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Evaluating the Density Bonus as A Tool for Affordable Housing Production in Austin, TX

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Evaluating the Density Bonus as A Tool for Affordable Housing Production in Austin, TX

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Report

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Abstract

Evaluating the Density Bonus as A Tool for Affordable Housing Production in Austin, TX

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Inclusionary zoning practices include policies that require or incentivize real estate developers to include affordable housing units in their market-rate developments. In Austin, this is done by a policy mechanism called the density bonus, which offers developers the option to include more density than is allowed in the base zoning in exchange for including affordable units or paying a fee that will be used toward affordable housing development in other locations. Austin has employed density bonus policies since 2003, which have produced 1,665 affordable units and have raised over $6.5 million dollars used toward developing or preserving affordable housing in the city. They City of Austin plans to expand the use of density bonus programs to produce affordable housing in future changes to the land development code.

This study evaluates the success of Austin's density bonus programs and how proposed density bonus programs may perform. Costs and location of density bonus programs and other city-funded affordable housing programs are compared to evaluate the performance of the density bonus programs. The analysis finds density bonus units are much cheaper to the city and out-perform other city-subsidized units in terms of providing affordable housing in areas that do not have existing concentrations of poverty or minority populations. In addition, the study analyzes how local rents and other regulations affect density bonus unit production and finds the proposed density bonus programs are unlikely to be successful without accounting for hyper-local housing market trends. Last, the study offers recommendations for Austin's density bonus programs based on the analyses.

Table of Contents

List of Tables

List of Figures

Chapter I: Introduction

Background

Inclusionary zoning (IZ) is an affordable housing tool used across the US to mandate or incentivize private developers to build affordable housing via zoning codes. Inclusionary zoning, also called inclusionary housing, practices and programs vary depending on the legal context of cities and states; some cities mandate inclusionary zoning, while some are forced or chose to use voluntary practices. Mandatory programs can require a percentage of income restricted units or a fee that will go toward the development of affordable housing with all new developments. Voluntary programs offer incentives like additional square footage, height, waived fees, or loosening parking requirements to encourage developers to produce affordable housing units or pay fees.

The state of Texas preempts mandatory inclusionary zoning, thus all programs that aim to incentivize the production of affordable housing must be completely voluntary for developers. This means developers are only likely to participate in IZ if the programs are financially beneficial to them. In Austin, the city uses density bonus programs as a voluntary inclusionary zoning practice. Density bonus programs allow developers to build more square footage than is allowed in the base zoning in exchange for either housing units that are affordable, or a fee in lieu of the affordable units that is used to support affordable housing off site. This extra square footage is referred to as the “bonus”. Without the ability to mandate inclusionary zoning, the voluntary density bonus approach is an important tool for producing new affordable units in Austin; to date, the programs have created 1,665 affordable housing units and raised over $10 million in fees in lieu that will go toward the production of affordable housing.

While the density bonus programs in Austin are one of the limited tools the city has for producing affordable units and building revenue used toward affordable housing, the policies are not without flaws and often receive criticism from local housing advocates and policymakers. There are currently 10 different density bonus programs employed by the City of Austin (COA), each applying to a different area of the city, with different requirements and separate processes and each with various levels of success. Of the 10 programs, only 6 have produced housing units and over half of all of the units have been produced by a single program.

This report offers an objective evaluation of the density bonus programs in Austin. This report will address some of the common criticisms and assumptions of the city's density bonus programs and analyze the programs' success in terms of production and other IZ goals. Last, this report offers key take-aways regarding the density bonus programs in Austin to inform a strategy for improvements to the programs.

Research Questions

Research questions addressed in this report include:

1. How effective are current density bonus programs at meeting local affordable goals, like production, geographic dispersion, and income targeting in Austin?
    a. What are the strengths and weaknesses of current programs in meeting city affordable housing goals?
    b. What are the costs associated with the program?
    c. How do the current programs align with affordable housing goals in the city?

2. How can the density bonus programs in Austin be improved?
    a. What factors influence the success of density bonus programs, and how should they be evaluated?

b. In the context of growth, gentrification, and a proposed new land development code; what should the city consider when adjusting the density bonus programs?
c. What lessons can be learned from other cities on defining program requirements, collecting data, and strategies for compliance?

Methodology

To address the research questions, I used a variety of methods in completing this report. These include:

- **Literature Review**: I completed a review of relevant literature on IZ and density bonus programs. The literature included in the report was sourced from both academics and practitioners.
- **Data Analysis**: I used the City of Austin's Affordable Housing Inventory to analyze the production rates of local affordable housing programs, including the density bonus programs.
- **Spatial Analysis**: I used ArcGIS to create the maps included in this report. For the maps in Chapter VII, I used data underlying the maps in the *Uprooted* report.
- **Policy Document Review**: I reviewed various policy documents outlining affordable housing goals and plans for the City of Austin. This included *Imagine Austin, the Strategic Housing Blueprint* and its *Implementation Briefing Book*, the current zoning codes, documents outlining guidelines for current developer incentives, and the proposed LDC (fall 2019 draft).
- **Interviews**: I interviewed staff from the City of Austin's Neighborhood Housing and Community Development department for insight on the City's programs, as well as city staff from other peer cities to inform potential lessons learned.

Chapter II: Inclusionary Zoning Overview

The Affordable Housing Shortage

Across the United States, cities are struggling to provide adequate housing options affordable to low- and moderate-income families. It's estimated that only 26% of low-to-moderate-income families receive some type of federal housing assistance, and with housing price to income ratios at peak levels and a decrease of four million affordable rental units (under $800) since 2011, cities are increasingly looking for local options to address the housing affordability crisis.[1]

The shortage in affordable housing options not only hurts families and individuals who are unable to find suitable housing, but a wide body of literature shows limited housing options hurt the broader economy as well. In an article published in 2019 in the *American Economic Journal: Macroeconomics*, researchers found the worsening housing shortage between 1964 and 2009 limited US economic growth by 36%. This is because an affordable housing shortage results in a "spatial mismatch of labor"; employers who need employees at various levels of income are unable to recruit them due to high housing costs.[2] Limited affordable housing options have also been found to worsen traffic in cities, as lower and moderate income workers cannot afford to live close to their employment.[3] Additionally, the Urban Institute reports that households with higher rent burdens have less income to spend on other items, which stymies economic growth.[4]

1 *The State of the Nation's Housing 2019*. President and Fellows of Harvard College, 2019,https://www.jchs.harvard.edu/sites/default/files/Harvard_JCHS_State_of_the_Nations_Housing_2019.pdf.

2 Hsieh, Chang-Tai, and Enrico Moretti. 2019. "Housing Constraints and Spatial Misallocation." *American Economic Journal: Macroeconomics*, 11 (2): 1-39

3 Millis, Tom, and Madeleine Steel. "Transitcenter.org." *Transitcenter.org* (blog), November 14, 2017. https://transitcenter.org/in-portland-economic-displacement-may-be-a-driver-of-transit-ridership-loss/.

4 Hyun Choi, Jung, Laurie Goodman, and Bing Bai. "Urban Wire: Housing and Finance." *Urban Wire: Housing and Finance* (blog). The Urban Institute, October 11, 2018. https://www.urban.org/urban-wire/four-ways-todays-high-home-prices-affect-larger-economy.

Inclusionary Zoning

With housing affordability concerns on the rise, local governments have increasingly turned to their zoning codes as one tool to address affordable housing shortages. Since the early 2000s, hundreds of cities have implemented Inclusionary Zoning (IZ) practices (also commonly referred to as Inclusionary Housing), in which local governments mandate or incentivize developers to build below market rate housing units via the zoning code[5]. IZ is popular with local governments because it does not require a direct subsidy and generally has low implementation costs. Though IZ programs vary, in general, IZ programs mandate or incentivize developers to make portions of their market-rate housing developments available at lower rents, provide affordable housing at a different location, or pay a fee that will go towards affordable housing efforts in the city.

The goal of IZ is to make the housing market more inclusive of lower income households and individuals, and the stipulations are outlined in the zoning code, which is why it is referred to as Inclusionary Zoning. IZ policies attempt to make housing markets more inclusive by addressing four essential issues:

- Ensuring the benefits of economic growth within cities are more evenly distributed across income groups;
- Attempting to create mixed-income communities by allowing for affordable housing in higher income areas and combatting past "exclusionary" zoning practices that disallowed people of color and/or households with low incomes in areas with social and economic advantages;
- To offset the shortage in affordable housing options, as most new (rental) housing stock that is built tends to be luxury level;

[5] Williams, Stockton, Ian Carlton, Lorelei Juntunen, Emily Picha, and Mike Wilkerson. "The Economics of Inclusionary Development." Urban Land Institute, 2016. https://uli.org/wp-content/uploads/ULI-Documents/Economics-of-Inclusionary-Zoning.pdf.

- To offset the effects of declining federal housing assistance.[6]

Types of Inclusionary Zoning

IZ protocols vary between municipalities and states, as the legal context around planning and zoning also widely varies, as does the need for affordable housing in different cities. The primary difference between IZ policies is the distinction as to whether they are mandatory or voluntary. Most states allow cities to mandate that developers participate in their IZ policies, meaning the city can simply demand the developer dedicate a percentage of their housing to below market-rents, or (in some cases) choose to pay a fee in lieu. Voluntary programs are those in which the developer is not mandated to participate but is given incentives, like fee waivers, or is allowed to add additional floor area beyond what is normally allowed. In a few states, cities are not allowed to implement mandatory IZ policies, and thus must rely on developer incentives. It is not uncommon for cities who are allowed to use mandatory programs to also offer voluntary programs in addition to their mandates to increase participation.

No two cities have identical IZ policies, even within the same state, as IZ policies are typically adopted at the local level to address housing needs specific to the municipality.[7] Aside from the distinction of voluntary or mandatory, cities must decide how to best use IZ tools to address their specific housing needs. IZ policies usually include some combination of the following:

6 Inclusionary Housing. "Problems Addressed by Inclusionary Housing Programs." Inclusionary Housing. Inclusionary Housing, September 8, 2017. https://inclusionaryhousing.org/inclusionary-housing-explained/what-problems-does-iz-address/.

7 Inclusionary Housing. "How Does Inclusionary Housing Work?" Inclusionary Housing. Inclusionary Housing, September 8, 2017. http://inclusionaryhousing.org/inclusionary-housing-explained/what-is-inclusionary-housing/inclusionary-housing-work/.

Incentives

Commonly includes allowing additional density (density bonus), fee waivers, loosened regulations (like parking requirements), tax abatements, subsidies, zoning variances, and expedited development review.

Fees

Some IZ programs are fee-based, meaning they implement an impact or linkage fee instead of, or in combination with, mandating or incentivizing physical development.

Requirements

Requirements of the IZ policy commonly include the amount of affordable units required (usually a percentage or overall or bonus units), the income-levels the units will be available for, the amount of time the units must remain affordable, and the quality and size of the units that will be affordable.

Alternatives

IZ policies commonly include alternatives to physically producing affordable housing units to maximize the effectiveness of the policy. The most common alternatives include allowing development of affordable housing units to happen at another location, paying a fee in lieu of development that will go towards an affordable housing fund, or dedicating land for affordable housing development.[8]

8 Inclusionary Housing. "Designing a Policy." Inclusionary Housing. Inclusionary Housing, February 9, 2018. https://inclusionaryhousing.org/designing-a-policy/.

Inclusionary Zoning in Austin, TX

In Texas, mandatory IZ policies are preempted by the state, so all IZ practices must be entirely voluntary. In Austin, IZ is done entirely through developer incentives; mostly through the density bonus. The density bonus mentioned above under *Incentives* is a common means of incentivizing developers to include below-market units in their market rate housing developments. The density bonus allows for additional floor area or height beyond that allowed under the relevant zoning criteria in exchange for a set aside of affordable units or a fee. The way in which the City of Austin implements the density bonus will be described in detail later in this report.

Chapter III Literature Review of Inclusionary Zoning Policies

With its flexibility and the relative ease of adoption, IZ has surged in popularity in large, small, and suburban cities across the US. To date, around 800 jurisdictions have adopted some form of an IZ policy.[9] However, despite its popularity and seeming success, IZ policies have garnered much criticism over their legality, effectiveness, and remain highly controversial. The literature review outlined below outlines some of the common arguments for and against IZ as well as attempts to analyze its effectiveness.

With the vast increase in IZ policies over the past 20 years, attempts to analyze the effectiveness of IZ in generating affordable housing developments have also increased. However, **researchers have a hard time making data-based statements about the effectiveness of IZ overall as the policies and economic context the policies exist in vary so greatly between cities**. In addition, researchers note it is difficult to obtain accurate counts of IZ units and monetary contributions, as many jurisdictions do not keep detailed lists of IZ units and fees. In 2017, the Lincoln Land Institute produced the largest inventory of IZ programs that exists to date. This study found that of the 791 known jurisdictions with an IZ policy, 76% of them have produced an estimated 173,707 units and raised $1.7 billion in fees.[10] The researchers point out the limitations in data collection and how this should be remedied to further an understanding of how effective IZ is working as a tool to develop affordable housing. In *Producing Affordable Housing in Rising Markets: What Works?* Lance Freeman and Jenny Schuetz point out it is hard to find and use

9 Thaden, Emily, and Ruoniu Wang. "Inclusionary Housing in the United States: Prevalence, Impact, and Practices." Lincoln Land Institute of Land Policy, September 2017. https://www.lincolninst.edu/sites/default/files/pubfiles/thaden_wp17et1_0.pdf.

10 Thaden, Emily, and Ruoniu Wang. "Inclusionary Housing in the United States: Prevalence, Impact, and Practices." Lincoln Land Institute of Land Policy, September 2017. https://www.lincolninst.edu/sites/default/files/pubfiles/thaden_wp17et1_0.pdf.

"apples to apples" comparisons in analyzing IZ policies, since housing markets and program design greatly vary.[11]

Though analyzing exact counts of IZ production is difficult given many localities do not keep detailed records of IZ units, it appears as though **IZ tends to produce only a modest number of affordable units in local markets**, when compared to other local and federal programs that aim to increase affordable housing development. In *Producing Affordable Housing in Rising Markets: What Works?* Lance Freeman and Jenny Schuetz compare IZ production in five US regions to units produced through the Low Income Housing Tax Credit (LIHTC) in the same area. The researchers found the annual average production of IZ programs pales in comparison to LIHTC production.[12] However, many authors argue that even **though IZ may produce modest counts of units, it is one tool in a "toolbox" of policies cities can use to create an environment friendly to affordable housing development.**[13]

A common criticism of IZ policies, and part of why they are so controversial, is their economic spillover effects. Many argue the economics of IZ actually can increase housing prices overall and slow the production of housing, which is antithetical to its goals. The economic logic behind these arguments is that when developers take on the costs of below-market units or impact/linkage fees, it will result in either the developer pushing those costs onto consumers by raising prices for market-rate housing, or production will slow since it is more costly.[14] Grounded Solutions Network published a literature review of 22 peer-reviewed articles that

11 Freeman, Lance, and Jenny Schuetz. "Producing Affordable Housing in Rising Markets: What Works?" Penn IUR, September 2016. https://penniur.upenn.edu/uploads/media/Freeman-Schuetz_PennIUR-Philly_Fed_working_paper_091616v2.pdf.

12 Freeman, Lance, and Jenny Schuetz. "Producing Affordable Housing in Rising Markets: What Works?" Penn IUR, September 2016. https://penniur.upenn.edu/uploads/media/Freeman-Schuetz_PennIUR-Philly_Fed_working_paper_091616v2.pdf.

13 Thaden, Emily, and Ruoniu Wang. "Inclusionary Housing in the United States: Prevalence, Impact, and Practices." Lincoln Land Institute of Land Policy, September 2017. https://www.lincolninst.edu/sites/default/files/pubfiles/thaden_wp17et1_0.pdf.

14 "The Economics of Inclusionary Housing Policies: Effects on Housing Production." Grounded Solutions Network, http://inclusionaryhousing.org/wp-content/uploads/2016/09/Economics-of-Inclusionary-Housing-Policies-Effects-on-Housing-Production_a.pdf

evaluated the effects of IZ policies on housing production and prices. This literature review found that in some areas, prices did indeed rise and production did slow down, however there were several areas that did not see these spillover effects.[15] The research found overall that while in some cities there was a correlation between IZ policies and housing prices, **the conditions of the market largely determine whether or not the spillover effects occur**. They also concluded that in very tight housing markets, IZ policies can actually increase housing production.[16]

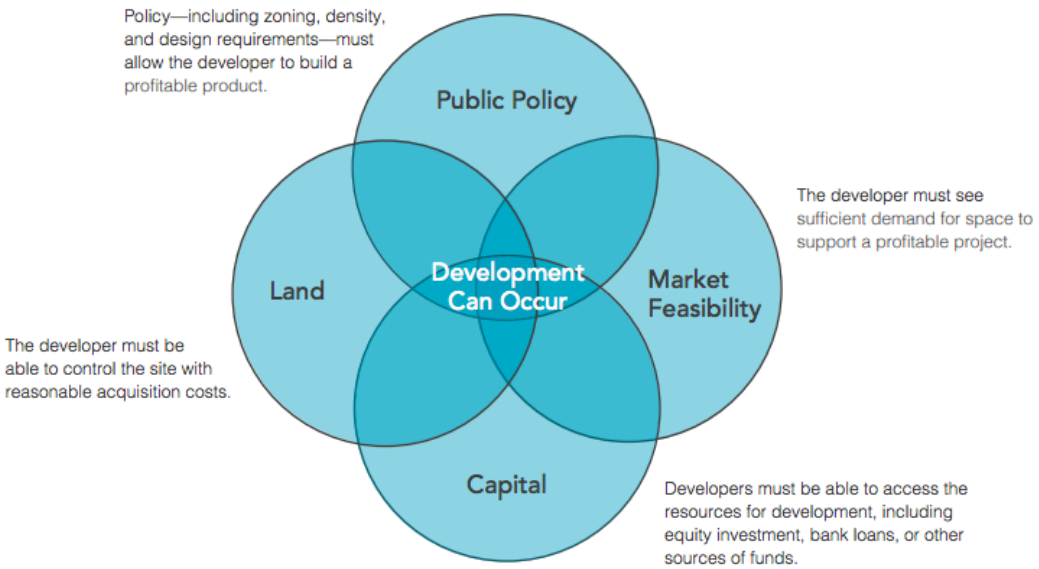
The literature around evaluating IZ policies generally agrees that **the effectiveness of an IZ policy is largely determined by program design**. In the Urban Land Institute report, *Understanding the Economics of Inclusionary Development* and in the National Housing Conference brief, *What Makes Inclusionary Zoning Happen?* researchers outline not only the importance of program design, but also the importance of understanding your local market to design an IZ policy that works well. The report explains that IZ can only work when market-rate production is already happening, and the local zoning codes will determine whether or not a developer can build a profitable project. The researchers provide the following graphic to help explain the economics of how IZ production works. *17*

15 "Economics of Inclusionary Housing and Impact Fees: A Literature Review." Grounded Solutions Network, April 2018. http://inclusionaryhousing.org/wp-content/uploads/2018/08/07-economics-of-inclusionary-housing-policies-and-impact-fees-literature-review.pdf

16 "The Economics of Inclusionary Housing Policies: Effects on Housing Production." Grounded Solutions Network, http://inclusionaryhousing.org/wp-content/uploads/2016/09/Economics-of-Inclusionary-Housing-Policies-Effects-on-Housing-Production_a.pdf

17 Williams, Stockton, Ian Carlton, Lorelei Juntunen, Emily Picha, and Mike Wilkerson. "The Economics of Inclusionary Development." Urban Land Institute, 2016. https://uli.org/wp-content/uploads/ULI-Documents/Economics-of-Inclusionary-Zoning.pdf.

Figure 1Understanding the Economics of Inclusionary Development: Four Factors of Development Feasibility



In sum, the literature around IZ policies generally points to the importance of evaluating IZ policies at a local level. The literature shows that while critiques of the economic effects of IZ are valid, the positive or negative economic effects of such policies are really determined by how housing markets operate at the local level. The research also shows that while some may argue the housing production resulting from IZ may be modest compared to other housing production mechanisms, it is still an important tool local government can use to address the housing shortage. Last, the literature around IZ also makes the important distinction that IZ is most effective when there is a strong demand for housing; it does not work well in weaker markets.

Chapter IV: State of Affordable Housing in Austin

To understand the effectiveness of the density bonus in Austin, Texas, it is imperative to first understand the broader environment of housing and affordable housing needs in the city. This chapter provides an overview of affordability in Austin, existing plans related to affordable housing, other city programs related to producing affordable housing, and an overview of the land code rewrite currently in progress.

