability in the middle of a large American city are compatible. As noted, that is simply untrue and is easily disproved.

Unable to prove the accuracy of their position, such people begin to look for excuses to put up with a lack of affordability. For example, they claim that affordability and density would increase land values and property taxes, and too many current property owners would be unable to stay in their homes because of inability to pay their property taxes. But this position is also easily disproved. Land use density is directly proportional to taxpayer density. We must increase Austin’s taxpayer density in order to share the property tax burden among a much larger group of property owners. That is the only way to significantly reduce the tax burden on any individual taxpayer. And while there might be some moderate increases in land value in the city’s core, and therefore some transitional pain for specific taxpayers who can’t or don’t want their own property to be redeveloped just yet, there are property tax exemptions and deferrals available by state law to all of those who are 65 or over, disabled, or whose taxes go up more than 5% in a year (see Texas Property Tax Code, Chapter 33). Those exemptions and deferrals can most likely be significantly improved in future legislative sessions by reducing the statutory deferral interest rate from its current rate of 8% per year, and that should essentially take care of the lion’s share of any transitional pain. In any event, any pain from transitioning to density is relatively small compared to the pain being caused by the current combination of rapidly escalating, supply-constrained prices and a lack of taxpayers to foot the overall tax bill.

As noted above, our fall from grace on the issue of affordability has been quick and dramatic. In a span of just 24 years we went from “most affordable” to “most overvalued”. How did that happen? There’s only one basic reason: a dramatic change in attitude was allowed to take root, and those who championed that change in mindset were allowed to take over power at city hall. We abandoned what had always made Austin special – the sense that we should all just get along, let folks do pretty much what they wanted, and keep the city government out of it. We essentially let our residents, not the government, decide what was right for them and for Austin. Thus the identity of “weirdness”.

But the change in mindset that I am talking about resulted in our passing so many regulations over the last 25 or 30 years that our development code and our development process are now frequently cited as being among the worst in the country in terms of compliance expense, complexity and impact on affordability.

If we are to regain a reasonable level of affordability in housing costs through the rewriting of our land development code (a process that has been named “CodeNext”), we must revise our regulations, including zoning categories throughout the city, to be far less restrictive, more supportive of urban density, more predictable, simpler, and cheaper to apply to real life housing construction.

In general, the underlying premise of the new comprehensive plan is that we want to make Austin more compact and connected, and in the process, more affordable and more livable. The rewrite of the code should provide whatever housing options are necessary to achieve that goal. Contrary to the understanding of many, and contrary to the past actions of the city, conforming the new development code to the comprehensive plan is not discretionary – it is required by state law and by our city charter, as set forth in the following section of this article.

The Legal Case for Household Affordability Throughout Austin Why the City’s Land Use Policies are Unlawful

Both our city charter (Austin City Charter Sec. 6) and state law (Local Government Code Sec. 211.004) require that all development regulations be consistent with the comprehensive plan:

From the Austin city charter:

§ 6. - LEGAL EFFECT OF COMPREHENSIVE PLAN.

Upon adoption of a comprehensive plan or element or portion thereof by the city council, all land development regulations including zoning and map, subdivision regulations, roadway plan, all public improvements, public facilities, public utilities projects and all city regulatory actions relating to land use, subdivision and development approval shall be consistent with the comprehensive plan, element or portion thereof as adopted. For purposes of clarity, consistency and facilitation of comprehensive planning and land development process, the various types of local regulations or laws concerning the development of land may be combined in their totality in a single ordinance known as the Land Development Code of the City of Austin.

Similarly, Local Government Code Sec. 211.004 states as follows:

Sec. 211.004. COMPLIANCE WITH COMPREHENSIVE PLAN. (a) Zoning regulations must be adopted in accordance with a comprehensive plan . . .

Both the charter requirement and the aforementioned state law have been, and continue to be, largely ignored in recent decades during the adoption of the plethora of new land use regulations referred to above.