Affordability in Austin

Like many growing US cities, housing prices in Austin have increased disproportionately with income since the 1990s. In more recent decades, Austin has experienced steady population growth. Between 2010-2018, Austin's population grew by more than 30%, putting it as one of the top destinations for "migrating talent". With the boom in population, prices in Austin's housing market continues to increase, leading to increasing gentrification and displacement concerns. During this same period, the median price to buy a single-family home increased by 71%, while the median family income for a four-person household increased by only 38%. In 2019, Housing Works estimated that 36% of Austin's households are cost burdened, meaning they spend 30% or more of their income on housing costs alone. Currently, about 54% of Austin residents are renters, while about 45% are homeowners.

Existing Plans

To address affordability issues, the City and housing advocates have undertaken several planning efforts and produced reports and plans. This section outlines those plans related to creating affordable housing, and how (or if) the density bonus is referenced in each.

Imagine Austin

Adopted in 2012, *Imagine Austin* is the city's 30-year comprehensive plan. *Imagine Austin* references housing affordability concerns throughout and lists "housing and neighborhoods" as one of 7 "building blocks to a complete community". The plan outlines several policies related to increasing and diversifying the supply of housing across the city, as well as increasing the supply of affordable housing. The density bonus is specifically mentioned in *Imagine Austin*, but only as a tool for use in redeveloping brownfield sites. Since *Imagine Austin* was adopted, the City had adopted specific housing goals (outlined below) and aimed to implement many of the priorities listed in *Imagine Austin* through a revision of the land development code (LDC). Through these efforts, the goals for density bonus programs have been broadly expanded beyond brownfield redevelopment.

Austin Strategic Housing Blueprint

After the adoption of *Imagine Austin*, the city went through the planning process for a plan specific to housing goals, and the first *Austin Strategic Housing Blueprint* (the *Blueprint*) was adopted in 2017. The *Blueprint* outlines an ambitious goal of creating 135,000 housing units in the city between 2017-2027. Of the 135,000 units, the plan states 60,000 should be affordable to households at 80% median family income (MFI) and below. The *Blueprint also* identifies the density bonus as a key mechanism for creating units for households with incomes between 30%-80% of MFI. Other mechanisms listed to help create these units include federal and local funding; a strike fund, which would provide flexible funding to preserve affordable housing from public and private investment, and "other incentives". The Blueprint also calls for the City to implement IZ as allowable under Texas law, and sets the goal of the density bonus program to create 1,450 affordable units within the 10-year timeline. The plan also aims to create 47,716 affordable units through "other tools", which among a wide variety of housing production techniques, includes the expansion of density bonus programs.

In late 2017, the City Council directed the Neighborhood Housing and Community Development (NHCD) department to create an implementation plan for the Blueprint. In 2018, the *Blueprint Implementation Plan* and complementary *Atlas of Existing and Historical Conditions* documents were published. The purpose of these documents was to provide a detailed work plan for implementing the goals outlined in the *Blueprint.* Soon after the first version of the Blueprint Implementation Plan was published, and as displacement and gentrification concerns in the city continued to rise, several reports and policy documents were published outlining strategies for mitigating the effects of residential displacement. With the immediate threat of residential displacement in mind, NHCD revised the Blueprint Implementation Plan to include short-term strategies to mitigate displacement. Released in early 2019, the latest version is titled the *Blueprint Implementation Plan Briefing Book (Briefing Book).* Throughout the *Briefing Book*, the density bonus is referenced under several of the actions called for. Specifically, the *Briefing Book* calls for the density bonus program to expand under the new land development code to new areas, and to create larger units with 2-3 bedrooms, and aims to increase consistency of program design across the programs.

Austin Strategic Direction 2023

In 2017, after the City Council electoral process moved to the 10-1 geographical representation system, the City Manager conducted research to identify key issues within the city as an organization and put forward priorities for the City Council to achieve in a three-five-year timeline. As a result, in 2018, the City Council adopted the *Austin Strategic Direction 2023* (*SD23*). *SD23* outlines six "priority outcomes" for the city to work towards and track until 2023; the first of which is "Economic Opportunity and Affordability". The plan also states that "affordability" should be addressed in each of the six outcomes. Regarding expanding affordable housing, *SD23* calls to implement the "highest impact" strategies outlined in the *Blueprint Implementation Plan Briefing Book*, and to ensure affordability is addressed in the rewrite of the land development code. While *SD23* prioritizes and recognizes the importance of affordable

housing, it does not outline specific mechanisms for doing so, nor does it mention the density bonus.

Uprooted Gentrification Study

In 2017, as concerns over gentrification and displacement throughout the city continued to rise, the City Council passed a resolution to fund a comprehensive study of gentrification and displacement in the city. Researchers from the University of Texas at Austin were contracted to produce the report, titled *Uprooted: Residential Displacement in Austin's Gentrifying Neighborhoods and What Can Be Done About It (Uprooted)* which was published in 2018. *Uprooted* analyzed the level of vulnerability to gentrification of census tracts in Austin and documented where gentrification is already happening. The report produced a series of maps city staff and other researchers can use to track the gentrification process and to design policies to address it. Additionally, *Uprooted* outlined several case studies from other cities where policies to mitigate displacement due to gentrification have been successful, as well as a list of policies that may be appropriate for Austin. The report also emphasizes the importance of developing strategies that are place-based, and specific to the context of the neighborhood. *Uprooted* lists expanding and modifying Austin's current density bonus programs as a possible tool for expanding affordable housing in the city and reducing the negative effects of gentrification.

Local Programs to Produce Affordable Housing

The City of Austin currently has a number of programs and policies to expand affordable housing options. This section provides a high-level summary of those programs. It is important to note that this report, and specifically this section, focuses on local mechanisms to produce affordable housing; a detailed description of federal programs and non-profit programs is beyond the scope of this report. This analysis only includes mechanisms to physically produce housing units, it does not include city programs to provide direct assistance to renters or homebuyers (down payment assistance, home repair, rental assistance, homebuyer education etc.).

Developer Incentives

The City of Austin NHCD offers 13 types of developer incentives; 12 of which are density bonuses. The SMART Housing programs offer developers a combination of fee waivers and other development incentives. In addition to these programs, the city also offers case-by-case developer agreements to incentivize the production of affordable housing. Additionally, in 2018 a new density bonus program titled *Affordability Unlocked* was adopted, however details of that program are not included in this report as it is new and there is no data to report yet. *Affordability Unlocked* offers multiple incentives including a density bonus and waived fees in exchange for 50% or more affordable units, which is specifically useful for developers already building affordable housing. The following table displays the city's developer incentive programs (except for Affordability Unlocked).

City of Austin Affordable Housing Development Incentive Policy Overview

Policy	Incentive Policy Type	Applicability	Development Incentives & Waivers/Modifications	Affordability Set-Aside Requirements	Maximum Income Limit (as % of MFI)*		Affordability Period		Fee-in-Lieu Rate	Year Adopted	Most Recent Amendment	Original Ordinance	Land Development Code Reference
					Owner	Rental	Owner	Rental					
Downtown Density Bonus (DDB)	Density Bonus	Central Business Distict	Increased maximum height and floor-to-area ratio (FAR)	10% of residential bonus area	120%	80%	99 years	40 years	$3 to $10 per gross bonus square foot for residential projects only. No fee for non-residential projects.	2013		Ordinance No. 20130627-105	§ 25-2-586
East Riverside Corridor (ERC) Development Bonus	Density Bonus	East Riverside Corridor Regulating District	Increased maximum height, FAR, and modification to compatability standards	25% of bonus area	80%	60%	99 years	40 years	$1 per gross bonus square foot for buildings over 90 ft. (no in-lieu option under 90')	2013		Regulating Plan	§ 25-2-149
Micro-Unit Density Bonus	Density Bonus	Applies to multifamily use in Transit Oriented Development Districts or along Core Transit Corridors when units are 500 square feet or less	Waiver of minimum site area requirements and reduction in off-street parking requirements	10% of total units	80%	50%	99 years	40 years	None	2014		Ordinance No. 20141211-228	§ 25-2-780
North Burnet Gateway (NBG) Development Bonus	Density Bonus	North Burnet Gateway Regulating District	Increased maximum height and FAR	10% of bonus area	80%	60%	99 years	40 years	$7 per gross bonus square foot	2009		Ordinance No. 20090312-035	§ 25-2-148
Planned Unit Development (PUD) Density Bonus	Density Bonus	Planned Unit Developments where the proposed land use exceeds base entitlements	Increased maximum height, FAR, and building coverage	10% of bonus area (rental) and 5% of bonus area (ownership)	80%	60%	99 years	40 years	$7 per gross bonus square foot	2008	Ordinance No. 20131003-096	Ordinance No. 20080618-098	§ 25-2-Subchapter B Article 2.5
Rainey Street Density Bonus	Density Bonus	Rainey Street Subdistrict	Waiver of maximum height up to 8:1 FAR	5% of total residential area	80%	80%	none	none	None	2005	Ordinance No. 20140227-054	Ordinance No. 20050407-063	§ 25-2-739
S.M.A.R.T. Housing	Fee Waivers & Development Incentives	Citywide	Permit, inspection, and Capital Recovery fee waivers	At least 10% of total units	80%	80%	1 year	5 years	None	2007	Ordinance No. 20071129-100	Ordinance No. 20141106-124	§ 25-1 Article 15.2
S.M.A.R.T. Housing Greenfield Single-Family Density Bonus	Density Bonus	SF-2 & SF-3 zoning districts on lots 3 acres or greater	Site may be developed under SF-4A zoning district standards	10% of total units	80% and 100%	60%	1 year	5 years	None	2008		Ordinance No. 20080131-132	§ 25-2-566
S.M.A.R.T. Housing Greenfield Multi-Family Density Bonus	Density Bonus	Undeveloped lots with MF-2 through MF-5 zoning	Site may be developed under MF-6 zoning district standards	10% of total units	80% and 100%	60%	99 years	40 years	None	2008		Ordinance No. 20080131-132	§ 25-2-567
Transit Oriented Development (TOD) Development Bonus	Density Bonus	Plaza Saltillo, Crestview, and MLK Transit Oriented Development Districts	Increased maximum height, FAR, and modification to compatability standards	At least 10% of total area	80%	50% and/or 60%	99 years	40 years	$12 per gross bonus square foot	2009		Ordinance No. 20090212-070	§ 25-2 Subchapter C Article 3.10
University Neighborhood Overlay (UNO) Density Bonus (Pre 2/24/14)	Density Bonus	University Neighborhood Overlay District, On or Before February 24, 2014	Increased maximum height, FAR, and modification to compatability and parking standards	At least 10% of total units	65% and/or 80%	65% and/or 80%	15 years	15 years	None	2004	Ordinance No. 20140213-056	Ordinance No. 040902-58	§ 25-2 Subchapter C Article 3.09
							15 years	15 years	$0.50 per net rentable square foot				
University Neighborhood Overlay (UNO) Density Bonus (Post 2/24/14)	Density Bonus	University Neighborhood Overlay District, After February 24, 2014	Increased maximum height, FAR, and modification to compatability and parking standards	At least 10% of total area	50% and/or 60%	50% and/or 60%	40 years	40 years	$1 per net rentable square foot for residential use or $2 per net rentable square foot for hotel use	2014		Ordinance 20140213-056	§ 25-2 Subchapter C Article 3.09
							40 years	40 years					
Vertical Mixed Use (VMU)	Density Bonus	Vertical Mixed Use and Mixed Use Combining Districts	Relaxed site area requirements, setbacks, and parking requirements, and waiver of FAR	10% of total units	80 and 100%	60% or 80%	99 years	40 years	None (Fee amount for commercial space above ground floor pending)	2010	Ordinance No. 20130606-088	Ordinance No. 20100408-049	§ 25-2-Subchapter E Article 4.3

DISCLAIMER: The City of Austin Neighborhood Housing and Community Development Department makes reasonable efforts to ensure the information contained herein is accurate and current. However, this document is not intended to provide a comprehensive summary of all policy/program requirements. Interested parties should refer to the appropriate sections (referenced herein) of the Land Development Code and Regulating Plans for further details.

*MFI = Median Family Income. See http://www.austintexas.gov/page/income-limits for more information.

From September 2005 to March 2020, the developer incentives programs in the City of Austin have created over 6,000 housing units affordable to families at or below 100% MFI. Currently, there are 4,733 affordable units remaining in the market that were created through developer incentives; the bulk of which are affordable for households at or below 60% MFI. The required affordability period ranges for each program, but generally 40 years of affordability is required for rental properties and 99 years for ownership properties. Additionally, there are another 2,790 units in the pipeline (ranging from site plan approval to building permit approval), putting the total current, expired, and upcoming developer incentivized units at about 9,000 since 2004. Additionally, the developer incentive programs have raised over $10.5 million in fees that go toward affordable housing development, with nearly $20 million expected for developments currently in the pipeline. As of May 2018, the Housing Trust Fund, which includes the density bonus fees in lieu, had produced 1,430 affordable units. The tables below provide a breakdown of developer incentivized units at MFI levels and the fees in lieu, which go toward the Housing Trust Fund to build additional affordable housing units.

Table 2 City of Austin Developer Incentive Units Currently In-Market

City of Austin Developer Incentive Units Currently in Market	
Sum of Units <= 30% MFI	0
Sum of Units <= 40% MFI	0
Sum of Units <= 50% MFI	151
Sum of Units <= 60% MFI	3327
Sum of Units <= 65% MFI	42
Sum of Units <= 80% MFI	1163
Sum of Units <= 100% MFI	11
Sum of Total Affordable Units	**4733**

Table 3 City of Austin Developer Incentive Units Expired

City of Austin Developer Incentive Units Expired	
Sum of Units <= 30% MFI	0
Sum of Units <= 40% MFI	0
Sum of Units <= 50% MFI	0
Sum of Units <= 60% MFI	244
Sum of Units <= 65% MFI	0
Sum of Units <= 80% MFI	1430
Sum of Units <= 100% MFI	0
Sum of Total Affordable Units	**1663**

Table 4 City of Austin Developer Incentive Units In Pipeline

City of Austin Developer Incentive Units In Pipeline	
Sum of Units <= 30% MFI	66
Sum of Units <= 40% MFI	36
Sum of Units <= 50% MFI	363
Sum of Units <= 60% MFI	1953
Sum of Units <= 65% MFI	2
Sum of Units <= 80% MFI	368
Sum of Units <= 100% MFI	4
Sum of Total Affordable Units	**2790**

Table 5 City of Austin Total Developer Incentive Units: Currently in Market and in Pipeline

City of Austin Developer Incentive Units: Current and in Pipeline	
Sum of Units <= 30% MFI	66
Sum of Units <= 40% MFI	36
Sum of Units <= 50% MFI	514
Sum of Units <= 60% MFI	5280
Sum of Units <= 65% MFI	44
Sum of Units <= 80% MFI	1531
Sum of Units <= 100% MFI	15
Sum of Total Affordable Units	7523

Table 6 Developer Incentive Fees in Lieu

Fee Status	**Fee Total**
Due	$2,071,647.00
Paid	$10,547,759.00
Pending	$18,652,717.00
Grand Total	**$31,272,123.00**

Housing Development Assistance

In addition to offering developer incentives, the City of Austin also provides financial assistance to produce affordable housing units through the Austin Housing Finance Corporation (AHFC). The AHFC is a public non-profit, overseen by the Austin City Council, that has the ability to leverage local and federal funds to finance housing for low-to-moderate households. Housing development assistance from the AHFC is granted under two programs: Rental Housing Development Assistance (RHDA) and Ownership Housing Development Assistance (OHDA). RHDA and OHDA leverage local and federal funds to grant a variety of loan types to developers in exchange for affordable set-asides and requirements. Funds the AHFC uses include:

- Federal funds from the CDBG and HOME grant funds
- Private Activity Bonds (PABs)
- General Obligation Bonds
- City of Austin Housing Trust Fund

Since 1993, over 8,000 affordable units have been supported through these programs. It is also important to note that while these 8,000 units have been supported by development assistance, the city subsidies usually do not cover the complete cost of producing an income restricted unit. Many of these units also receive funding from other sources, including the Low-Income Tax Credit (LIHTC). Currently, there are 7,388 affordable units in the market created through these programs, with an additional 398 in the pipeline. As the AHFC provides direct financial assistance and subsidies, these units are generally able to reach deeper affordability than those in the developer incentive programs, though they come at a higher price. The tables below outline the production of these units by MFI levels.

Table 7 AHFC-Subsidized Units Currently in Market

City of Austin Housing AHFC-Subsidized units	
Sum of Units <= 30% MFI	409
Sum of Units <= 40% MFI	60
Sum of Units <= 50% MFI	2870
Sum of Units <= 60% MFI	2779
Sum of Units <= 65% MFI	0
Sum of Units <= 80% MFI	1210
Sum of Units <= 100% MFI	0
Sum of Total Affordable Units	7388

Table 8 AHFC-Subsidized Units Expired

City of Austin Housing Assistance Units Expired	
Sum of Units <= 30% MFI	0
Sum of Units <= 40% MFI	0
Sum of Units <= 50% MFI	42
Sum of Units <= 60% MFI	285
Sum of Units <= 65% MFI	0
Sum of Units <= 80% MFI	334
Sum of Units <= 100% MFI	0
Sum of Total Affordable Units	661

Table 9 AHFC-Subsidized Units in Pipeline

City of Austin Housing Assistance Units in Pipeline	
Sum of Units <= 30% MFI	42
Sum of Units <= 40% MFI	27
Sum of Units <= 50% MFI	189
Sum of Units <= 60% MFI	94
Sum of Units <= 65% MFI	0
Sum of Units <= 80% MFI	46
Sum of Units <= 100% MFI	0
Sum of Total Affordable Units	398

Table 10 City of Austin Housing AHFC-Subsidized units: Current and in Pipeline

City of Austin Housing Assistance Units: Current and in Pipeline	
Sum of Units <= 30% MFI	451
Sum of Units <= 40% MFI	87
Sum of Units <= 50% MFI	3059
Sum of Units <= 60% MFI	2873
Sum of Units <= 65% MFI	0
Sum of Units <= 80% MFI	1256
Sum of Units <= 100% MFI	0
Sum of Total Affordable Units	7786

Land Development Code Rewrite

In addition to the city's policies and programs to produce affordable housing, the city began a process to rewrite the land development code over six years ago. The current land development code was written over 30 years ago, which makes keeping housing production up to the level of demand especially difficult, as the current code is described as overly complicated and is charged with slowing housing production. With an updated code, policymakers hope to increase density and housing production, in hopes of making Austin more affordable in general. The estimated housing capacity under the current code (as of March 2020) is 145,000 housing units. As of February 2020, city staff and consultants estimate an increase to a housing capacity range of 146,528 (lowest estimate) to 195,528 housing units (highest estimate).

The Fall 2019 draft LDC also proposes expanding the use of density bonus programs. The [fall 2019 draft] code proposes changes to three existing density bonus programs, the Downtown Density Bonus, the VMU program, and the UNO program by expanding them and increasing the

affordable set aside requirement, and also proposes a few new density bonus programs, which are discussed in detail later in this report. With the proposed changes to the land code, city staff estimates the affordable housing bonus capacity could increase from its current level (1,665 units) to a range between 6,607 to 16,238 units. A more detailed discussion of how the land code changes could impact density bonus performance is included in Chapter VIII of this report.

Chapter V: Austin Density Bonus Programs

As stated earlier in this report, of the 13 developer incentive programs in the City of Austin, 12 offer a density bonus. Each of the density bonus programs has different requirements and offers different incentives; current density bonus programs are available in 3% of the City. The details of each program are described in Figure 1 (also included as Appendix A) of this report. To participate in a density bonus program, developers agree to meet the requirements of the programs, all of which require setting aside a portion of the total units to be income restricted. Once the developer agrees to participate in the program and receive the incentive, they enter into a contract (or a restrictive covenant is placed on the program) outlining the length of affordability requirements. This chapter will analyze housing production and fees in lieu raised by each program and provide geographic context by mapping each program. Data from the Austin Affordable Housing Inventory as of March 8, 2020 was used for all analysis in this chapter.

Unit and Fee in Lieu Production: All density bonus programs

Of the 4,733 developer incentivized housing units currently in the market in Austin, TX, 1,665 of those were the result of a density bonus program. The bulk of these units are rental housing available to households at or below 60% and 80% MFI. Additionally, there are another 1,107 affordable units in the pipeline (status ranging from site plan approved to building permit issued). The tables below provide a break-down of these units by tenure and income categories. The density bonus units are mostly located in Central and East Austin; there are no density bonus programs or units located west of Mo-Pac. Additionally, the density bonus programs to date have raised $6,587,005 in fee in lieu payments, with an additional calculated sum total of $21,757,323 in potential fees in lieu from pending projects. The fee in lieu payments go into Austin's Housing Trust Fund, which support the rehabilitation and development of affordable housing units.