Take, for example, the “neighborhood planning” process that the City initiated in the late 90’s. According to the law, the neighborhood plans should have been created in such a way that they were consistent with Austin Tomorrow (the comprehensive plan that was then in effect) and consistent with

one another (small area plans are, by definition, elements of the comprehensive plan, and all such elements are required to be consistent).

Notwithstanding such legal constraints, the neighborhood plan process was carried out without any guidance from, or reference to, the terms of the city's previous comprehensive plan or the lack of coordination of among neighborhood plans, and no thought was given to their cumulative impact upon the city as a whole. The result was, predictably, a "crazy quilt" of small area plans that effectively ruined any chance for a coordinated, internally consistent set of rules for real estate development, a result which the state legislation and charter requirements were intended to prevent.

Today, the same people who have supported a massively distorted view of "preservation of neighborhood character" continue to support this unlawful crazy quilt of inconsistent and uncoordinated neighborhood plans as the proper way to develop and grow the city. They claim that "neighborhoods" should be largely autonomous and should not have to concern themselves with the negative impacts that such autonomy can have on the rest of the city. Until 2009, few people were willing to stand up to this absurd notion and to the people who espoused it. Then came Imagine Austin. A process was begun to write a new and modern comprehensive plan that encouraged us to look at Austin through a "big picture" point of view, as a holistic community to which we all belong, rather than as a fragmented, competing collection of individual small areas.

In large measure, the Imagine Austin effort succeeded, and the final document was adopted with an overwhelmingly positive vote by the citizens' task force, and unanimous votes by both the planning commission and the city council.

The Ethical Case for Household Affordability Throughout Austin Why the City's Land Use Policies are Unethical and Discriminatory

This one is pretty simple as well. Like many other cities, Austin has had a shameful history when it comes to deliberate racial segregation. In 1928 it became official city policy that African Americans were denied city services (including the right to attend public schools) unless and until they agreed to move to "the negro district", an area in central east Austin with specific boundaries set forth in the 1928 city master plan. This was a blatant and superficial attempt to try to get around the U. S. Supreme Court decision from a decade earlier that made it unconstitutional to use zoning laws to directly impose racial segregation in housing.

I won't go into great detail in this article about the succeeding years on the issue of local segregation, as that will be the primary topic in a future paper, but suffice it to say that those years included redlining of the "negro district" in the form of prohibiting residents from getting federally backed mortgages, local zoning that was far less restrictive in terms of industrial uses being allowed in the midst of residential areas, etc. The impacts of those deliberate segregationist policies remain even today.

I would argue that today's restrictive housing policies that appear in our current land development code have gradually emerged as just the most recent and most highly disguised form of housing

discrimination in Austin. African American families are a declining percentage of Austin's population, and are being priced out of the market. Even if this were not the deliberate original objective of our city's policies, it is beyond question that this has been and continues to be the real-life result. Either way, the question is "Do we care?" Until Imagine Austin, the answer appeared to be "no", or at best, "not much". In Imagine Austin, we said we want to change that, and create and maintain affordability "throughout the city" as an official city policy. The question now is whether we really meant it. If not, what does that say about Austin, and about who we are as individuals who live here?

What does Imagine Austin Really Say?

Imagine Austin identifies 6 Core Principles and 8 Priority Programs for the future development of our city, as follows:

Core Principles:

1. Grow as a compact, connected city.
2. Integrate nature into the city.
3. Provide paths to prosperity for all.
4. Develop as an affordable and healthy community.
5. Sustainably manage water, energy and other environmental resources.
6. Think creatively and work together.

Priority Programs:

1. Invest in a compact and connected Austin.
2. Sustainably manage our water resources.
3. Continue to grow Austin's economy by investing in our workforce, education systems, entrepreneurs and local businesses.
4. Use green infrastructure to protect environmentally sensitive areas and integrate nature into the city.
5. Grow and invest in Austin's creative economy.
6. Develop and maintain household affordability throughout Austin.
7. Create a Healthy Austin Program.
8. Revise Austin's development regulations and processes to promote a compact and connected city.