Table 11 Density Bonus Units Currently in Market by Tenure and Affordability Level

Tenure	Total Units	Units <= 30% MFI	Units <= 40% MFI	Units <= 50% MFI	Units <= 60% MFI	Units <= 65% MFI	Units <= 80% MFI	Units <= 100% MFI
Ownership	60	0	0	0	0	0	49	11
Rental	1626	0	0	141	738	0	708	0
Total	**1686**	**0**	**0**	**141**	**738**	**0**	**757**	**11**

Figure 2 Density Bonus Projects Currently in the Market

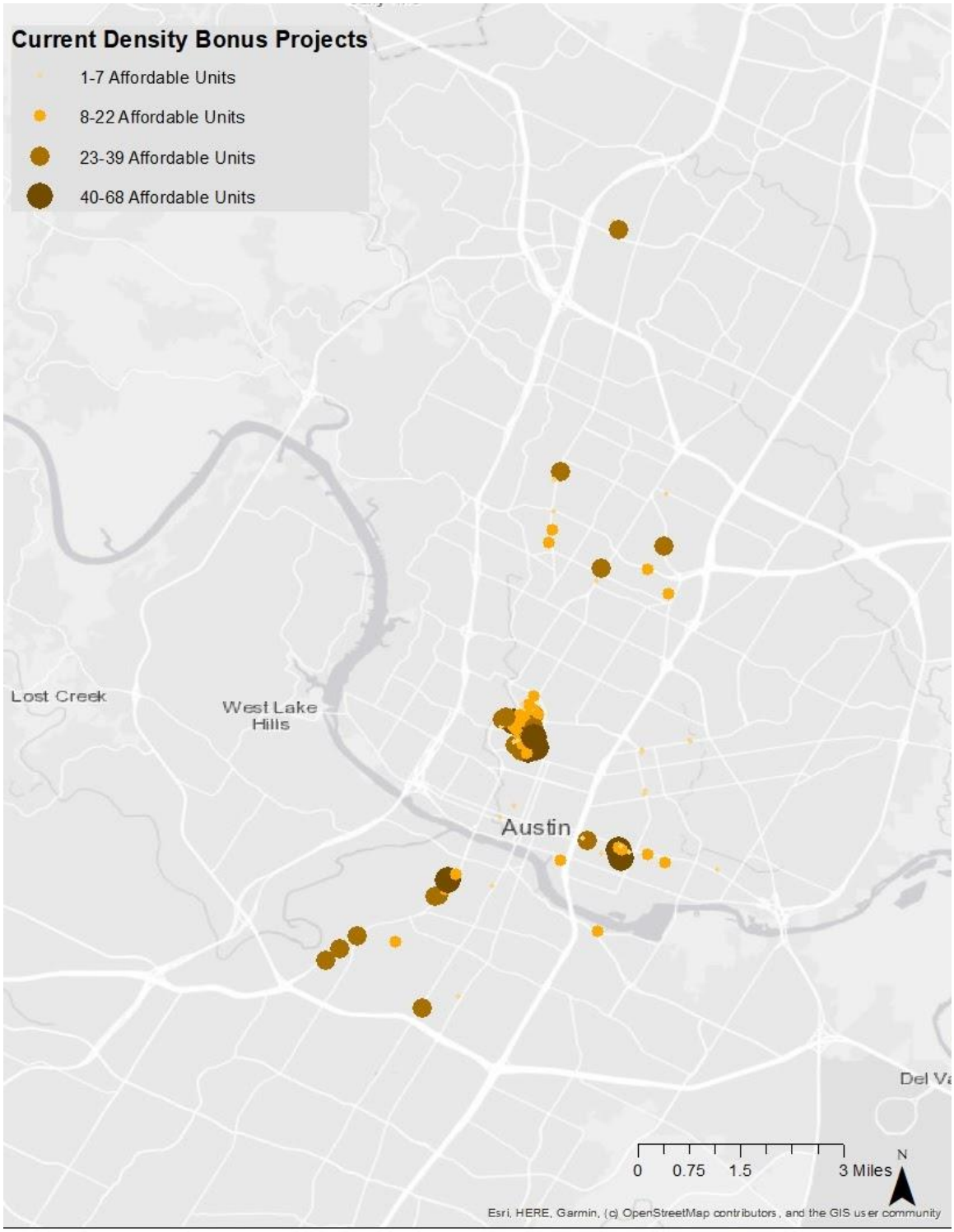
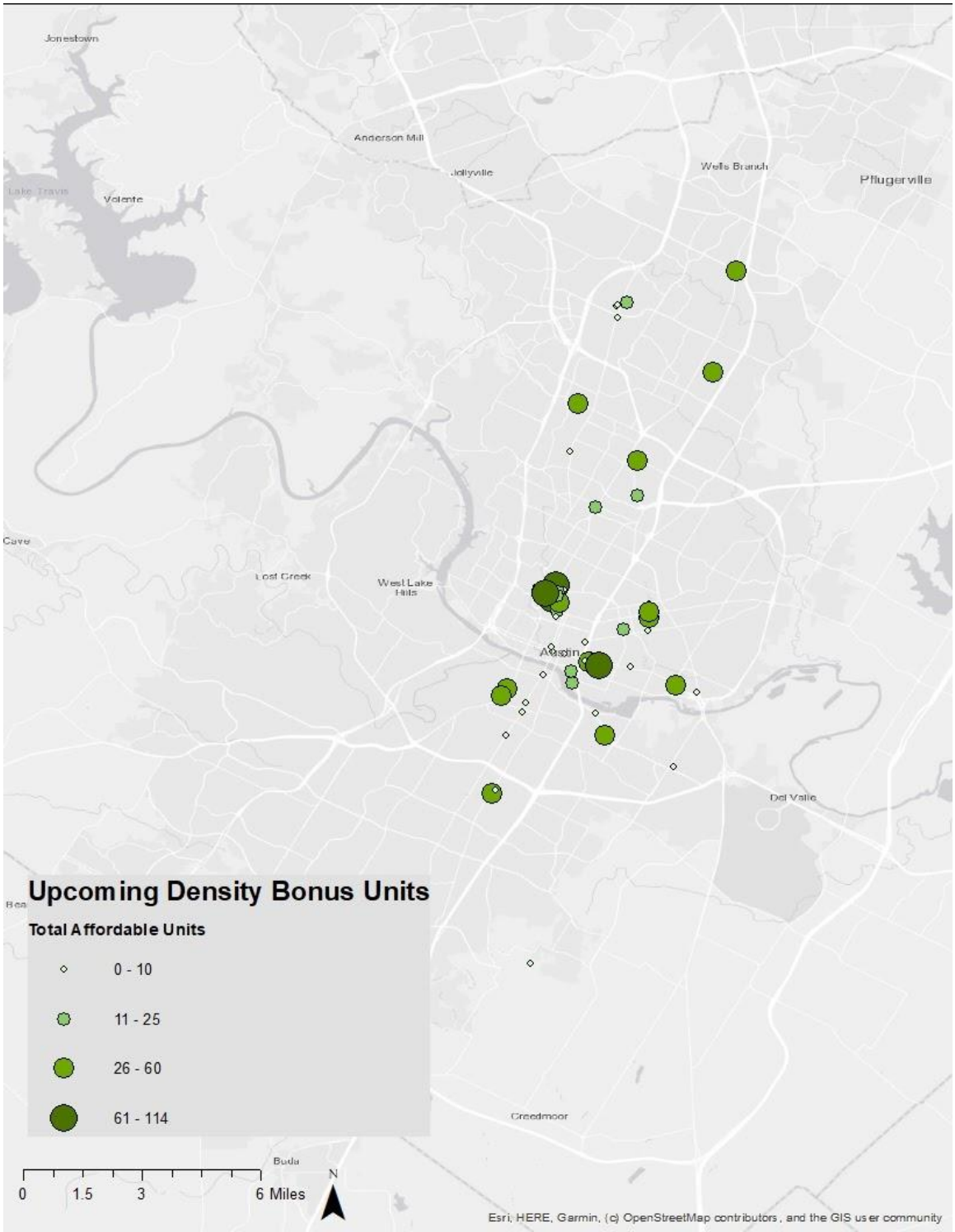


Figure 3 Upcoming Density Bonus Projects



Unit and Fee in Lieu Production: Individual Density Bonus Programs

Unit and Fee in Lieu Production: Downtown Density Bonus (DDB)

The Downtown Density Bonus policy was adopted in 2013 to achieve community benefits including affordable housing units or fees for affordable housing when high density buildings were built in downtown Austin. To date, it has resulted in zero affordable units produced, but has raised $1,355,375 in fees in lieu, which goes into the Housing Trust Fund which supports developing affordable housing in the city.

Unit and Fee in Lieu Production: East Riverside Corridor (ERC)

The ERC bonus policy was also adopted in 2013 to encourage affordable housing development along the East Riverside area, which is known to be rapidly gentrifying. To date, the ERC bonus has not produced any affordable units or fees in lieu. The lack of production could denote an uneven balance between density bonus requirements and incentives or could imply the density bonus is not of particular advantage to developers in this area.

Unit and Fee in Lieu Production: Micro Unit Density Bonus

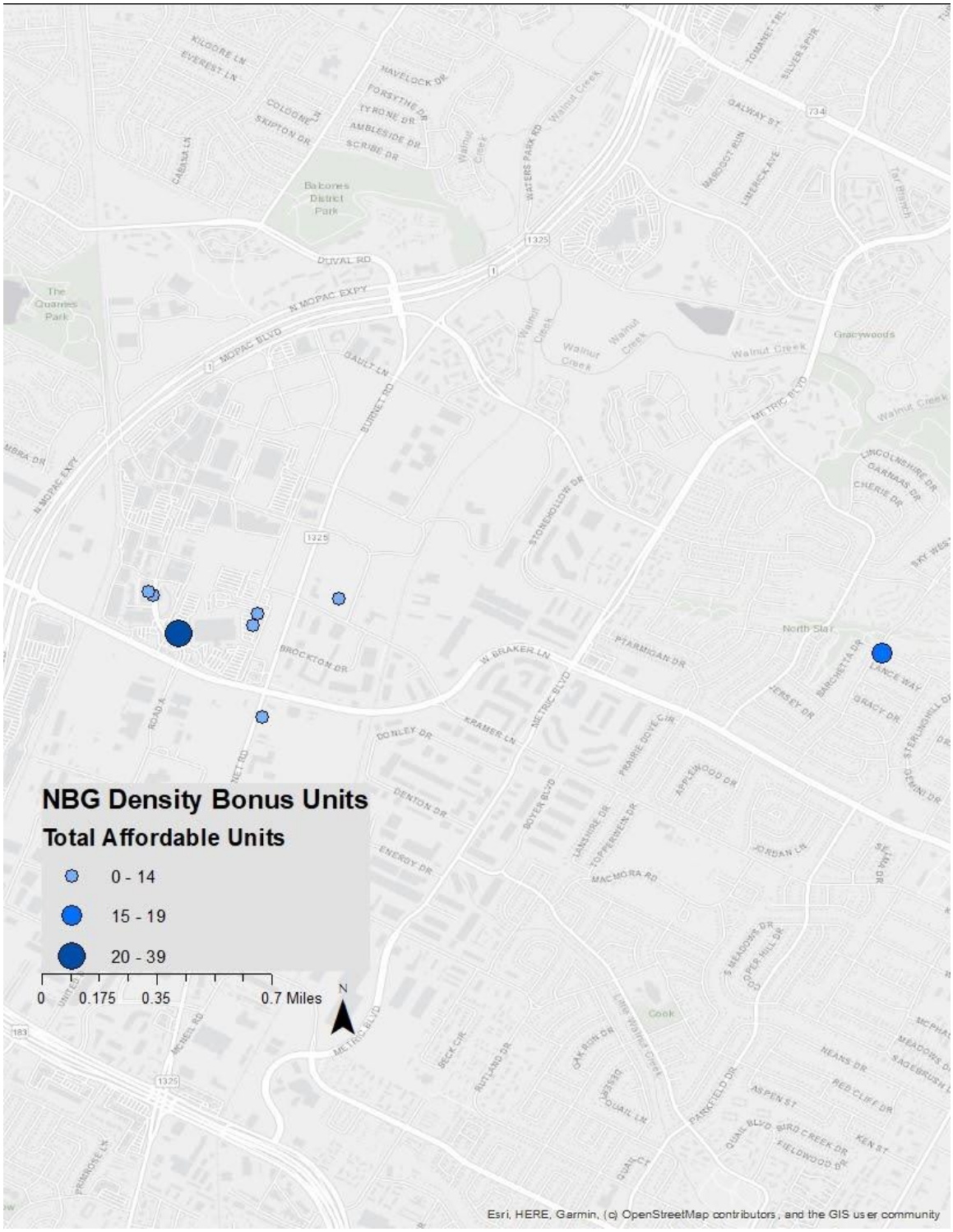
The Micro Unit Density Bonus was adopted in 2014 and applies to multifamily use in Transit Oriented Development Districts or along Core Transit Corridors when units are 500 square feet or less. To date, the Micro Unit Density Bonus has not produced any affordable units or fees in lieu. Again, this lack of production could represent an uneven balance between developer requirements and incentives or could represent the low development levels of units this small.

Unit and Fee in Lieu Production: North Burnet Gateway (NBG) Development Bonus

The NBG Development Bonus was adopted in 2009 as part of the NBG Regulating Plan, which aimed to implement the district's Master Plan and increase density and mixed-use development

in the North Burnet corridor. To date, the NBG Development Bonus has produced 39 affordable rental units and raised $827,308 in fees in lieu payments. The units are located along N. Burnet and West Breaker Lane. The North Burnet neighborhood has become particularly popular with young professionals, due to its proximity to the Domain, a high-density mixed-use development and due to easy access to downtown. North Burnet is largely comprised of newer, luxury condos and apartments.

Figure 4 NBG Development Bonus Units (current and upcoming)



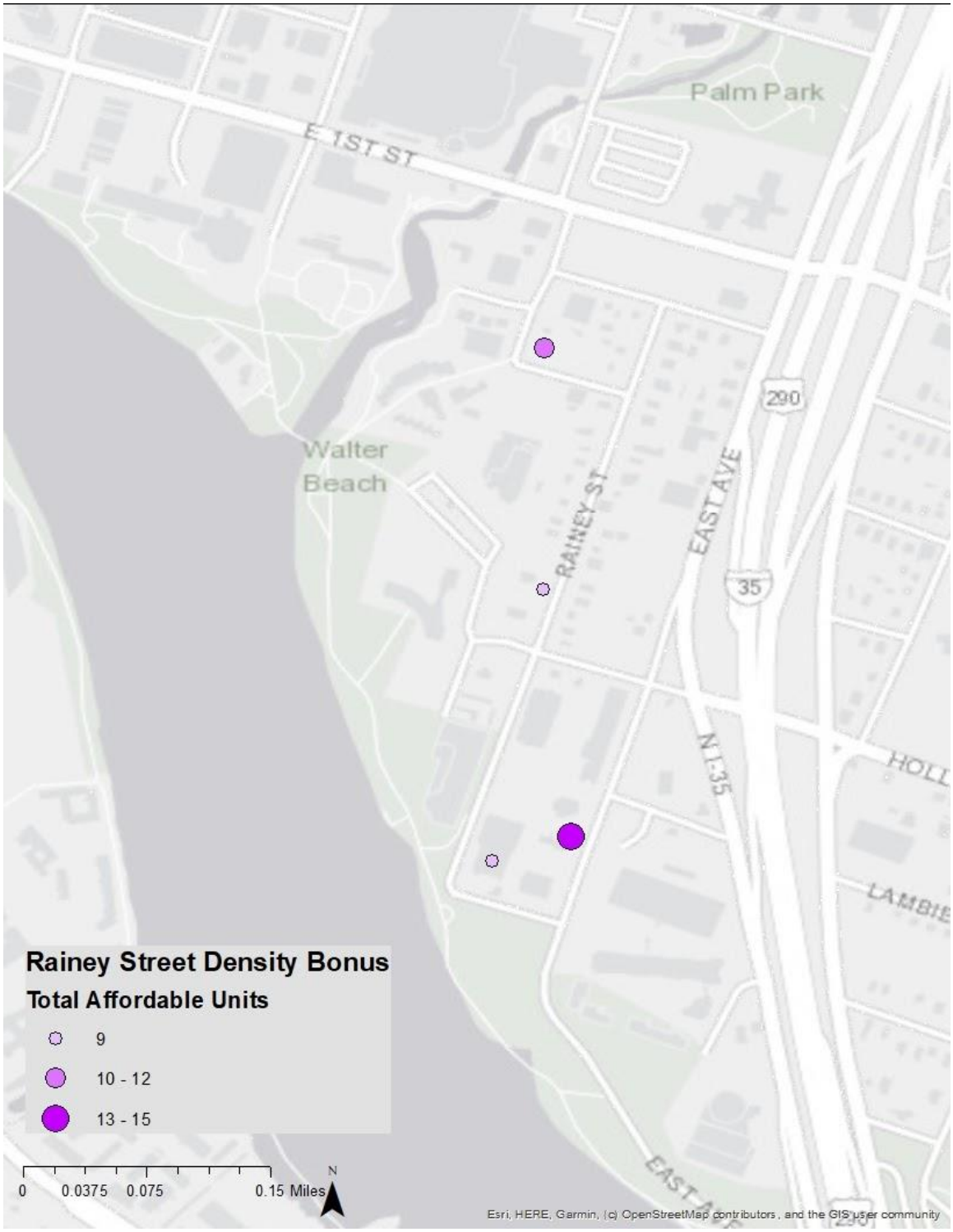
Unit and Fee in Lieu Production: Planned Unit Development (PUD) Bonus

The PUD Development Bonus was adopted in 2008 to incentivize those looking for Planned Unit Development district zoning approval to include a set aside for affordable housing units. To date, PUD has not produced any development bonus units or fees in lieu.

Unit and Fee in Lieu Production: Rainey St. Density Bonus

The Rainey St. Density Bonus was adopted in 2005 with plans to redevelop the area and was last updated in 2014 to better incentivize affordable housing development in the Rainey St. Subdistrict. The Rainey St. program is actually a sub-district of the Downtown Density Bonus Program. To date, the Raney St. Density Bonus has produced 16 affordable rental housing units.