We should point out that "preserving neighborhood character" is not among either the 6 Core Principles or the 8 Priority Programs. This was a deliberate decision, not an oversight. While some unfortunate and politically motivated language was added to Priority Program 8 very late in the process (language that was never reviewed or vetted during the public input portion of the process) regarding a perceived obligation to respect the unlawfully implemented neighborhood planning process that came before (largely during the period between 1997 and 2001) and other previous negotiations between the

city and various “neighborhood” groups, that language was never intended to be, and never was, elevated to the status of constituting a Core Principle or a Priority Program. In the view of many, this language was inconsistent with the fundamental policies of the comprehensive plan, and in some particulars, is simply factually inaccurate. Nonetheless, the “neighborhood character” folks persistently cling to this language (commonly referred to by its page number – “page 207”) in defense of their “no change” agenda, and conveniently continue to ignore the fact that many of the neighborhood plans created by the severely flawed neighborhood planning process have always been, and continue to be, unwise, uncoordinated, unethical and unlawful under both state and local law.

Affordability Throughout Austin

As noted, Priority Program #6 of the comprehensive plan (directly linked to Core Principles 1 and 4) is as follows:

“6. Develop and maintain household affordability throughout Austin.

Rising housing and related costs, such as transportation and utilities, are major issues facing Austinites. Low-income, fixed-income, and, increasingly, middle-class households struggle to find housing they can afford, especially in the urban core. Often, the only housing they can afford is not close to work or schools and is far removed from daily necessities (such as services, shopping, entertainment, recreation, and dining). Better-located housing is often too expensive or does not meet the needs of many families with children. As Austin becomes more diverse—with a growing retired and senior population, an increasing number of smaller households, and others interested in alternatives to suburban living—the single-family homes typical of our central neighborhoods may not suit their needs. More significantly, high real estate prices increasingly preclude the possibility of purchasing or renting a house in Central Austin.

To meet the market demand of our growing and diversifying population, the range of available housing choices must expand throughout the city. Alternatives to the typical larger-lot single family and garden-style apartments that characterize much of Austin’s housing stock are needed, including a greater variety of starter and move-up homes. The introduction and expansion into the market of housing types such as row houses, courtyard apartments, bungalow courts, small lot single-family, garage apartments, and live/work units can meet this emerging demand. The demand for market-rate housing can and should be met by the private sector. The City of Austin can work with private developers, non-profits, the state and federal governments, Travis County, and other local governments to help those individuals and families not able to afford market-rate housing, including seniors on a fixed income, people with disabilities, and low-wage workers.

The city’s housing stock contributes to unaffordability in other ways. High utility bills can often be addressed by improving how we use water, electricity and natural gas, while the location of homes in relation to different modes of transportation, work, and daily

and weekly needs impacts how much households spend on transportation.

To address these issues, a comprehensive approach is needed to define and provide household affordability for Austinites. Such an approach must take into consideration transportation, utilities, and access to daily and weekly needs as essential and inter-related components of household affordability. It should recognize both market-rate affordability and the need for subsidized housing, and include collaboration with Travis County, area school districts, and regional entities (such as Capital Area Council of Governments, Capital Area Metropolitan Planning Organization, and Capital Metropolitan Transportation Authority) to align objectives and achieve maximum investment to promote household affordability.”

One of the most important underlying assumptions of the process that produced Imagine Austin was that we would produce a plan that resulted in better accommodating our population growth within the boundaries of the city and its planning area. In other words, we would shift our focus toward growing inward rather than promoting the unmitigated sprawl that we have encouraged in the past and that resulted in our being named America’s worst sprawling city. And in the process of implementing “compact and connected” development policies, we should be able to make substantial progress in making housing more affordable, and in achieving all of the other objectives in Imagine Austin.

As noted, a specific assumption was made before the process began that the terms of the plan to be created, with respect to land use, would allow for housing approximately one-half of our metro area’s projected growth within the city limits and extra-territorial jurisdiction (“ETJ”). As ideas and issues surrounding this assumption were discussed and dealt with, a growth concept map was developed and refined based upon this objective of slowing the rate of sprawl, a map that (at least in theory) would reflect the desires of the public and various stakeholder groups, and would allow for accommodation of the desired portion of the projected population. This growth concept map (again, at least in theory) placed approximately 81% of the 750,000 additional population growth within the city limits – the rest to be accommodated in the ETJ. As reflected in various portions of Imagine Austin, this result came to be known as “compact and connected”. While the name of the concept may be new, the concept itself was actually used in Austin for most of our history and was instrumental in creating some of our earliest central neighborhoods such as Hyde Park in the early 1900’s.

This return to a more “compact and connected” policy was supported by a huge majority of the citizens’ task force, a unanimous planning commission, many other boards and commissions, various stakeholder groups and others, and ultimately, the plan was adopted by a unanimous city council in June 2012. So far, so good.

However, once the plan was adopted and implementation began, the idea of actually accommodating the planned density that would be required to handle the targeted population projections (and achieve better affordability) continued to attract the ire of those who had resisted the plan’s adoption (notably, the only significant organizational opponent to the adoption of the plan had been the Austin Neighborhoods Council (“ANC”), a politically active proponent of the “neighborhood preservation” idea referenced throughout this paper. Having lost the debate over adoption of the plan, this faction

continues to aggressively attempt to undermine the plan's successful implementation.

Corridors and Centers

Part of this opposition strategy has been to advocate for a "corridors and centers only" approach to allowing significant additional density. But such an approach is ultimately doomed to failure.

The growth concept map that was created by the Imagine Austin process includes a collection of "activity centers and corridors" that in theory make up approximately 89 square miles of territory, including 11.2 square miles of "job centers" and 3.4 square miles of centers in sensitive environmental areas, neither of which areas would presumably add much in the way of residential density. Of the remaining approximately 75 square miles, 40 square miles is made up of "activity corridors" and 35 square miles is made up of "activity centers".

First it is clear that we cannot accommodate 750,000 additional people (as noted above, this represents only one-half of the metro area's growth) by relying only, or even mostly, upon corridors and centers. At best, only about 1/3 of those new people can be accommodated there over the remaining 24 years of Imagine Austin. But in fact if you study the corridors and centers in more detail and start comparing the GIS measurements of the theoretical corridors and centers to their actual on-the-ground area (manual and computer-generated studies have suggested that, for example, corridors are only 1/3 as wide on the ground as was assumed in the theoretical, GIS-measured corridors, and only about 20% or less of their length can be expected to be usable as redevelopment area susceptible to densification), it becomes clear very quickly that even 1/3 is far from achievable. It becomes equally clear that any new housing in those corridors and centers would likely be less affordable, not more, due to choosing our most expensive land on which to build and due to the requirement of such high densities that construction would be far more expensive than typical low-rise wood frame residential construction that could occur in established residential neighborhoods.

Secondly, even if it were possible to rely upon these corridors and centers, we shouldn't. If we attempt to push all or most of our new homes and new families into very high density, highly trafficked corridors and centers by refusing to provide additional more affordable housing within our neighborhoods, what's the message? Haven't we then said to the citizens of our community that there are two classes of Austinites, those who get to live in the interiors of our established neighborhoods (i.e. the rich), and the rest of us who don't?

And yet the "neighborhood preservationists" continue to lobby for exactly that approach, on the theory that it is more important for our "neighborhoods" to be low density, and thus available to a small percentage of more affluent residents, than it is that they be affordable, and thus available to everyone.

Under the "corridors and centers only" approach, if you are one of the economically privileged minority who can afford to buy or rent in the interiors of our established neighborhoods, then good for you. If not, you get to be part of the human barrier that protects the rich folks in the "good" part of the neighborhood from all the stuff they don't want to be subjected to – traffic, commercial and retail establishments, lower priced, denser housing, noise, etc. If you have money, you get to choose where

you live. If you don't, you get to protect those who do, like it or not.

To a degree, that's an unavoidable part of life. But to the extent we are deliberately exacerbating the problem via official city policy, it's unnecessary and inexcusable. It's not what Austin is supposed to be about. It's not what Austin used to be.