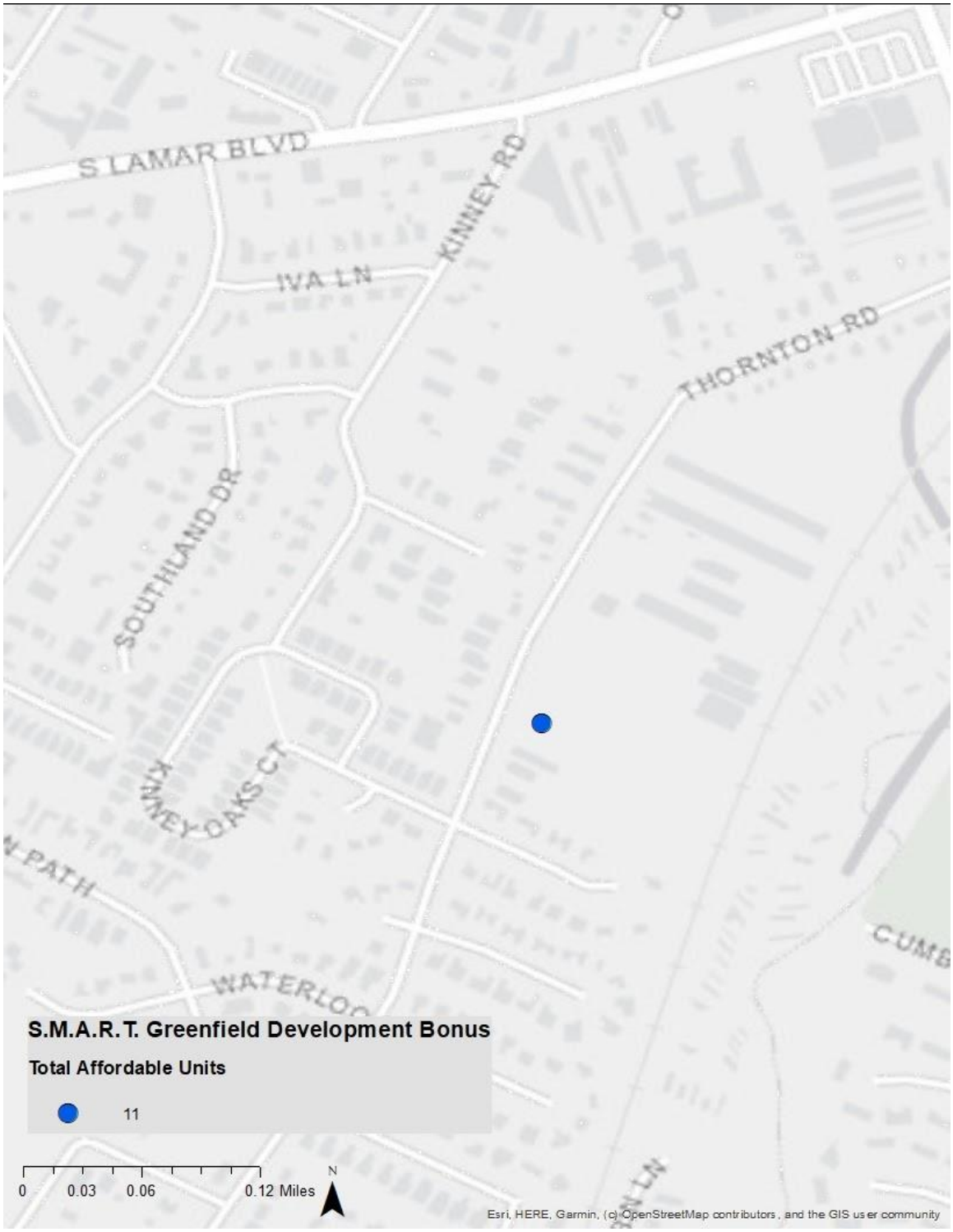
Figure 5 Rainey St. Density Bonus Units (Current and Upcoming)



Unit and Fee in Lieu Production: S.M.A.R.T. Housing Greenfield Density Bonus (Single-Family and Multi-Family)

The S.M.A.R.T. Housing Greenfield Density Bonus was adopted in 2008 to further incentivize development partaking in the city's S.M.A.R.T. housing programs to produce affordable housing units. To date, this bonus has produced 11 affordable rental housing units. The units are located in South Austin near W. Oltorf and Thornton Road

Figure 6 S.M.A.R.T. Housing Greenfield Density Bonus Units



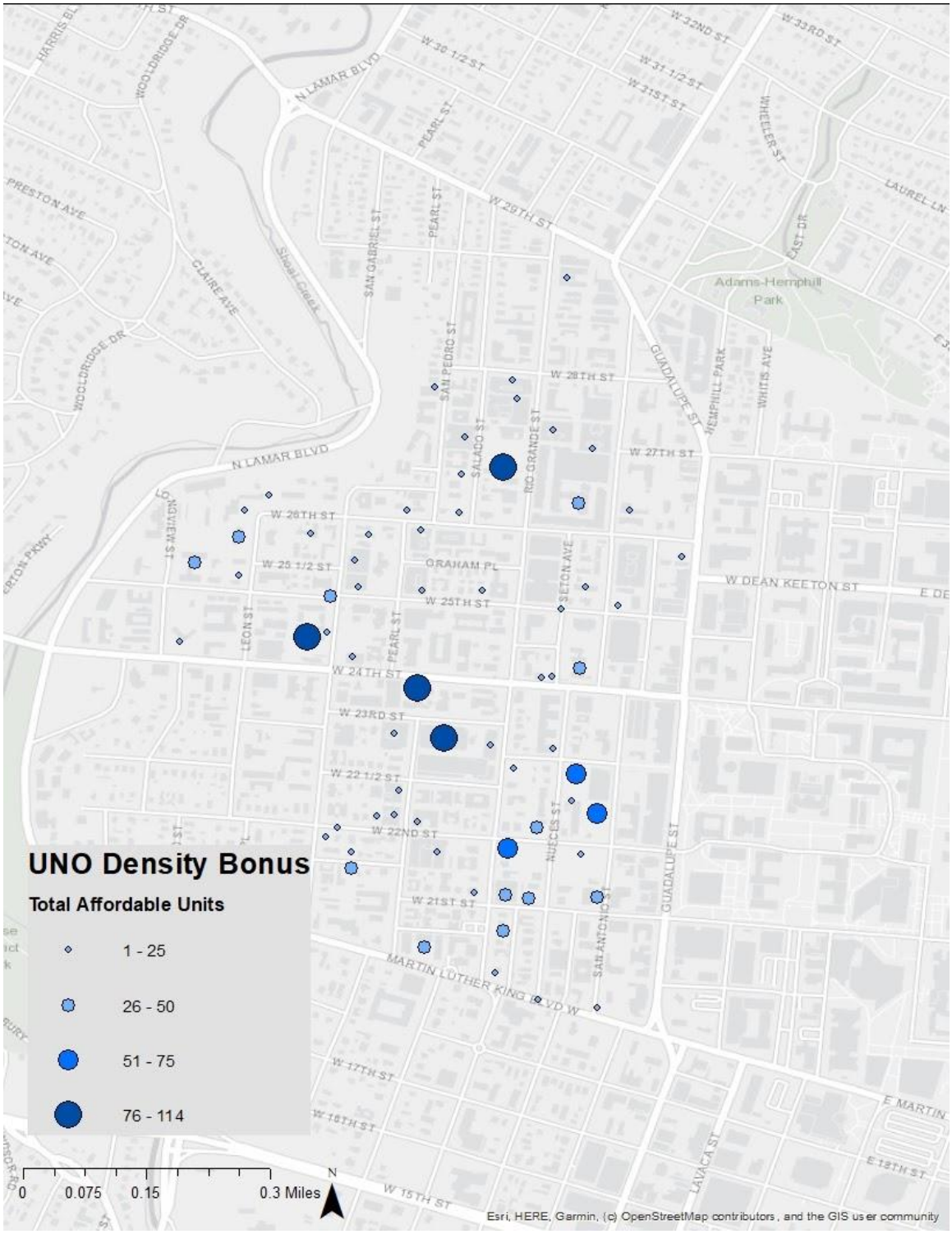
Unit and Fee in Lieu Production: Transit Oriented Development (TOD) Development Bonus

The TOD Development Bonus was adopted in 2009 and applies to Transit Oriented Development Districts located at Plaza Saltillo, Crestview, and MLK. To date, the TOD Development Bonus has produced 13 affordable ownership units, 190 affordable rental units, and raised $1,202,079 in fees in lieu, which go to the Housing Trust Fund to support the development of affordable housing in the city.

Unit and Fee in Lieu Production: University Neighborhood Overlay (UNO) Density Bonus (pre and post 2014)

The UNO Density Bonus was adopted in 2004 to incentivize affordable housing production in areas near the University of Texas at Austin's campus. The UNO Density Bonus was updated in 2014 to deepen affordability levels and extend affordability periods. To date, the UNO Density Bonus has produced one affordable ownership unit, 879 affordable rental units, and raised $3,202,243 in fees in lieu.

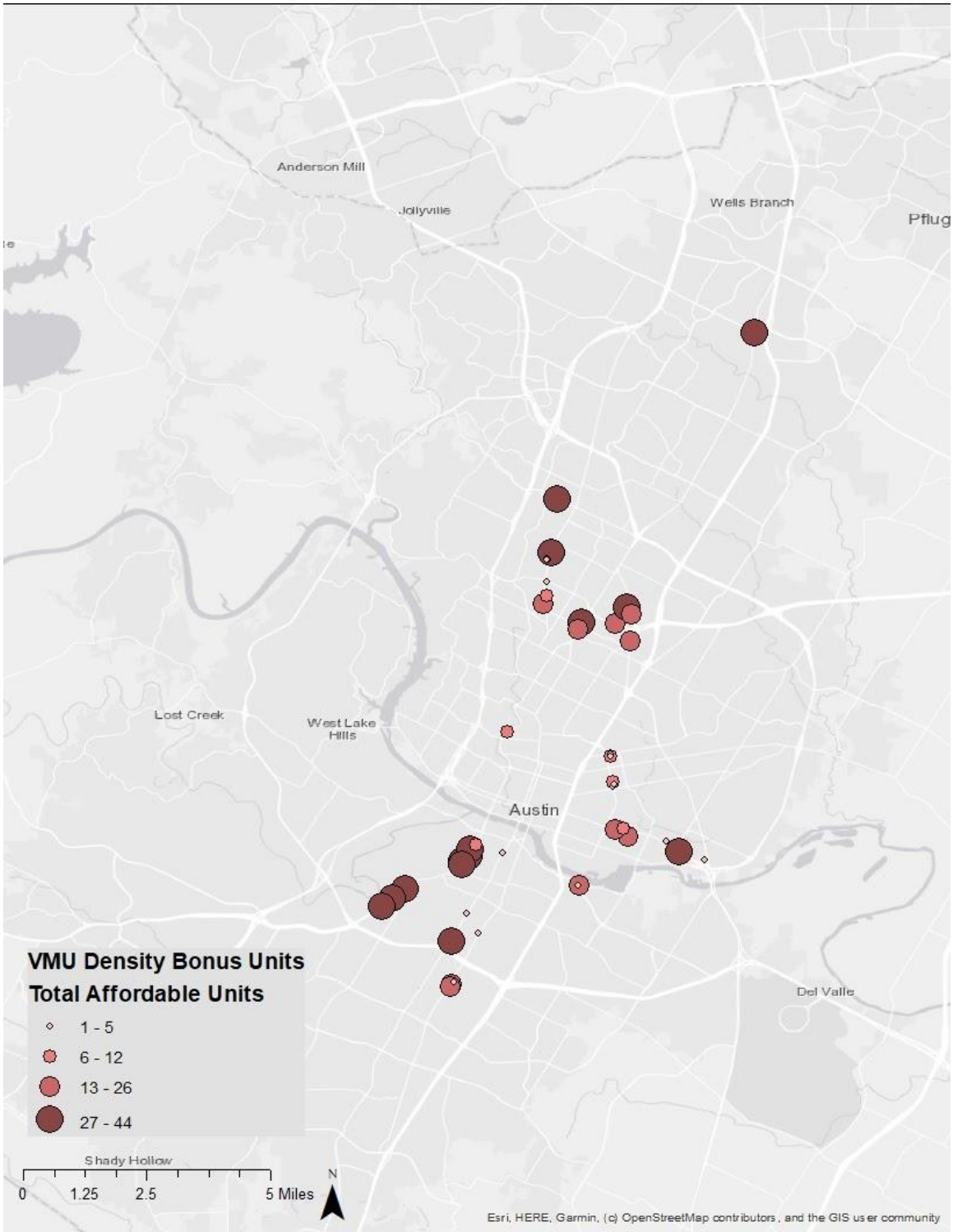
Figure 7 UNO Density Bonus Units (Current and Upcoming)



Unit and Fee in Lieu Production: Vertical Mixed Use (VMU)

VMU was adopted in 2010 to incentivize affordable housing development in developments falling in a vertical mixed-use overlay, which is a zoning designation to encourage mixed uses like commercial and residential within the same building. To date, the VMU bonus has produced 25 affordable ownership units and 491 affordable rental units.

Figure 8 VMU Density Bonus Units (Current and Upcoming)



Analysis

As outlined in the table below, of the ten separate density bonus programs, four have not produced any affordable units. The Downtown Density Bonus has not produced any units but has raised over $1.3 million in fees in lieu. The UNO Density Bonus is responsible for over half of all housing production of all density bonus programs but may be targeted mostly toward students given the proximity to the University of Texas at Austin. Ownership units account for only about 2% of all housing units produced by density bonus programs. Generally, the density bonus projects are well distributed geographically throughout Austin, with the majority of units near UT's campus as part of the UNO bonus. As the VMU program is available in a fairly large geography, it has produced units in a more geographically dispersed range than other density bonus programs.

Table 12 Unit Production and Fees in Lieu by Density Bonus Program

Density Bonus Program	**Affordable Ownership Units**	**Affordable Rental Units**	**Fees in Lieu**
Downtown	0	0	$1,355,375.00
ERC	0	0	$0.00
Micro Unit	0	0	$0.00
NBG	0	39	$827,308.00
PUD	0	0	$0.00
Rainey St.	0	16	$0.00
S.M.A.R.T. Greenfield	0	11	$0.00
TOD	13	190	$1,202,079.00
UNO	1	879	$3,202,243.00
VMU	25	491	$0.00
TOTAL	**39**	**1626**	**$6,587,005.00**

Chapter VI: Common Criticisms of Austin's Density Bonus Programs

As mentioned in the literature review included in this report, inclusionary zoning practices are highly debated and controversial. The density bonus programs in Austin are no exception to this, and while some have produced affordable housing units and raised millions in fees in lieu, some local housing advocates, policymakers and community members remain skeptical of the value of these programs. NHCD staff are not unaware of issues around the density bonus programs and have formally acknowledged many of them and provided recommendations to improve the programs in a memorandum provided to the Austin City Council in 2019. This section outlines and addresses some of the most common criticisms of Austin's density bonus programs; several of these issues were identified by NHCD staff.

Data collection and management

Questions have been raised around who exactly is living in the density bonus units and whether or not these programs are helping address the city's affordable housing goals in terms of vulnerable populations, as currently the city is not collecting any demographic data on density bonus residents, nor do they collect a copy of the lease application or lease agreement. The city requires participating properties to keep a copy of a form that certifies income and household size of the residents, as well as proof of income, but there are no employment or demographic questions on those forms. Demographic information would help the city better understand which populations are accessing these units, and if there are any gaps in access. Employment data would help the city better understand who lives in density bonus programs, and where these types of units are needed in relation to transit, employment, and schools. Concerns around fair housing laws and collecting demographic data have been raised, as landlords are not allowed to collect demographic data at the time of lease. However, the City collects this type of demographic information on residents in developments that have received city subsidies (development assistance). If the data were collected after the units have been leased, fair housing violations should not be an issue. While the City should consult its legal experts, it does not seem

the Fair Housing concerns are warranted given the same data is collected for other units. Having this data would also allow the City to assess if there are fair housing concerns within the density bonus programs, as it would show if protected classes are able to access these programs or not.

In addition to the narrowness of the information currently collected on DB residents, there is also not a streamlined method for collecting data and forms from developers and property managers on an ongoing basis. Though they've expressed desire for it, NHCD lacks an online portal where participants in the density bonus can submit all of their forms in one place. An online tool could help the City reduce staff time to implement the density bonus programs and offer an avenue for both data collection and management.

Compliance and enforcement

Some housing advocates and local policymakers have raised concerns over the city's inability to meaningfully track ongoing compliance with density bonus affordability requirements and enforce repercussions of noncompliance. An important distinction in this discussion is that concerns are over *ongoing* compliance rather than compliance during the construction phase. When developers opt to participate in a density bonus, they must prove the affordable units will be included in construction in order to receive their building permits; this process is not of concern as it is easy to enforce. The compliance concerns are related to ongoing compliance as to who the affordable units are being leased to over the long-term.

To monitor ongoing compliance of density bonus units, the city uses a contracted third party and properties are monitored every three years. Many argue that every three years is not enough to meaningfully catch non-compliance and worry that the properties are not adhering to affordability requirements for the units. In a recent monitoring effort, a 10% sample of all density bonus units was monitored, and the majority of units were found to be out of compliance. However, the most common violation was a lack of the documentation that participants are

required to keep on file, such as proof of income for each year; they were not necessarily large infractions. In other words, the non-compliance did not necessarily show that residents are not meeting the income requirements. In addition, the city has limited means of enforcement if a participant is out of compliance. A recent change requires participating properties to sign a contract agreeing to abide by the terms of affordability for the given affordability period; previously a restrictive covenant would be placed on the property, rather than a contract. Though a contract can provide a more legally defensible means for enforcement, the enforcement process is still extremely costly and labor intensive. If a property is found out of compliance, the City can take the non-complying property to court and enforce fees on the property or disallow them from participating in city sponsored programs. The City is also currently exploring further means of enforcement. Enforcing non-compliance of a density bonus unit, that costs the city a relatively low amount, would require a great cost burden on the city as they would take on court and legal fees.

Affordability levels and set-aside requirements

As outlined earlier in this report, the bulk of density bonus units are available to households at or below 80% MFI (for homeowner units) and 60% MFI (for rental units). In fact, 45% of all density bonus units are available for households at 80% or below MFI and 44% are available for households at or below 60% MFI, 8% of density bonus units are affordable to households at or below 50% MFI, and there are no density bonus units available to households below 40% MFI. Some local housing advocates point this out as problematic, arguing the housing most needed is 50% MFI and below. However, the density bonus programs are inherently limited in what affordability levels they can reach as the cost to developers must be low enough to incentivize them to voluntarily participate. There is no monetary subsidy provided with the density bonus, so the bonus must outweigh the costs of the below-market rate units.

Low production of units for homeownership

As noted previously, ownership units created through density bonus programs in Austin account for only about 2% (39 total) of all density bonus production. Additionally, 26 of the 29 density bonus ownership units belong to the TOD and VMU homeowner bonus policies, which are available to households at or below 80% and 100% MFI. There are significant barriers to offering affordable ownership units without monetary subsidies for the developers, including the fact that it is difficult to find households at lower income ranges who are mortgage ready and looking to own. This is likely a major factor in the low ownership unit production numbers. Further, any additional fees to ownership like homeowner association (HOA) fees or required maintenance fees at the time of sale are included in the affordability calculation. However, many of these ownership units are condos, which tend to have higher turnover rates in HOA management. If the HOA management changes after the sale and new higher fees are introduced, these will be the responsibility of the homeowner. This puts the risk of potentially very high fees on lower-income homeowners, who may not be willing to take that risk.

Unknown costs

One reason the density bonus method is somewhat popular with the City is the assumption the costs for implementing these programs are very low, as the City is not providing a direct subsidy. Some housing advocates are skeptical of this argument and point out that while the costs may not be obvious, there could still be significant costs in staff time for implementing the program and costs for compliance and enforcement. The City has shown interest in introducing some type of administrative fee to be paid by developers participating in the bonus, but such a policy has not yet been developed. The Fall 2019 draft LDC includes requirements for developers to pay a fee based on a “separate ordinance”, but that ordinance does not yet exist. The next chapter of this report will attempt to estimate the costs of the density programs.

Lack of goals and strategy

A common conversation around the density bonus programs in Austin is how to set goals for the programs when doing so all depends on economic projections that change regularly. The unstated goal of the policies is to get as many affordable units as possible from developers, however there are no formal numerical goals or qualitative goals for the policy. Though setting numerical goals for production of density bonus does not make sense as production is tied to the state of the economy, some qualitative goals may help the city better evaluate the success of the programs. For example, goals could be set around the percentage of eligible developments that participate in a density bonus program. In addition, housing advocates also point out that there also does not seem to be a solid strategy for the density bonus programs as a whole; they were all adopted separately in a piecemeal fashion over many years and do not have a cohesive direction in terms of populations targeted nor target geographies. The density bonus programs were adopted by different City Councils over time, causing variation in program design and implementation.

Private property managers inexperienced in affordable housing

An additional cause of concern for some housing advocates is the fact that the density bonus units are managed by private property managers who mostly are only experienced in for-profit property management. Advocates argue this inexperience can lead to increased noncompliance, as the property managers are likely inexperienced in verifying incomes and other reporting requirements the City needs to collect for the density bonus units. While technical assistance and training is offered by the city, and is generally well-attended, there also tends to be high turnover in property management and low incentives for keeping up with optional training. Housing advocates have also identified that while property managers may be trained to verify the income and meet reporting requirements, the primary motivation for private for-profit property management is profit, which can impact how the needs of lower-income residents are treated. If residents who belong to a protected class are treated differently than other residents at a property,

and this treatment causes a negative impact on protected class residents, this would raise possible fair housing violations.

In the Fall 2019 draft LDC, some changes have been made to help address this. While the city does not currently have a plan to contract a third-party to manage affordable density bonus units, the new code states that a developer participating in a density bonus must use a city-approved third party to manage the affordable units. However, there are several exceptions to this including: if there are more than three affordable units; if the developer is receiving local, state or federal funding for affordable housing; or if the development uses a City operated waitlist that has verified income-eligible applicants. It's also notable that the City currently has no such waitlist.

Could require more from developers

While participation in the density bonus programs is completely voluntary, when developers do opt in, they must follow the program requirements to receive the bonus. Due to this, many argue that along with the affordable unit set aside or fee requirement, the city can include other requirements from developers. Some examples of this include an affirmative marketing plan, a source of income discrimination policy so that units would be available to tenants paying part of their rent with Housing Choice Vouchers and added tenant protections for density bonus residents. However, it should be noted that like all requirements with a voluntary bonus, the costs put onto the developer must be outweighed by the benefits they receive.