According to one recent report, as suggested above, we've become the most economically segregated city in the country. Some would now, in effect, seek to become even more segregated: These folks continue to insist that the interiors of our neighborhoods remain low-density, unaffordable, detached single family, instead of becoming more urban, accepting their share of Austin's population increases and affordable housing options, including garage apartments, row houses, courtyard bungalows, small lot single family homes, and other denser options that Imagine Austin calls for in Priority Program 6.

Just How Bad is the Problem?

The median asking price for a single family house in 78704 as of July 2015 was \$809,000. Jump across the lake to 78703, and that median asking price jumped to \$1,260,000 (and heading higher – in summer of 2015 the median closed sales price of a resale in Tarrytown – a large part of 78703 – reached a seasonal high of \$1,400,000). It's time to do something different. It's time to get back to being the kind of city that welcomes all its citizens into our neighborhoods, not just the financially well to do.

More current data points on how bad the problem is include the following: 1) the median price of a resale citywide is \$341,000; 2) the citywide median price of a single family home built in 2015 is \$500,000; 2) the median price of a new single family dwelling in 78702-78705, inclusive, is \$860,000; and 4) with the exception of a few homes east of Loop 130 or in subsidized housing projects, no new single family homes are available under \$250,000 within the city limits, in even the least expensive neighborhoods. In other words, the low density single family home is no longer an affordable housing option in Austin (or in any other growing American city of our size). Urban areas require urban housing options in order to maintain a reasonable level of affordability.

The question is frequently asked by the anti-density crowd "Well how much density do we need?" The implication is that if we don't have an exact number, or a fairly specific range of numbers, then we should not go forward with densification of our residential areas. The logical answer to the question is, instead, that we should allow whatever amount of density the market demands in order to create a reasonable balance in our city's development pattern. As stated in Imagine Austin,

"To meet the market demand of our growing and diversifying population, the range of available housing choices must expand throughout the city."

Right now our city's density is the lowest in Texas, and near the bottom of the scale nationwide. Many ultra-livable cities have densities that are many times that of Austin. For example, Vancouver B.C. is about 500% as dense as Austin, and yet is routinely placed at the top of the world's most livable cities (by the way, Vancouver's comprehensive plan is appropriately named "Ecodensity"). Chicago's density is 400% of our own, and has a median home price much lower than ours. So we have plenty of room for

error on the high side without being in danger of ruining our city, which some would contend to be a major risk.

As one example of what might be a reasonable compromise on density, take a typical 50 foot SF-3 lot that will accommodate a 4000 square foot home or a 4000 square foot duplex. That much buildable square footage would also accommodate an 8-plex of 500 square foot units even without any increase in the current footprint or building envelope. Why not re-define our residential zoning to allow up to 6 or 8 units on the typical 50 foot lot? Another option is to encourage resubdivision to create 25 foot lots, a pattern that was widespread in the original platting of our earliest subdivisions. Such a pattern is today quite common in residential areas of Chicago, where each 25 foot lot is allowed 3 homes, a 3-story freestanding row house where each floor houses an independently occupied home. This arrangement, by the way, results in a very attractive neighborhood with far more physical charm than most of Austin's residential areas – such density enhances the appearance of the neighborhood rather than damaging it.

The simple solution. Just allow a wide range of more affordable (and therefore, denser) housing options throughout the city, just like Imagine Austin demands. Whatever densities it takes to accommodate those options, in whatever quantities the market demands. Simple. Straightforward.

BELOW MARKET RATE HOUSING

But there's also another very important opportunity available to us in the rewrite of the LDC: the chance to spread "below market rate" housing throughout the city, and to do so without the need to use public funds (thus no need to raise taxes or issue more bonds).

Why not set aside some percentage of each neighborhood devoted to affording those of limited means the opportunity to be able to live in that neighborhood. Why shouldn't the downtown work force be able to live in or near downtown? Why shouldn't a young family of limited means who wants to live in one of our central neighborhoods be able to afford to do so?

What if, in the rewrite of the Code, we specifically provide zoning that accommodates below-market affordable housing, and make it available to landowners in every part of the city on a first come, first served basis? I won't try to spell out the specifics of such a program here and now, but the general idea is a familiar one that is already being used in Austin in other contexts: provide development incentives in the form of allowing more density and fewer restrictions in exchange for the developer's agreement to make the resulting product available in part to those of modest means. What's new in my suggestion is that we allow this everywhere around the city, including neighborhoods where NIMBYism has prevailed for way too long.

But allowing such incentives "everywhere" is not some radical idea being pulled out of left field. It's actually something that our city has recently explicitly agreed upon in Imagine Austin as a community-wide goal, following a huge amount of public input, discussion and debate.

Consider these specific housing policies from Imagine Austin:

HN P1. Distribute a variety of housing types throughout the City to expand the choices available to meet the financial and lifestyle needs of Austin's diverse population.

HN P3. Increase the availability of affordable housing, including housing for very low-income persons, through new and innovative funding mechanisms, such as public/private partnerships.

The question, as usual, is: Do we really mean it? "throughout the City"? "throughout Austin"? Really?

If we say yes, we really do mean it this time, then what would that mean in the real world?

My contention is that it would mean that we would do exactly what we promised to do: find ways to make sure that we put affordable housing in every neighborhood. Tarrytown, Pemberton (yes, Pemberton), Zilker, Travis Heights, Brykerwoods, etc., etc. Well, how do you do that? It's not going to be by fighting development, as we've done in the past. Why not offer to landowners the opportunity to develop or redevelop their property in such a way that we actually carry out our stated objective? Why not offer them further relief from density and height constraints, compatibility standards, etc. to whatever degree makes it economically viable to construct affordable multi-family or other affordable housing on their property?

Of course such a proposal is likely to make some people fearful and/or angry. But what are the principles that are at play here? Is it more important to protect affluent people from proximity to affordable housing, or is it more important that Austin redefine itself as an economically and socially diverse community?

Clearly, however, most people will not say out loud that they are trying to protect themselves from proximity to affordable housing or that Austin should not strive to remain diverse. What they are willing to say out loud (and often do) is that we need to protect the "character" of our neighborhoods. How many times have we heard that one? The suggestion appears numerous times in the comprehensive plan. But look at that statement more closely – what does that really, really mean?

Does it mean that we're going to require the architecture in our older neighborhoods to remain the same as it was decades ago? Clearly not – just take a look around when driving through one of our central city neighborhoods – Clarksville, Tarrytown for example – there are a huge number of "traditional" homes that have been torn down and replaced with very expensive, very contemporary homes. Architectural tastes evolve constantly, and our neighborhoods reflect that fact, as well they should. Well, if it's not architectural character that we're protecting, what is it?

Could it mean that we're protecting the "single family" character of our neighborhoods? Now we're getting warmer, I think. But what does preservation of the "single family" character of the neighborhoods mean in terms of the real world?

A few observations right off the bat:

1. Most of these single-family neighborhoods are zoned SF-3, which means that every one of the lots has always been zoned for construction of duplexes as a matter of right. Duplexes are multi-family structures, not single-family structures. So these established neighborhoods have actually always been multi-family neighborhoods, not single-family neighborhoods.
2. True single-family neighborhoods in the middle of a large city are, by definition, exclusively for the economically advantaged. A teardown in Tarrytown now goes for half a million dollars (or more). A modest home in Crestview has now reached and exceeded a quarter million.
3. Maintenance of a dominant amount of single-family land use in the middle of a large city (including this one, of course) is contrary to the objectives of the comprehensive plan: compactness, connectedness, affordability, complete communities, walkability, etc.

Bottom line: Right now in Austin (and for the foreseeable future if nothing is done to change our trajectory) if you are a person of modest means, you don't get to live in the "good neighborhoods" close to the "good stuff" that Austin has to offer, like the music and theatre venues, Barton Springs, Zilker Park, Lady Bird Lake, Deep Eddy, the 2nd Street shopping and entertainment district, the Muny golf course, UT, the soon-to-be Waller Creek riverwalk – the things that help make Austin unique and fun.