The City has outlined recommendations for adding some of these into the existing density bonus programs. These are outlined in a memo NHCD submitted in March 2019, which is discussed below. In addition, the proposed Fall 2019 draft LDC also includes several new stipulations for developers participating in density bonus programs, including: requiring an affirmative marketing plan that must be approved by the city, disallowing discrimination based on source of

income, and ensuring that the bedroom count mix of affordable units offered is similar to the bedroom count mix of market-rate units offered.

NHCD Staff Recommendations for Density Bonus

The City of Austin NHCD staff is aware of many of the issues surrounding the density bonus policies, but currently lacks the capacity to respond to all of these issues. Administering the density bonus programs is only a small portion of what NHCD staff is responsible for. Currently, the equivalent of only two full time employees support density bonus programs.

In March 2019, NHCD staff released a memorandum in response to two City Council directives: one directing staff to provide recommendations for changes to the density bonus and fee in lieu policies as part of the land code rewrite (Resolution No. 20180823-077) and one directing staff to offer recommendations for offering added tenant benefits to units resulting from a density bonus (Resolution No. 20180510-050). NHCD staff provided 19 detailed recommendations for updating all of the density bonus programs in this memo, which can be found in Appendix B of this report. Many of these changes have been included in the Fall 2019 LDC draft, as explained above.

Chapter VII: Analysis of Austin Density Bonus Performance

As discussed in Chapter II, IZ policies like the density bonus are popular because they do not require the city to provide a direct monetary subsidy and are generally assumed to be low-cost to the city. In Austin, many local housing advocates have questioned these assumptions about the outcomes of density bonus programs. Questions arise largely due to the lack of data collected on density bonus residents and a lack of comprehensive monitoring. This chapter of the report attempts to address those assumptions by offering a cost analysis and analysis of where density bonus units are geographically dispersed. This analysis will compare the costs and dispersion of density bonus units with other city-subsidized units, and the geographic dispersion of density bonus units to other city-subsidized units.

Cost Analysis

Performing a comprehensive cost analysis on the density programs is difficult given the vast ways in which density bonus units might affect the broader economy, causing hidden costs or benefits. To complete a more telling cost analysis of density bonus programs, a broader impact analysis would need to be completed detailing the changes in land values, rents, and development rates. That type of analysis is beyond the scope of this report; instead I offer a simplified cost analysis that includes an estimation of costs to the city to implement the density bonus programs compared with the costs to create subsidized units to serve households at similar median family incomes. Though this analysis is simple, it provides a discussion of some of the costs related to implementing these programs.

To complete this analysis, I will compare staff costs of the density bonus programs to staffing and subsidy costs of the development assistance programs (AHFC-Subsidized Units). While NHCD could not provide an exact amount due to the varied nature of staff responsibilities, estimates of the number of full-time employees (FTEs) working on each program and a general range of salaries were provided.

Table 13 Density Bonus Program Cost Estimates

Density Bonus Program Cost Estimates						
# of FTEs	**Median Salary***	**Fringe: 31% of salary****	**Monitoring Costs*****	**Program Cost per Year Estimate**	**Years in Operation**	**Total Program Cost Estimate to Date**
2	$65,780	$20,391.80	$50,000	$222,343.60	16	$3,557,497.60

*This is the median male salary for an NHCD employee as reported by the Texas Tribune

**This rate was taken from BLS estimates for fringe costs to employers

***This is an estimate of the costs for contracting a third party to monitor DB units

Table 14 Density Bonus Administrative Cost per Unit Estimate

Density Bonus Cost Per Unit	
# of Units to Date	**Average Cost per Unit**
1665	$2,136.64

Table 15 Administrative Cost Estimates for AHFC-Subsidized Units

Program Cost Estimates for AHFC-Subsidized Units						
# of FTEs	**Median Salary***	**Fringe: 31% of Salary****	**Avg Subsidy/Year**	**Program Cost per Year Estimate**	**Years in Operation**	**Total Program Costs Estimate to Date**
3	$65,780	$20,391.80	$10,569,525.22	$10,828,041	27	$292,357,097

Table 16 Administrative Program Cost Estimate per Unit for AHFC-Subsidized Units

AHFC-Subsidized Costs Per Unit	
# of Units	**Average Cost per Unit**
8,447	$35,161.64

As shown in the tables above, a rough estimate of administrative costs for implementing the density bonus programs, the cost comes out to about $2,100 per affordable unit. When looking at the total estimated cost to the city, around $3.5 million, compared to the amount the programs have raised in fees in lieu, $10.5 million paid to date, the units appear to offer a higher benefit in relation to their costs.

The average city subsidy for a development assistance unit, less staff costs, is around $32,500. It is important to note that while this average denotes the subsidy level input by the city, it does not

account for the full cost of subsidizing affordable units. Properties that participate in the development assistance programs that receive subsidy from the city to produce affordable units almost always are also receiving other types of state or federal subsidies or incentives to build affordable housing, like the Low-Income Tax Credit. The cost of fully subsidizing an affordable housing unit is much greater than $32,500.

When compared with the estimated administrative cost per unit of a subsidized unit produced under other programs administered by NHCD, the estimated cost to the city, including staff time, is over 1,000% greater for housing development assistance programs. Using the average city subsidy cost for development assistance program units, it would have cost the city over $54 million to subsidize the 1,665 existing density bonus units. Comparing administrative and subsidy costs on average, a density bonus unit costs about $2,100 in direct costs to the city, while a development assistance unit costs about $34,000.

Table 17 Estimated Costs per Unit for Density Bonus and AHFC-Subsidized Units

	Administrative Cost Per Unit	Additional Subsidies	Total Direct Cost to City per Unit
Density Bonus	$2,136.64	0	$2,136.64
Development Assistance	$1,281.88	$32,533.17	$33,815.05

As noted previously, these are very rough estimates of costs, and do not offer a comprehensive look at potentially hidden costs like economic spillovers. This analysis simply provides estimates of how much density bonus units cost the city directly in comparison to units produced under other programs and addresses some of the concerns often raised about the programs. To understand the full costs of the density bonus units, an analysis of how the broader housing

economy is affected would need to be done. This analysis should also include a discussion of the benefits of density bonus units compared to those produced by other units. For example, it is possible that the costs of development could go up due to an IZ program like the density bonus, as developers may be shifting the costs of the income restricted units and fees in lieu into higher market rate rents. Data would need to be collected on rents across the city, and especially rents in neighborhoods with density bonus projects.

Analysis of Geographical Dispersion of Density Bonus Units and AHFC-Subsidized

This section of the report will include a spatial analysis of density bonus units compared to other city subsidized units (through development assistance programs) in relation to Austin's communities of color, census tracts identified as being vulnerable to gentrification, and where the units are in relation to income groups. For context, it is important to note that currently, density bonus programs are tied to geographic areas, and are only an option in 3% of the city.

The Location of Density Bonus Units and AHFC-Subsidized Units Relative to Austin's African American and Hispanic/Latinx Populations

One general goal of IZ programs is to reduce concentrating affordable housing in areas that already have high rates of concentrated minority populations and poverty. Many argue that concentrating affordable housing in areas with high minority populations exacerbates residential segregation and limits opportunities for minority populations, who typically over represent lower incomes. In looking at the spatial distribution of the current and upcoming density bonus units, they perform pretty well in terms of not locating in areas with high concentrations of African American and Hispanic/Latinx populations, especially in comparison with AHFC-Subsidized-subsidized units. The overwhelming majority of density bonus projects are located in census tracts where the population is less than 5% African American, and less than 25% Hispanic or Latinx. The AHFC-Subsidized-subsidized units, in contrast, are located in areas with higher concentrations of African American and Hispanic/Latinx residents, especially for developments

that have 100 or more affordable units. It is also important to point out that since we do not have demographic information of who is occupying density bonus units, it is impossible to tell if residents of color are able to access these units.

It is notable, however, that many of the proposed density bonus projects, displayed as red dots in the maps, are in areas with higher concentrations of minority populations. Many of these proposed projects are located in far north Austin, where many residents are relocating in hopes of cheaper housing costs, and east of I-35 which has historically been characterized by higher rates of Austin's African American and lower-income communities due to racially motivated housing and economic development policies. This is noteworthy for two reasons. First, both of these areas are subject to gentrification and displacement pressures, as land has typically been cheaper in both of these areas. The density bonus projects represent housing projects that are mostly market-rate; in this context, it's possible the increase of proposed density bonus units is reflective of further displacement pressures. It's also noteworthy because, on the other hand, the increase in proposed density bonus projects in areas with a higher percent of people of color could also represent an affordable option for people to stay in their neighborhoods as development pressure continues to grow. Without demographic data on density bonus residents, however, it is difficult to understand the effects of having or not having abundant density bonus units in neighborhoods with higher rates of people of color. Also, density bonus units would need to be offered at rents affordable to households at risk of displacement, and a preference policy (which gives priority to people with ties to the neighborhood in accessing income restricted units) would need to be implemented in order to offer an option for vulnerable residents to stay.

Figure 9 Current and Proposed Density Bonus Projects in Relation to Austin's African American Population

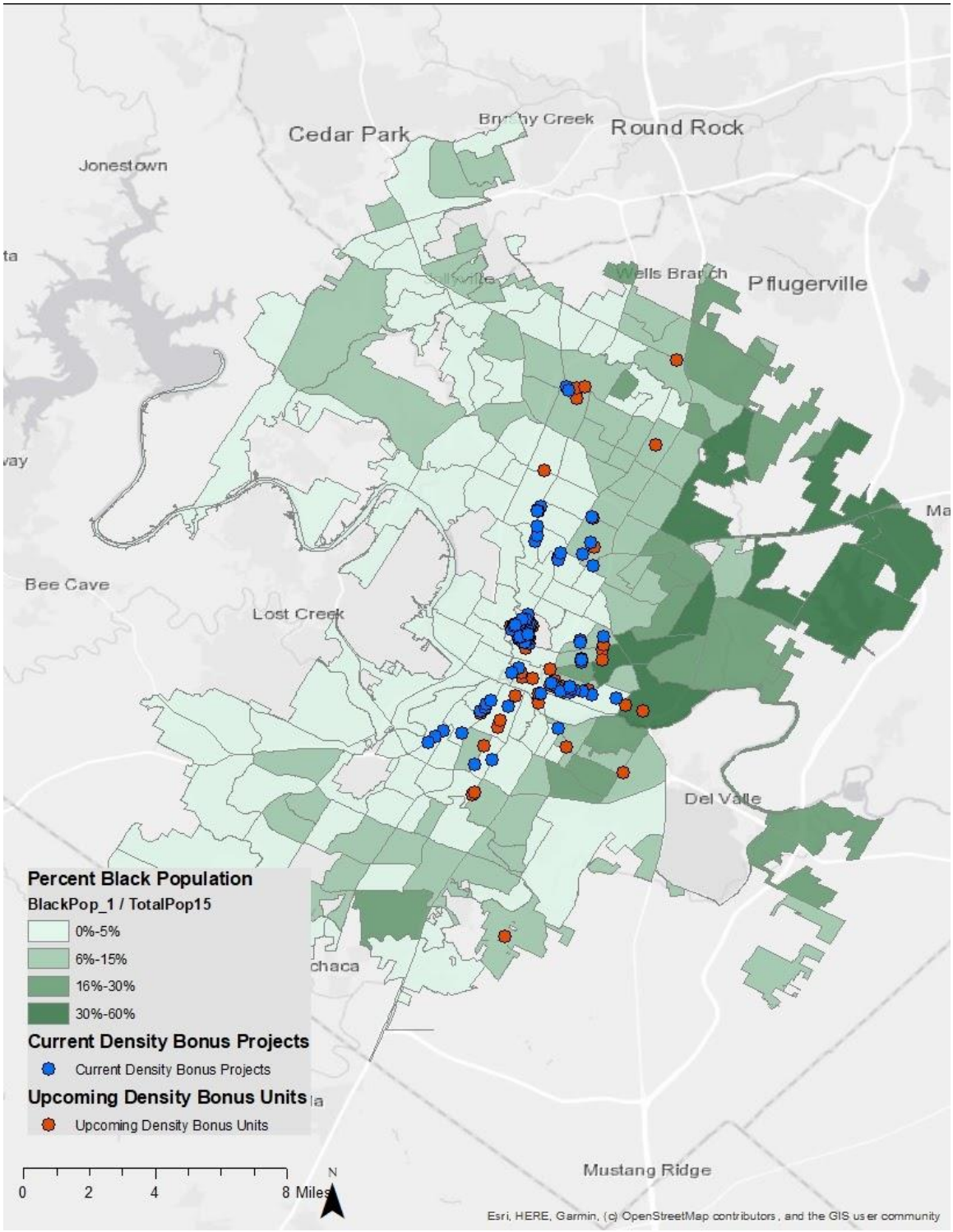


Figure 10 Current and Upcoming AHFC-Subsidized-Subsidized Units in Relation to Austin's African American Population

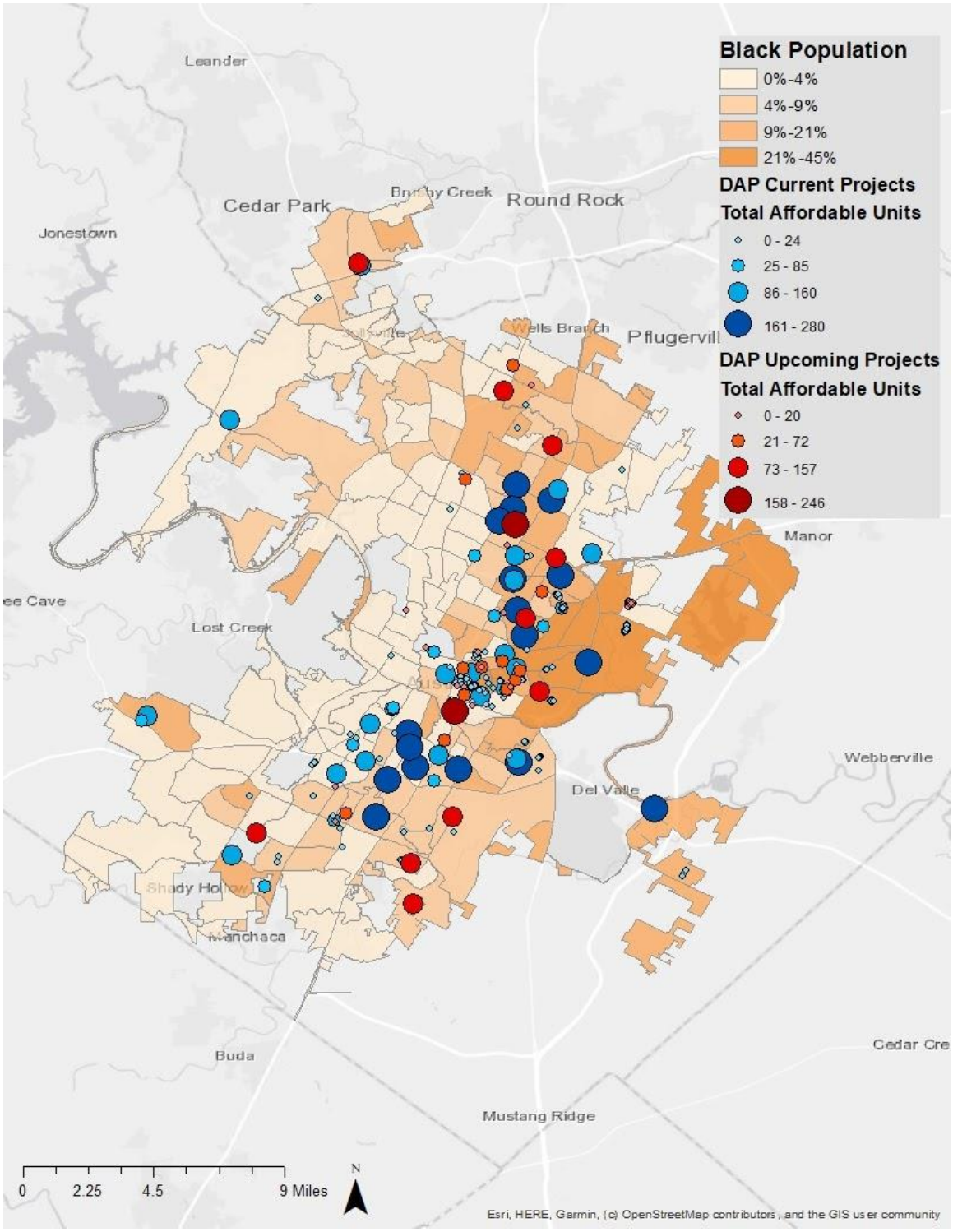


Figure 11 Current and Upcoming Density Bonus Projects in relation to Austin's Hispanic/Latinx population

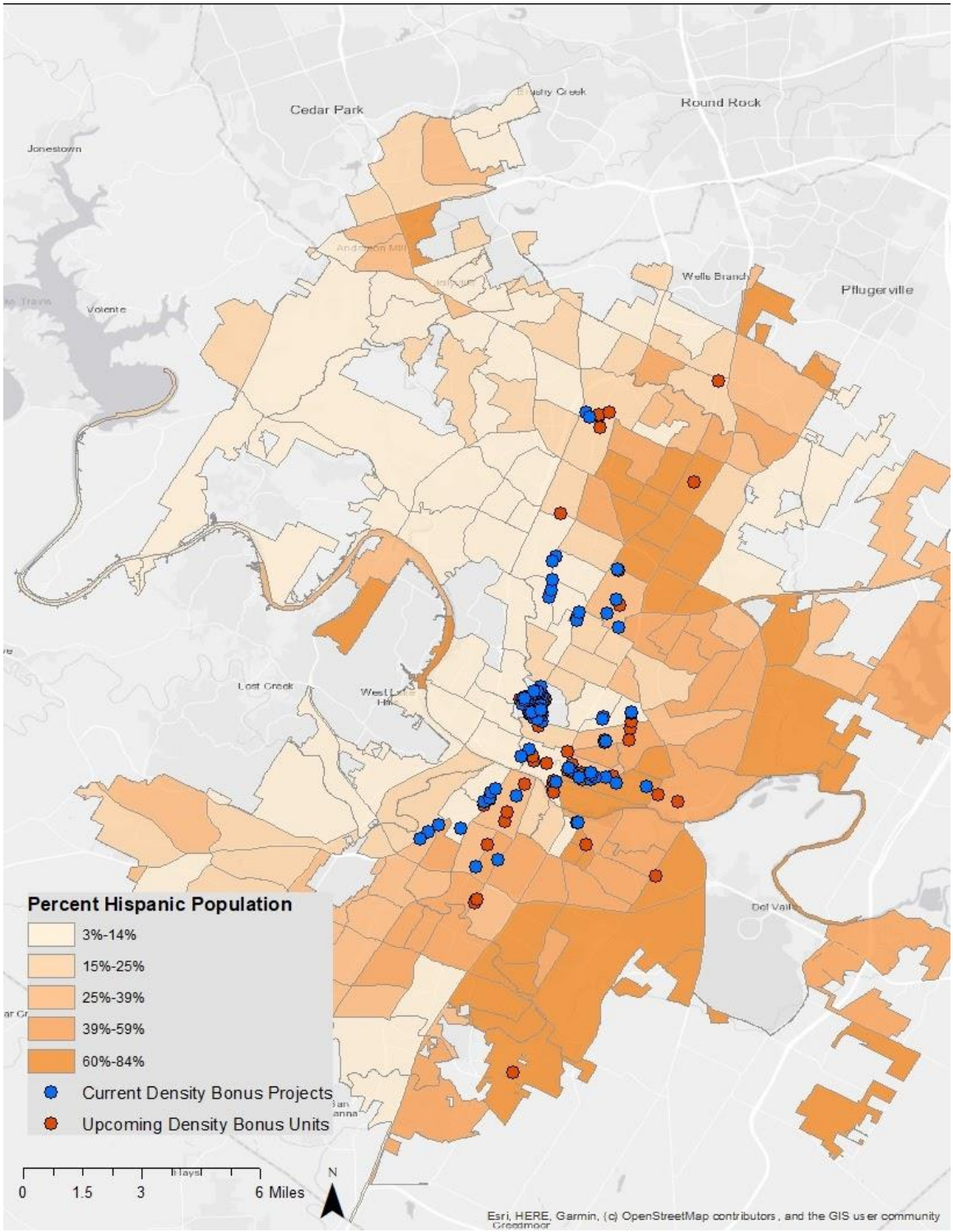
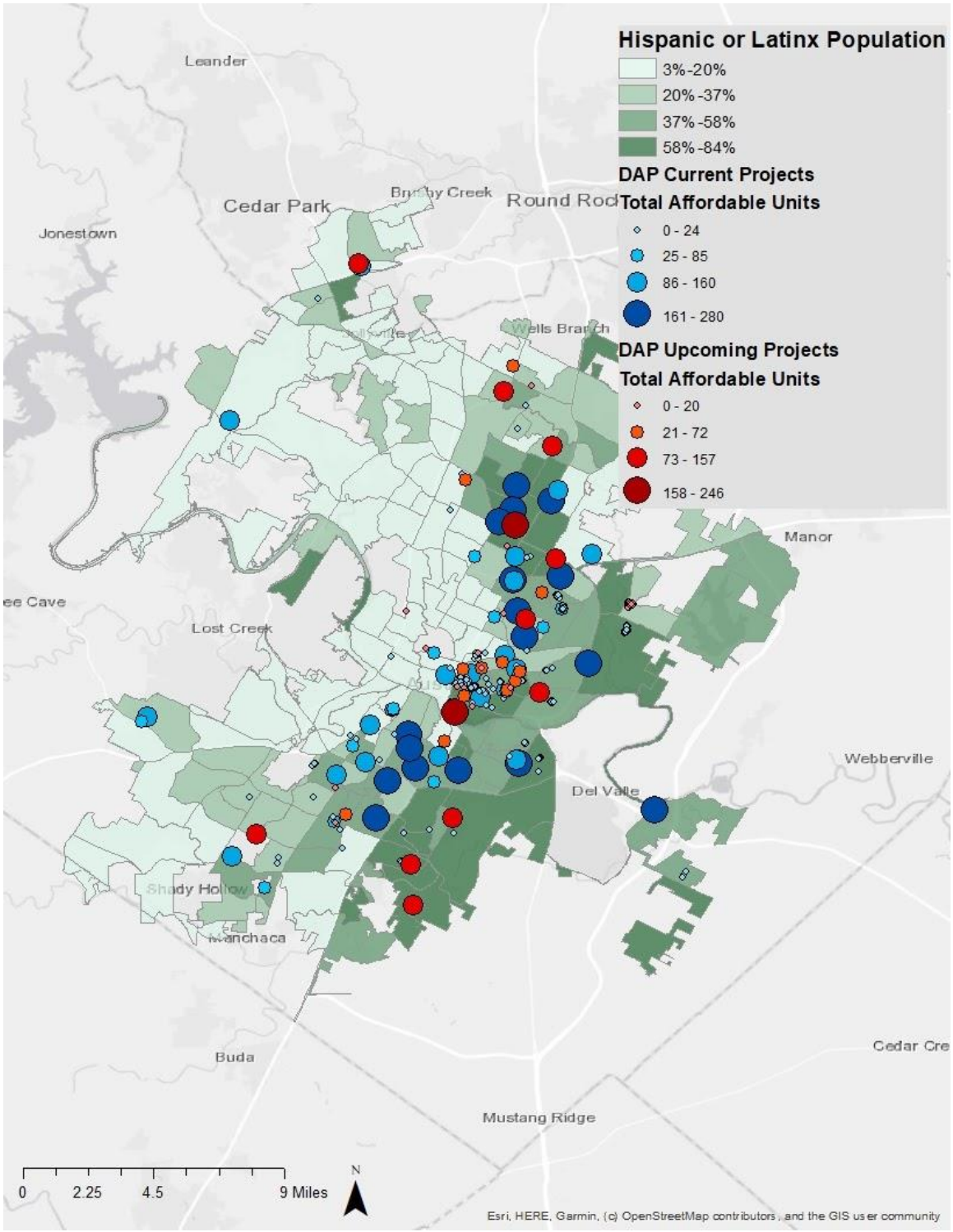


Figure 12 Current and Upcoming AHFC-Subsidized-Subsidized Units in Relation to Austin's Hispanic/Latinx Population



Density Bonus Units and AHFC-Subsidized-Subsidized Units Compared to Spatial Distribution of Income Groups

The spatial pattern of income segregation mirrors the pattern of Austin's distribution of the African American and Hispanic/Latinx populations. As the map displays, higher income households in Austin are heavily concentrated on the western side of the city. As with the distribution of density bonus projects in regard to race, the density bonus projects also perform well in terms of avoiding concentrating in areas with lower incomes, especially when compared with AHFC-Subsidized units. Similar to the geographic dispersion of AHFC-Subsidized units in terms of racial demographics, a larger share of large AHFC-Subsidized units (100 units or more) tend to be located in areas with lower incomes. Also similar to the density bonus project distribution in terms of racial demographics, is the fact that many proposed density projects are in areas with lower incomes. As stated above, this could be representative of changing demographics due to gentrification.

Figure 13 Current and Upcoming Density Bonus Projects in Relation to Income

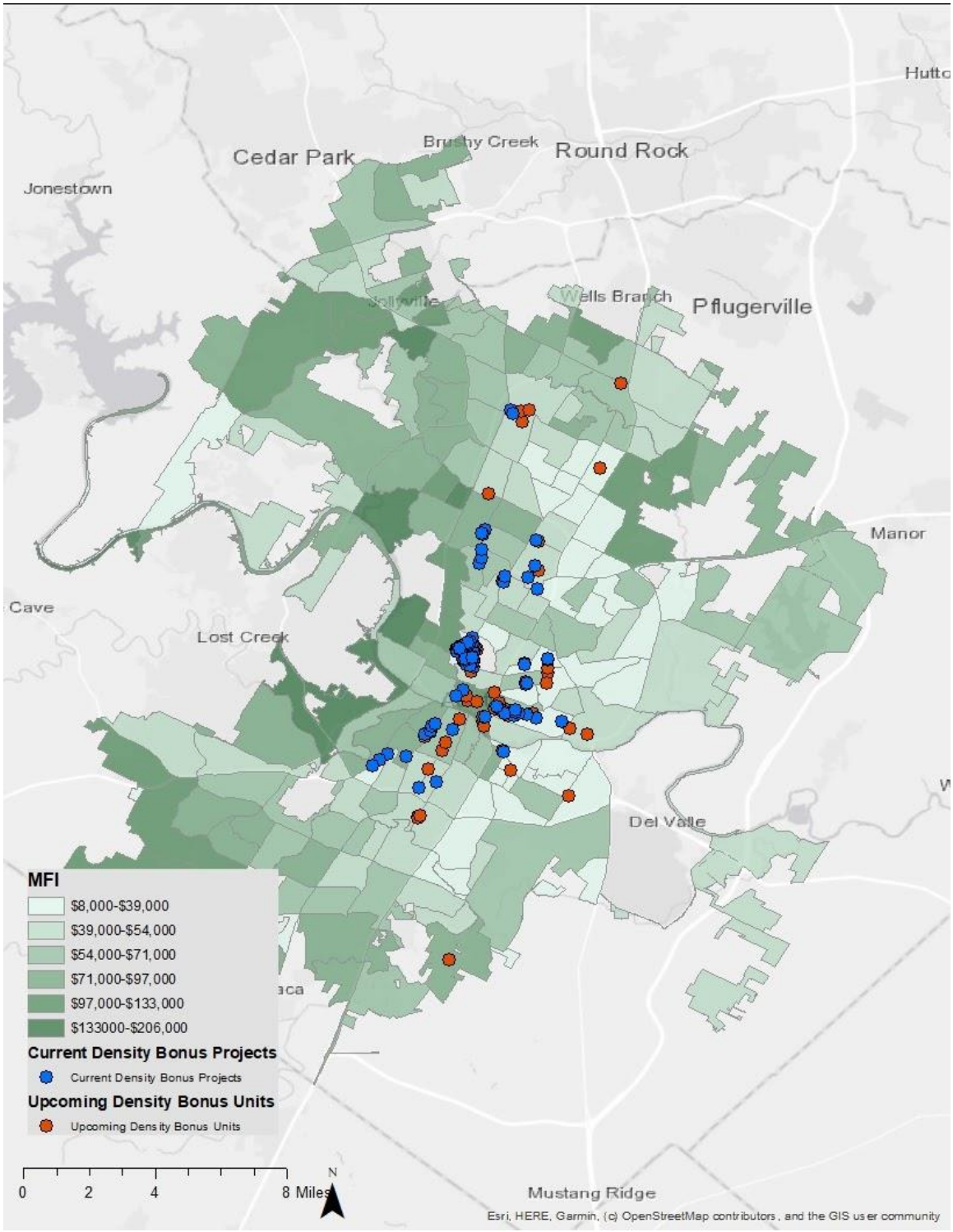
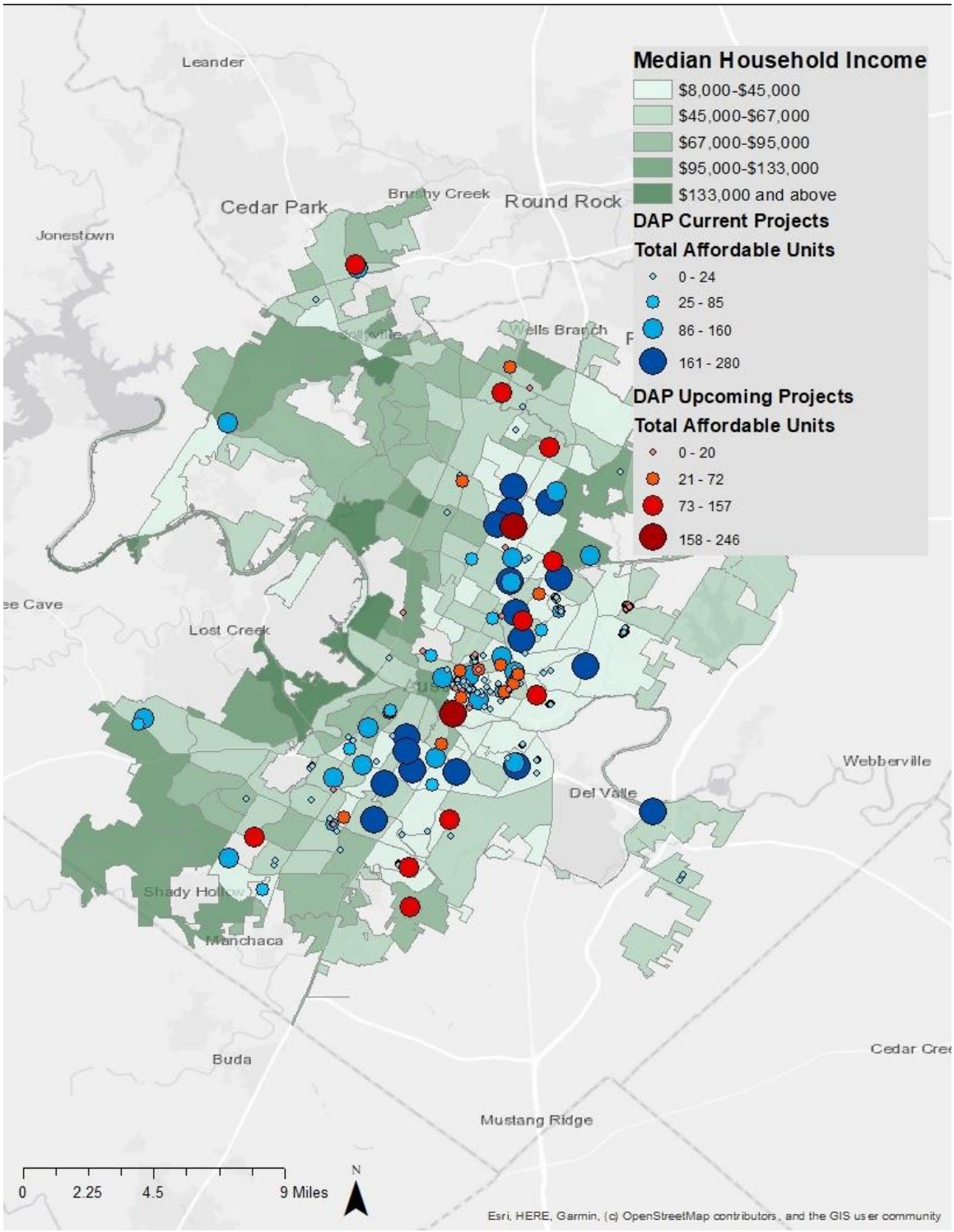


Figure 14 Current and Upcoming AHFC-Subsidized Units in Relation to Incomes



Density Bonus Units and AHFC-Subsidized units Compared to Census Tracts Identified as Vulnerable to Displacement Through Gentrification

In this part of the analysis, census tracts that have been identified as vulnerable to gentrification in the *Uprooted* report are overlapped with current and upcoming density bonus units and with AHFC-Subsidized units. As the map shows, there is a cluster of density bonus projects in the vulnerable tract east of downtown and just north of the Colorado River. Most of these projects are associated with the TOD density bonus near the Plaza Saltillo station. The concentration of units displays the high development pressure of this area; the tract has also been classified as "late stage" gentrification, meaning the area has already been gentrified and not much could be done to change its course. Given the results of the analysis above, which noted there are more AHFC-Subsidized units in areas with higher concentrations of low-incomes and people of color, it is not surprising that there are significantly more AHFC-Subsidized units in vulnerable tracts.

Aside from the projects near Plaza Saltillo, there are few density bonus projects located in vulnerable tracts. Though offering density bonuses inherently means more market-rate development will occur, the density bonus has been discussed as a tool to lower displacement pressure in vulnerable areas. However, this may not be an appropriate tool given that higher rents are needed to support larger multi-family developments that would be likely to participate in a density bonus program (a detailed analysis of how local rents affect density bonus and development feasibility is discussed in Chapter VIII). Though affordable housing policy generally attempts to avoid concentrations of affordable housing in areas that already have concentrations of poverty and minority population, these subsidized units may be a better housing option in vulnerable areas than incentivized affordable housing. With AHFC-Subsidized units, there are generally more affordable units offered at deeper levels of affordability. Though they are more expensive to build, subsidized units may be a better tool in these vulnerable areas as it allows for more housing opportunity, and thus can better address displacement concerns.

Figure 15 Density Bonus Units in Tracts Identified as Vulnerable to Displacement through Gentrification

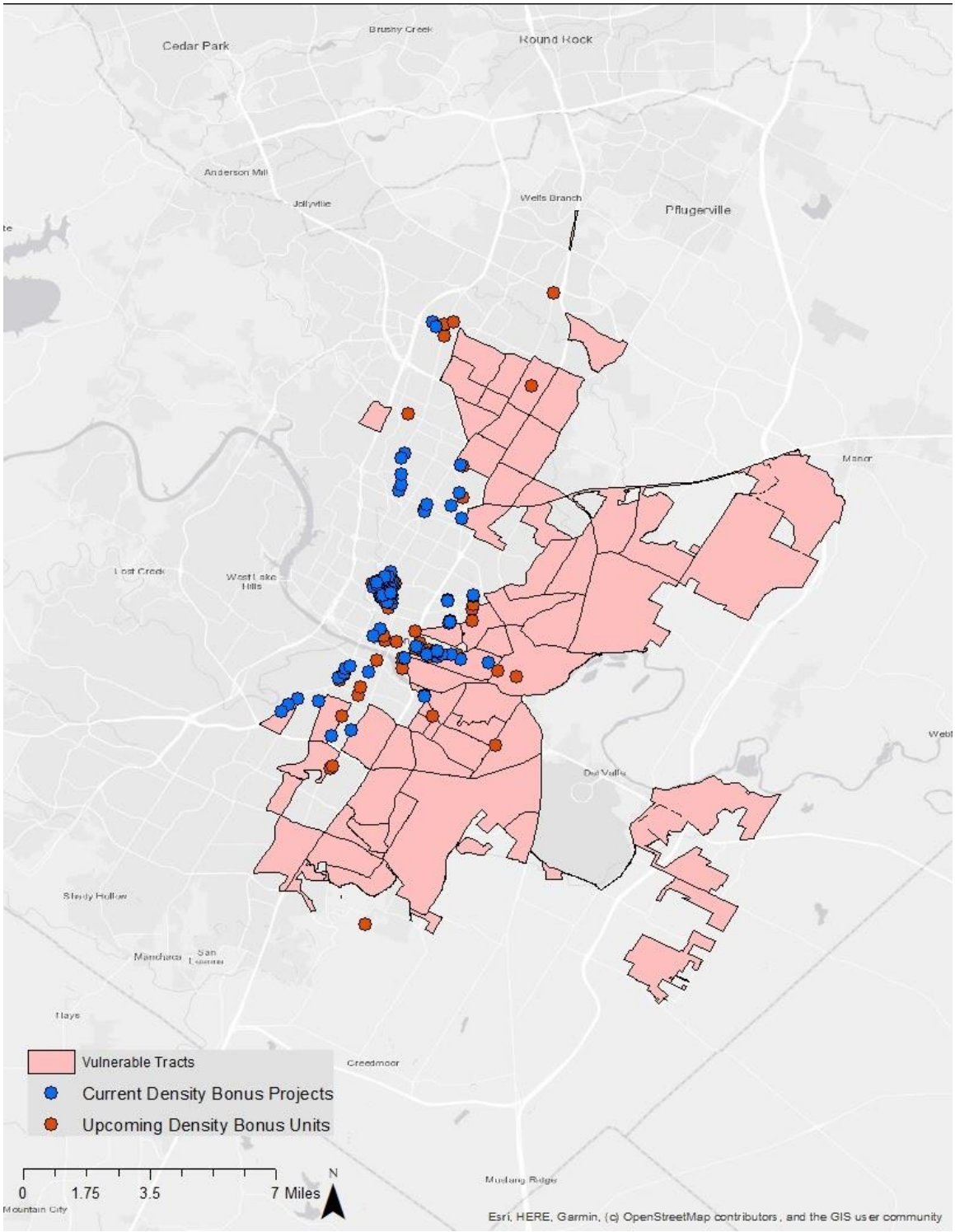
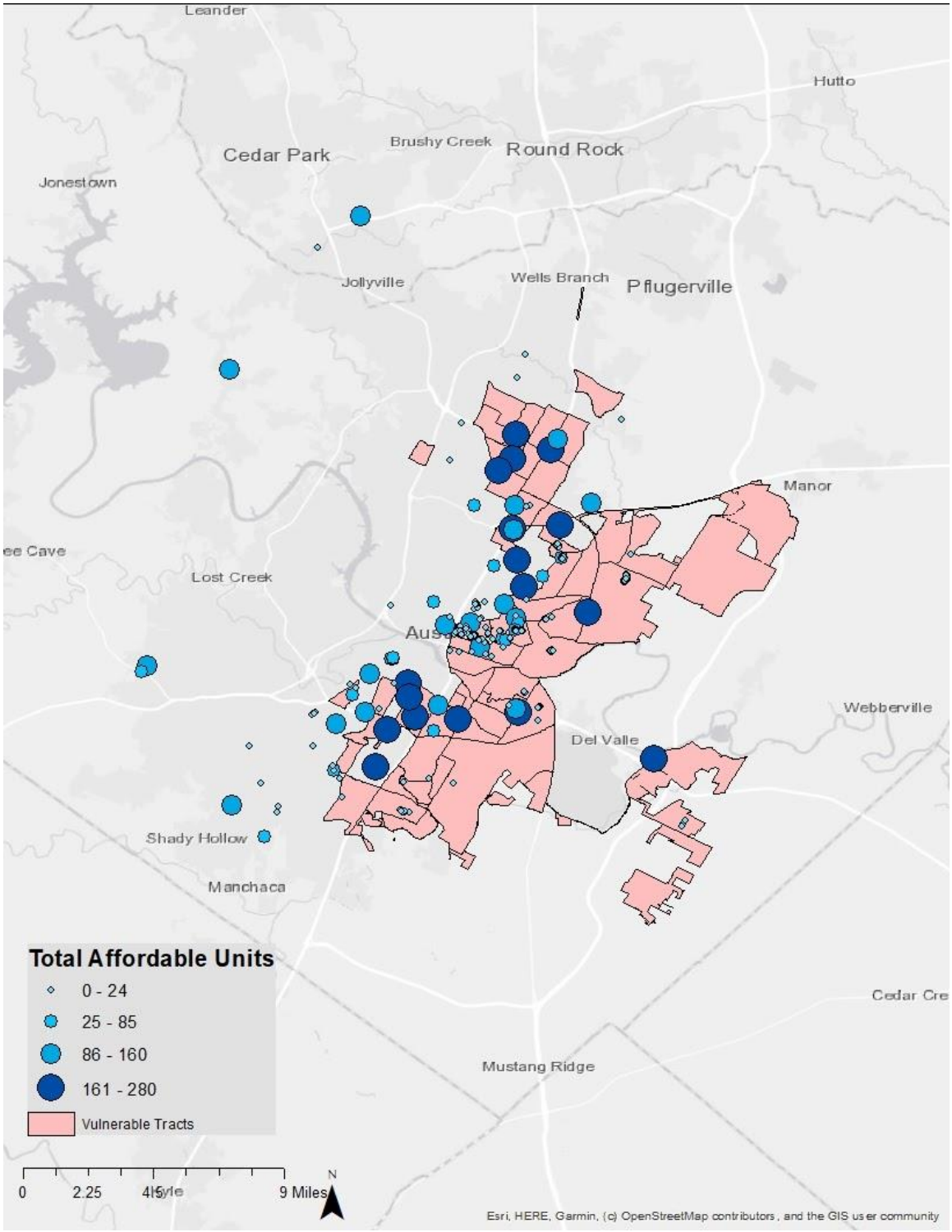


Figure 16 Current AHFC-Subsidized units in Tracts Identified as Vulnerable to Displacement through Gentrification



Conclusion

To create a holistic cost study of the density bonus projects, more data and analysis would need to be completed on possible economic spillover effects (it is possible incentivized development could result in higher rents overall). However, given the data that is available, a simplified cost analysis can be done to at least compare the cost of administering density bonus units to the cost of administering city-subsidized units on a per-unit basis. Doing this analysis with rough estimates shows that even with some of the staff costs accounted for, the density bonus units cost the city significantly less than the AHFC-Subsidized units. In addition, the fees-in-lieu raised by the density bonus projects are larger than the direct cost to the city to implement the program.