That needs to change, and change quickly. The LDC rewrite may be the only opportunity we have left by which to make Austin more affordable.

Setting aside for a moment the communal issue of "preserving neighborhood character", if you're a current homeowner in one of the city's central neighborhoods, should you be concerned about this proposal from a personal, self-interested point of view? Concerned about what? Property values, perhaps? I don't think so. Take Tarrytown, for example. It's one of the most expensive parts of Austin in terms of its single family housing prices, yet many of those single-family homes are adjacent to, or within very close proximity to, multifamily properties that have been there for decades. There is no discernable impact on property values. Just one example: Enfield is full of multifamily property, some of it very old and not terribly attractive; yet there are single family homes surrounding such older multifamily property going for well over \$2,000,000. Devoting another 8 or 10 percent of such neighborhoods to affordable housing (and we are not suggesting a specific percentage; this is just an arbitrary suggestion) is not going to reduce the desirability of such neighborhoods, despite unfounded claims to the contrary.

Could it be that places like Tarrytown are desirable more because of their proximity to "the good stuff" than because of their "character"? And if that's true, why is it that some people don't want to share that proximity, and all that goes with it, with those of more modest means?

And to make matters even more ironic is the fact that nearly EVERYTHING that people point to as representative of the "character" of the neighborhood was built BEFORE we ever enacted any of the development regulations that I've already mentioned – regulations that the "preservation" folks now

want to use to supposedly preserve that same neighborhood character that was created by the free market and without significant development regulation by the city.

So how does Austin's new comprehensive plan define "neighborhood character"? It doesn't. But it does attempt to define "neighborhood" and "character" as separate terms:

"Neighborhood": a district or area with distinctive people and characteristics.

"Character": the image and perception of a community as defined by its people, history, built environment and natural features.

I won't even attempt to get into a more detailed analysis of what the plan means by "distinctive people", or why we should necessarily protect any specific "image and perception" of an area. I'll let you ponder those issues on your own.

I contend that "preservation of neighborhood character" is a goal whose meaning is unclear at best, and even when given every benefit of the doubt, a goal whose importance is questionable, especially when considered in the context of a city undergoing rapid growth, rapid change and undeniable destruction of affordability. In that context, one can very reasonably and persuasively argue that such preservation is a bad thing to pursue, given its lack of significant meaning and given the clearly negative impacts that such pursuit creates.

And as for those folks who just can't or won't believe that we can mix affordable housing in and among the less affordable housing without impacting homeowners' current property values, despite the objective evidence, there are plenty of areas around Austin, but not within the corporate limits of the city, where they can buy and live without the spectre of affordable housing looming next door. So it's not as if they would be left without options.

Conclusion

For more than 25 years now, we in Austin have resisted density in favor of more and more government regulation, and that resistance has destroyed the affordability of our neighborhoods. The number one policy in many of Austin's neighborhood plans is to maintain the predominance of the "single family character" of the respective neighborhoods. That policy is not a viable option any longer. It is no longer humanly possible to add affordable low-density single-family homes to Austin's housing supply. It is time that everyone in Austin come to terms with this simple fact and embrace the truth: urban areas require urban housing options in order to maintain any reasonable level of affordability. Are we going to allow Austin to include only affluent people? If that is where we are going, then Austin has indeed lost its soul. And it will have lost its true character, one neighborhood at a time, at the hands of those who claimed that neighborhood character preservation was their highest aspiration.

"Faced with the choice between changing one's mind and proving that there is no need to do so, almost everyone gets busy on the proof."

-John Kenneth Galbraith

“They must often change, who would be constant in happiness or wisdom.”
-Confucius

“Change always comes bearing gifts.”
-Price Pritchett

“Our only security is our ability to change.”
-John Lilly

Until Next Time

Thanks again for subscribing. If you found this newsletter helpful and/or interesting, please share it with your friends and colleagues who might want to receive it. I look forward to assisting you with your real estate needs, and if you have a question or would like further information on any real estate issue, please feel free to contact me. I'll be happy to help.

Kindest regards,
Frank



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