Evaluating Austin's density bonus programs in terms of geographic dispersion yields mixed results. While the density bonus projects are less concentrated in areas with concentrations of minority populations or high rates of lower incomes than AHFC-Subsidized units, there are still no density bonus units west of Mo-Pac or in areas with concentrations of high incomes. In addition, without data on who is living in those units it is hard to draw conclusions on whether these units are fostering greater racial diversity. When comparing density bonus units with AHFC-Subsidized units in terms of tracts considered vulnerable to residential displacement, AHFC-Subsidized units are providing much more housing opportunity in these areas. This makes sense given the fact that large market-rate developments are less likely to occur in these vulnerable areas since their rents are likely to be lower than the city's average.

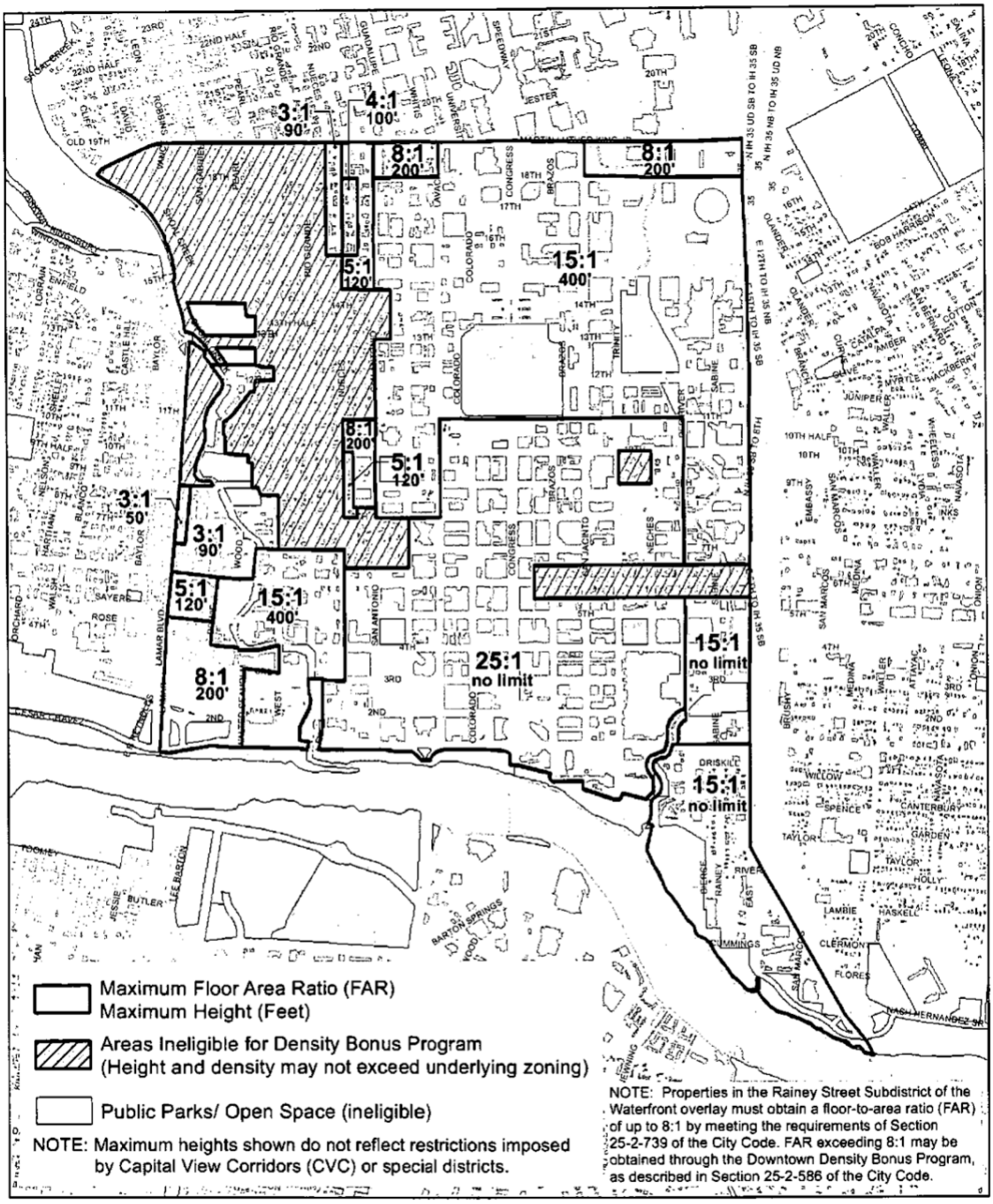
Chapter VIII: Analysis of Density Bonus Under Fall 2019 LDC Draft

As briefly discussed in Chapter IV of this report, Austin is in the process of updating its land development code (LDC). The LDC rewrite aims to significantly increase housing capacity in the city, as well as income-restricted housing capacity via the density bonus programs. With changes to the zoning and new bonus program being introduced, it's estimated that the density bonuses could increase the number of affordable units from the current anticipated production of around 1,500 affordable units in ten years to anywhere between 6,607-16,238 affordable units. This chapter outlines some of those changes and provides an analysis as to how the LDC rewrite might affect density bonus production performance.

Changes to Existing Density Bonus Programs

The Fall 2019 draft LDC proposes changes to three existing density bonus programs: the Downtown Density Bonus program, the VMU program, and the UNO program. For the Downtown Density Bonus program, which currently has produced no physical units but over $1.3 million in fees-in-lieu, the area for no limits on height and floor-to-area ratios has been expanded, as shown in the maps below. For the VMU program, no programmatic changes are proposed, but a special designation was developed to preserve properties in the VMU designation currently. The properties with the new "-V" designation will be required to set aside 10% or more of total units for affordable housing at 60% for rental units or 80% MFI for ownership units (in accord with current VMU program guidelines, listed in Appendix A). There is also no fee in lieu option for the "-V" designation. The -V designation ensures properties currently zoned for vertical mixed use will remain so; the affordability requirements for the bonus and the incentives remain the same. For the UNO program, the area where higher bonuses are offered is expanded.

Figure 17 Current Downtown Density Bonus Guidance for Heights and Floor-to-Area Ratios



Downtown Density Bonus Program - Eligibility, Floor Area Ratio (FAR) and Height Map
Figure 2: Page 1

PLANNING AND DEVELOPMENT REVIEW DEPARTMENT

This product is for informational purposes and may not have been prepared for or be suitable for legal, engineering, or surveying purposes. It does not represent an on-the-ground survey and represents only the approximate relative location of property boundaries. It has been produced by the Planning and Development Review Department for the sole purpose of geographic reference. No warranty is made by the City of Austin regarding specific accuracy or completeness.

0 0.125 0.25 0.5 Miles

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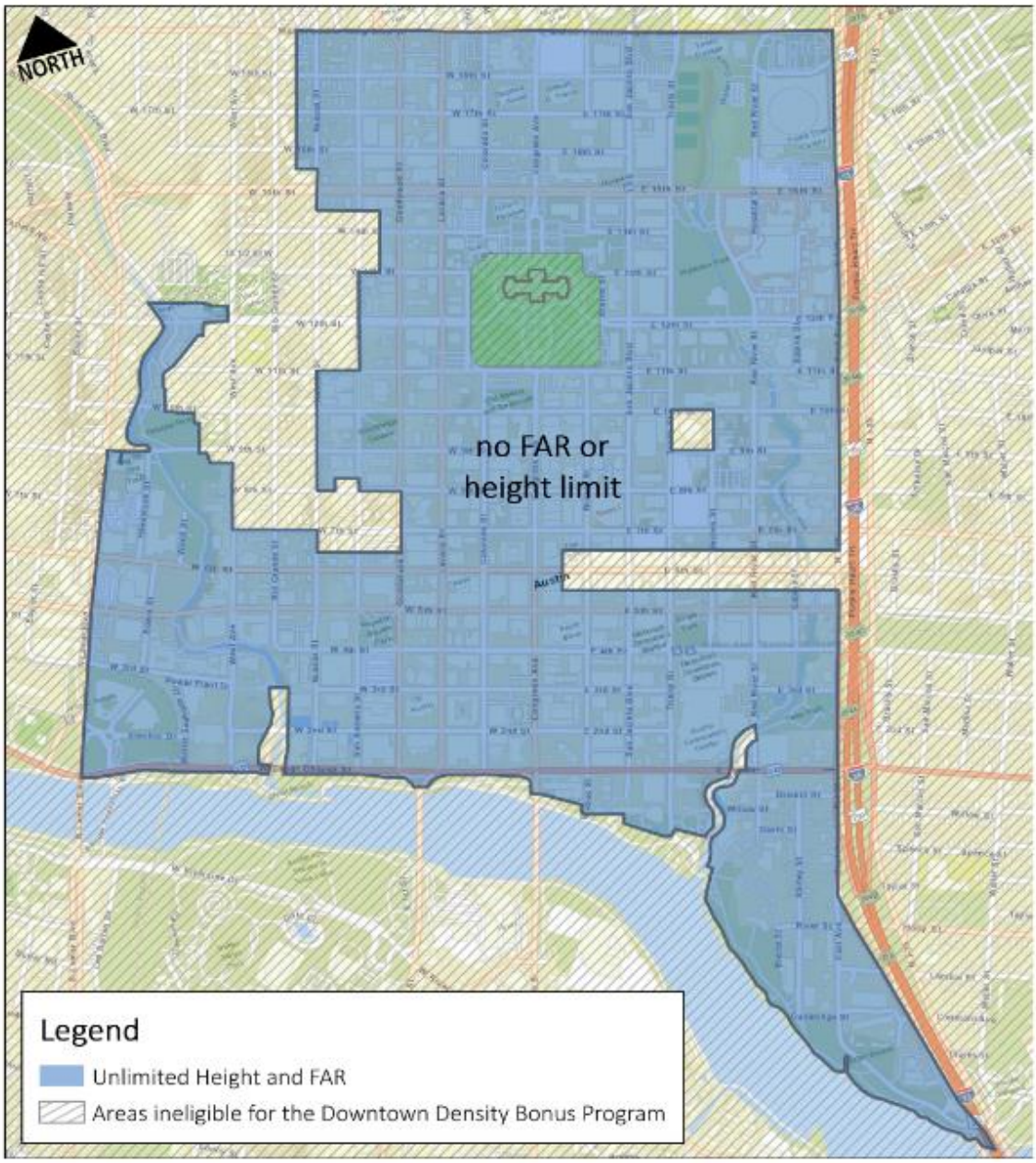
Figure 18 Proposed Downtown Density Bonus area with Unlimited Restrictions on Height and Floor-to-Area Ratios



Requirements for all Density Bonus Programs

Aside from the Downtown Density Bonus and the VMU Development Bonus programs, there are no specific programmatic changes for the other existing density bonus programs in the proposed LDC. There are, however, additional requirements for participation in any density bonus program, some of which were mentioned in Chapter VI of this report. These requirements include:

- An affirmative marketing plan to be approved by the director of NHCD
- Design standards requiring affordable units to have the same features as market-rate units
- A prohibition on discrimination based on the tenants' source of income, including housing vouchers
- A "proportional bedroom count" requirement, which states the mix of bedrooms in affordable units must be proportional to those in market-rate units
- A requirement for participants to use a city-approved third-party manager for affordable units, unless the development has more than three income restricted units; is receiving other federal, state, or local funding for affordable housing; or if the development uses a city-facilitated waitlist to match qualifying residents to income restricted units (this waitlist does not exist yet)
- An administrative fee to be paid by the developer to cover the cost of the city implementing the program

Existing density bonus programs and changes to base zoning

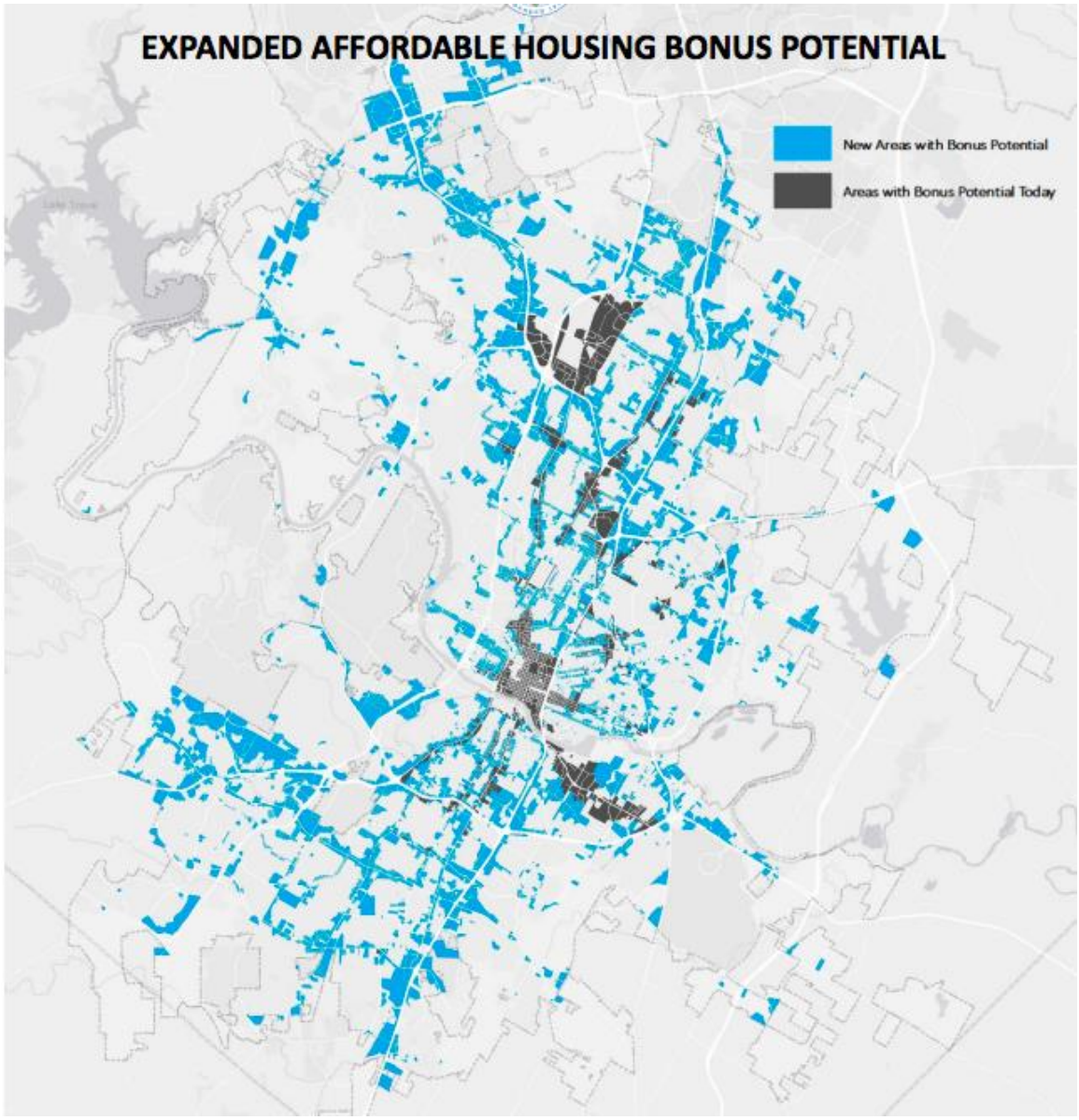
As the production rate of density bonus programs is correlated to the allowable development without the bonus, there have been some concerns over how the production of the existing density bonus programs may be affected with the proposed Fall 2019 draft LDC. However, it seems the base zoning for most areas in existing density bonus programs has not changed significantly. For example, many of the existing areas in the density bonus programs have specific designations, like TOD or the NBG, which is part of a regulating plan. For UNO, while

the base zoning has increased, the UNO overlay remains and offers a very high bonus. For some bonus properties, like the one in the S.M.A.R.T. Greenfield program, the existing low-density zoning of MF-2 has changed to RM2. The new designation allows for only one more unit per lot but includes a bonus for additional height and floor area ratio (FAR) limits.

New density bonus program: AHBP

To encourage more affordable housing production via the density bonus, the proposed Fall 2019 draft LDC also includes new density bonus programs. One of these is the proposed Affordable Housing Bonus Program (AHBP) that offers a city-wide bonus tied to zoning, unlike the current density bonus programs which are tied to specific geographic areas. The current version of the AHBP density bonus varies by zoning designations, and the affordable set-aside ranges from 5%-25% dependent on both zoning and where the development is located within the city. The affordable set aside requirement was calibrated based on hyper-local market data by economic consultants hired by the City of Austin. The consultants calibrated these amounts based on the estimated feasibility of developments with or without a bonus and what it would cost to cover the costs of income-restricted units. While many local housing advocates and some City Council members have advocated for a minimum of a 10% set aside across the city, this would potentially disincentivize developers from participating in the program, and thus would result in fewer affordable housing units.

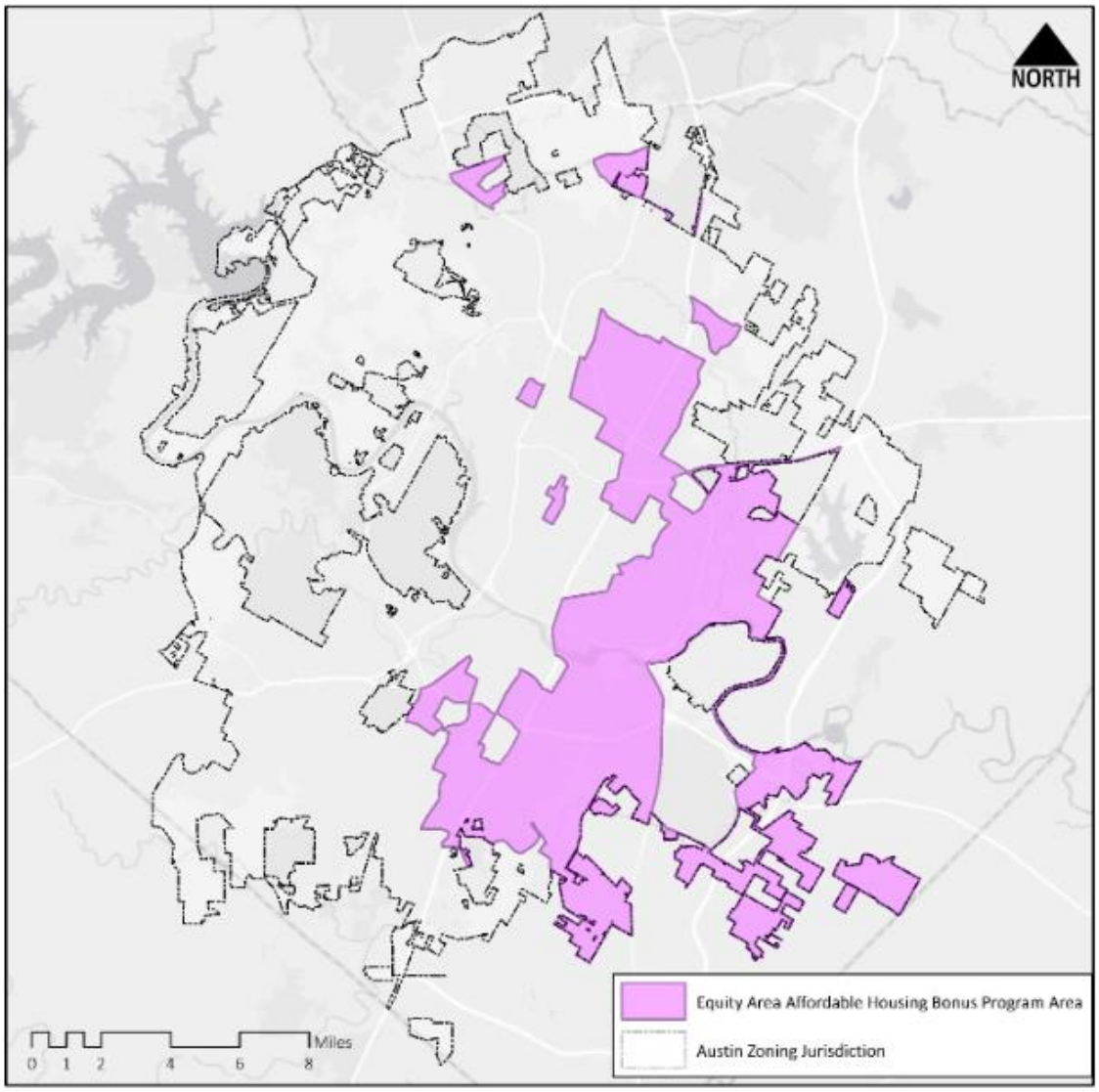
Figure 19 Expanded areas eligible for density bonus through AHBP



New density bonus program: The Equity Bonus

In response to concerns about residential displacement in gentrifying areas, the Council asked staff to propose a density bonus program specific to census tracts identified as vulnerable to displacement due to gentrification in the *Uprooted* study. In an attempt to lower displacement pressure, the city Council proposed that these areas should not be "up-zoned", but instead should offer a development incentive to create income-restricted housing. Thus, the Equity Bonus program was proposed in February 2020. The Equity Bonus requires a 10% set-aside of units that must be built on-site; it does not offer a fee in lieu option. To preserve existing multi-family housing in these areas, the program proposes that existing multi-family properties must be granted council-approval to participate in the program.

Figure 20 Areas eligible for Equity Bonus



Last, the proposed code also includes the Affordability Unlocked Development Bonus, which the Austin City Council adopted in May 2019. Like the citywide bonus program, Affordability Unlocked is applied throughout the city to qualifying developments; it is not tied to specific geographic location. Affordability Unlocked requires the highest affordable set aside at 50%, and in exchange offers a wider variety of zoning incentives and waivers than most other density bonus programs in Austin. This program was designed to target developers who are already

building affordable housing; the high set-aside will make it easier for affordable housing developers to take advantage of density bonuses and other developer incentives.

Tempering expectations of the density bonus capacity

These new density bonus programs significantly expand the area in the city eligible for density bonuses. With the new programs in place, it is estimated that the capacity for affordable units through density bonuses will increase to anywhere between 6,607 to 16,238 units. However, it is important to note that these numbers are projections of *capacity*, the programs remain voluntary and still require enough incentive for developers to opt in. To implement a successful density bonus program, the city must ensure the balance between incentives and requirements are kept at a level that will encourage participation. While new additional requirements and higher and more inflexible affordable set-aside rates are aimed at increasing affordable housing production and quality, it must be taken into account that these programs are entirely voluntary and stringent requirements could discourage participation.

As exemplified in the existing density bonus programs, the programs are highly dependent on the balance of incentives, requirements, and hyper-local housing market conditions. Out of the ten existing density bonus programs, only six have produced units, and over half of all density bonus production is due to one program, the University Neighborhood Overlay. The existing programs have a much higher *capacity* of production than the 1,665 units they have produced. Thus, expectations for the new programs' production rate should be tempered with Austin's current experience in producing density bonus units.

With the Equity Bonus, in exchange for a bonus, there is an affordable set-aside requirement of 10%, with no in-lieu fee option. With the AHBP, set aside requirements vary based on hyper-local market trends, but there has been an effort by local policymakers and some affordable housing advocates to require a 10% minimum set-aside for this program as well. While these minimum set-aside requirements are made with the intention to create more affordable housing,

it's important to consider that the bonus programs are completely voluntary and set-aside requirements can deter developers from participating, thus can result in less affordable housing.

One issue with the 10% minimum set aside is that local rents vary based on neighborhood and geographic area within the city, and play a large part in what, how much, and where developers decide to build. ECONorthwest, the consulting group hired by the City of Austin to help calibrate the AHPB bonus and requirements, provided a workbook to show whether taking a density bonus with specific requirements would cover the costs of the required income-restricted units. The workbook uses development cost assumptions based on Austin developer interviews, public feedback, and input from city staff. The workbook also uses an average city-wide rent of $2.75/square foot. Information in the workbook can be updated to reflect the local market conditions and construction costs based on building type. By using the average rents/square foot for specific neighborhoods, we can see how the development feasibility and bonus feasibility changes when the rent is lower than the city average of $2.75, as the cost of land and the amount of rent that can be charged will vary in different parts of the city. If the existing average neighborhood rent is too low to support a bonus option or a feasible multi-family development, developers will either choose to locate elsewhere or raise the rents. Other development costs, like construction, do not typically vary with location within the city. This is specifically important for the Equity Bonus, as the areas identified as vulnerable to displacement typically have lower rents than the rest of the city.

To observe how the feasibility can change with rents, I developed an average rent/square foot for three neighborhoods identified as vulnerable in the Uprooted study: St. Johns, classified as "most vulnerable"; Highland North, classified as "more vulnerable"; the Holly neighborhood located near East Cesar Chavez, classified as "vulnerable". All three are located in areas qualifying for the Equity Bonus. To calculate the average rents for the neighborhoods, I used Zillow to identify five multifamily properties in each neighborhood and then used the average rent/square foot. The resulting average rents are outlined in the table below.

Table 18 Average rents for St. Johns, Highland North, and Holly Neighborhoods

Neighborhood	Vulnerability Class	Average Rent/Square Foot
St. John's	Most Vulnerable	$1.76
Highland North	More Vulnerable	$1.92
Holly	Vulnerable	$2.23

The exemplary development scenario in the workbook compares a development with base entitlements for a 3-story residential rental building with 97 units, and a bonus development scenario which increases the base development to 5 stories, 196 units, and a higher floor to area ratio. The development scenario feasibility does not take into account the amount required to subsidize the affordable units; it only determines if that size of development would be profitable. In a separate tab, the amount required to subsidize the affordable units is calculated based on the set-aside requirement. Using neighborhood specific rents, the feasibility of the development scenario listed in the workbook changes for each rent level. In addition to changing the rent/square foot value, I also updated the median family income to reflect the 2019 values set by HUD; all other assumptions from this model remained.

When using the average rent of $1.76, the value in St. John's neighborhood, the base development scenario (without the bonus) became not feasible; thus, the bonus scenario is also not feasible. When using the Highland North average rent of $1.92/square foot, the base scenario is feasible, but the bonus is not. The same result is found when the Holly neighborhood rent of $2.23/square foot is used; the base development is feasible, but the bonus scenario is not. I found the same results for each neighborhood when lowering the number of stories and units in both scenarios. To clarify the meaning of these results, the feasibility status is determining the profitability of the development based on its size and the rent it will generate; it does not even account for the amount needed to subsidize the affordable units.

Of course, this analysis is not exact, and in reality, many of the assumptions built into this pro-forma would change based on the developer and the exact location of the development. However, it does show how hyper-local rents inform how and where developers build and exemplifies why "one size fits all" affordability set-asides associated with density bonus could actually deter developers from participating in the programs. This analysis also exemplifies how and why developers would likely increase rents in this type of development, which is antithetical to Equity Bonus's goal of creating more affordable housing options in vulnerable areas. In addition, it also shows how a density bonus program may not be an effective tool to produce affordable units in every neighborhood in the city. According to this simplified analysis, developers building rental housing in these neighborhoods may be unlikely to participate in a density bonus program at all, as the rents are not high enough to support the costs of developing a bigger building. If they do decide to participate, it is likely because they are charging rents much higher than the neighborhood's existing average, which would be a sign of accelerated gentrification.

Other Regulations Influence Development

In developing expectations of housing production related to zoning changes and density bonus programs, it is important to consider that while the density allowable by zoning is certainly correlated to housing production, it is not the only factor that comes into play in determining the size and density of housing developments. A wide body of research shows that developers are influenced by requirements like lot sizes, parking, and costs of capital in determining what they will build. The economic concept of diminishing returns of capital explains why developers may not choose to build the highest or largest building allowable; as you build more, the costs of capital can become disproportional to the value of the building. For example, building a taller development may require an elevator that was not needed before, or may require the use of more expensive framing to support a higher weight burden. Other regulations affecting costs and

feasibility analyses to developers must also be considered when calculating expectations for density bonus success.

Parking requirements also heavily determine the feasibility of developments, as developers must weigh the value of additional units with the costs of additional parking infrastructure. This is reflected in the AHBP workbook; the workbook assumes the parking requirement is one stall per housing unit, and according to feedback from developers, city staff, and public input, the workbook estimates the following parking costs for developments in Austin:

Table 19 Parking Costs for Developments in Austin outlined by the Affordable Housing Bonus Program Workbook

Surface parking ($/stall)	$7,000
Wrapped deck parking ($/stall)	$22,000
Integrated deck ($/stall)	$33,000
Podium parking ($/stall)	$30,000
Underground/Tuck under/Pit-Stacker parking ($/stall)	$40,000

The diminishing returns of capital are clearly observed here; the more units you build, more parking will be required, and the price difference between surface parking to more advanced parking more than triples. The workbook can also be used to test different scenarios with differing parking infrastructure. For example, in the exemplary base scenario described earlier, the development offers 97 units and thus 97 parking stalls. In the bonus scenario, 196 units are built; thus 196 parking stalls must also be offered. The base scenario includes the parking stalls in a surface lot, and the bonus scenario offers 76 stalls in a surface lot, and the remaining 120 in a podium style parking structure. While both of these scenarios are feasible in terms of

profitability, the additional parking costs in the bonus scenario would allow for about 5% of the total units to be affordable at 60% MFI.

Like the analysis with changing rents discussed earlier in this chapter these scenarios are based on a broad set of assumptions that could change in several ways when put in the real world. The parking infrastructure chosen by developers is heavily dependent on their budgets, availability of land, and requirements set by the city. However, using the AHPB workbook to test different parking scenarios is telling of how parking costs can influence a development, and exemplifies how factors besides zoning determine what is built. This denotes that reduced parking requirements may be a successful tool in developing incentives for affordable housing development.

Chapter IX: Findings from Peer Cities

In addition to analysis on the Austin Density Bonus programs, I also interviewed housing department staff in several peer cities with established density bonus programs. The purpose of these interviews was to identify potential best practices or program design methods to improve the Austin density bonus programs, in particular ideas for addressing some of the common criticisms outlined in Chapter VI. However, as discussed in the literature review, comparing IZ program design and IZ program success across municipalities is difficult and nuanced. The success of the IZ programs is highly determined by local housing market conditions and local politics.

Initially, I began this research with cities in states where IZ is also preempted by the state. I spoke with staff in Dallas, Charlotte, Madison, and Nashville, and while each city had a version of IZ in the past or had recently passed an IZ ordinance, none of these cities had a robust program producing a meaningful amount of housing units. After finding limited information from cities in preempted states, I interviewed larger cities with well-known IZ policies. These include Portland, Boston, San Jose, Seattle, Denver and Montgomery County, Maryland. As these cities offer a mix of voluntary and mandatory programs, comparing program design to Austin is not easy. Additionally, I was able to speak with staff from the Grounded Solutions Network, who facilitate Inclusionaryhousing.org, and are a leading institution in IZ policy research.

The focus of these interviews was how/if these cities are collecting data on their IZ residents, management of IZ units, and other program design elements. The purpose of these questions was to apply any helpful lessons to some of the common criticisms of Austin's density bonus programs. Some key findings from these interviews are outlined below.

Data Collection and Management

Only Boston is attempting to collect race/ethnicity data on IZ residents, and has only just begun doing so, so there's no data to report yet. There is no clear plan of how the City plans to use that data, other than knowing and reporting who is living in IZ units. Other cities expressed concern over collecting demographic data other than income and family size, as individual property managers would be collecting this, and, similarly to Austin, property managers expressed concerns over fair housing. Fair housing laws make it illegal to discriminate against protected classes, so demographic information cannot be used in the decision to rent an apartment. However, if this data were collected after the unit were leased, it should not raise fair housing concerns. In addition, while Denver is in the process of developing a web-based tool, none of these cities are using a web-based platform to collect data/forms/applications from developer applications and/or resident applications; instead, staff collect this data directly.

Partnerships with mission-driven organizations to achieve deeper affordability

Montgomery County utilizes robust partnerships with their public housing authority to buy down the units. As a result of their partnership model, 1/3 of all IZ units are provided to either vulnerable populations and/or are offered at much deeper affordability. Montgomery County also shares implementation with another department, the Department of Housing and Community Affairs (DHCA).

Partnerships with other city departments to match residents to IZ units

While several cities expressed interest in developing or cited current efforts to develop a waitlist, Montgomery County is also the only municipality I interviewed that offers a waitlist, which is facilitated by the DHCA. In Boston, the Boston Planning and Development Agency (BPDA) implements the IZ program, and partners with the Office of Fair Housing to facilitate a

preference policy for existing neighborhood residents to receive priority for IZ units and a lottery system to match residents to IZ units.

Third-party management of IZ units

None of the cities I spoke with are using a third party to manage the units, but many expressed interests in doing so. Funding and capacity were often mentioned as roadblocks to using this model.

Austin is a top-performing city in completely voluntary IZ programs

In my interview with staff from Grounded Solutions, I inquired about other completely voluntary programs in cities that have comparable production rates to Austin; the answer: there aren't any. Grounded Solutions informed me that when other cities who are attempting to implement a voluntary IZ program inquire about best practices or exemplary cities, Austin is used as a reference. The staff mentioned how difficult it can be to implement a successful program that is completely voluntary and noted they typically do not advise cities to rely on voluntary IZ programs to produce a large amount of affordable housing.

Chapter X: Recommendations and Conclusion

Consistent with IZ literature discussed previously in this report, evaluating the success of an IZ policy is highly nuanced. The success of an IZ program, like the density bonuses, is dependent on housing market conditions and localized policies that vary not only between cities but within them. For example, we see a wide variety in production rates of individual density programs within the City of Austin, due in large part to the varied nature of land values and housing demand in different localities in the city and the variety of incentives offered between the programs. This makes it difficult to evaluate density bonus programs in comparison with not only other cities' programs, but also with each other in the same city.

The nuanced nature of evaluating density bonus programs also makes it difficult to offer specific recommendations for guaranteed, likely, or increased success of the density bonus tool for creating affordable housing. However, the analysis of Austin's density bonus programs outlined in this report, which analyzed Austin's current density bonus program's production rates, costs, spatial distribution, and common criticisms provides key takeaways that can inform program design and future implementation of new density bonus programs. These take-aways are outlined below.

The costs of administering density bonus programs are low, but the costs would rise to address some of the monitoring and enforcement concerns. A common criticism of Austin's density bonus programs is that there could be hidden costs associated with administering the programs. While it is true that these programs do not come "for free" to the city, the production of density bonus affordable units comes at a very low direct cost to the city, especially when the fees in lieu and the amount of subsidy that would have otherwise been required are accounted for. However, if the City were to address some of the concerns about limited monitoring and enforcement, costs for administering the programs would rise.

The direct cost for producing density bonus units is very low, especially compared to other city programs to produce income restricted housing units. In comparing administrative and subsidy costs of administering the density bonus programs and the development assistance programs; the density bonus costs only an estimated $2,000 in direct costs to the city while AHFC-Subsidized units cost an estimated $34,000 to the city. While these costs could go up if the city addresses some of the monitoring and administration issues, the direct costs associated with density bonus units will still be much lower than providing a subsidy.

To account for the full costs and benefits of the density bonus programs, a more comprehensive analysis should be done on how the programs perform in terms of meeting affordable housing goals related to vulnerable populations. This report has discussed the low costs of administering density bonus programs, but to fully understand the benefits of the density bonus units, it is important to know how they are performing in meeting the city's affordable housing goals related to housing vulnerable residents. Comparing density bonus units to other city-subsidized units, it is notable that density bonus programs are more successful in offering housing options in areas with higher incomes and without existing concentrations of minority populations. However, without demographic data, it is difficult to understand how density bonus units are or are not meeting the needs of Austin residents.

Given low production of ownership bonus units and high rates of renters in Austin, it makes sense to eliminate ownership density bonus efforts and focus on rental units. Ownership density bonus unit production accounts for only 2% of the total production; this accounts for only 13 affordable ownership units over a span of 13 years. This low rate is likely due to barriers in finding eligible low-income residents who are pursuing home ownership. Given that Austin's housing market is made up of 54% renters, and that most low-income households are looking for rental options, it makes sense to focus density bonus programs on rental units.

Demographic data collection on residents could help better inform the city's strategy for using the density bonus and for evaluating the success of the density bonus programs. Currently, the city is not collecting demographic data on residents, but it is doing so for other subsidized units. As such, the density bonus programs are operating "race blind". The lack of data disallows the City to understand what populations do or do not have access to these units, the role a density bonus program might play in residential displacement and makes it difficult to comprehensively evaluate the success of the density bonus programs in creating more diverse communities. Demographic data would also let the City know if and how the density bonus units can address the needs of different populations, like families with children, the elderly, or people with disabilities. Data on race/ethnicity would denote if Austin's communities of color are able to access density bonus units. Data on where density bonus units work would denote if density bonus units help reduce transit times and offer an option for residents to live closer to their jobs, or closer to more opportunities for jobs. Data on resident's age would inform the city of what age groups have access to density bonus units, and if families with children are able to access these units. Information on where density bonus residents have lived in the past could also help inform potential preference policies, which could prioritize existing or past residents of the neighborhood for any bonus units that are developed in the neighborhood.

The proposed Equity Bonus is not an appropriate tool for producing affordable housing in areas vulnerable to displacement from gentrification. As the literature review discussed, housing production through IZ programs like the density bonus are highly dependent on hyper-local housing market conditions. In addition, as the rent analysis in Chapter VIII of this report showed, the size and type of developments that occur are highly depending on local rents; i.e. the cost of land. Most areas identified as vulnerable to displacement from gentrification in Austin have lower rents; developments that would participate in this bonus would need to have rents much higher than the area's average, which is antithetical to the program's goal of offering more affordable housing options. This type of new, more expensive development in areas vulnerable to displacement would be a sign of furthered gentrification, not a tool to combat residential displacement. Encouraging developments with The Equity Bonus, which requires a 10%

affordable unit set-aside, will be unlikely to produce many income restricted units in these vulnerable areas.

Regulations other than zoning, like parking requirements, should be considered in developing expectations for density bonus unit production and in developing incentives. The Fall 2019 draft LDC offers that the potential density bonus capacity could increase from its current level to between 6,607 to 16,238 units. While expanding the density bonus programs is a positive thing, and will likely increase affordable housing production, the expectations for production should be tempered with other factors affecting the success of density bonus production. From the current programs, we know that overall production will likely be much lower than the program's capacity. Additionally, several other regulations including parking requirements, and the fact that bigger buildings are generally more expensive will impact developer's decision to participate in a bonus program. Reducing parking requirements could be a successful incentive.

Overall, the density bonus program is a valuable tool for creating affordable housing units in Austin. While the density bonus unit production contributes a small amount to the overall housing stock in the city, these 1,665 units have provided housing options to thousands of residents in need of an affordable housing option. While the programs often receive criticism, the City has made efforts to address many of these issues in the proposed Fall 2019 draft LDC. While density bonus production has been much lower than city-subsidized units, the density bonus units outperform the AHFC-Subsidized units in terms of offering an affordable housing option in areas with higher incomes and that do not have existing concentrations of minority populations. This report has outlined that while the density bonus program alone cannot solve the affordability crisis in Austin, it remains a valuable and cost-effective tool in the toolbox of affordable housing production.

Appendices

City of Austin Affordable Housing Development Incentive Policy Overview

Policy	Incentive Policy Type	Applicability	Development Incentives & Waivers/Modifications	Affordability Set-Aside Requirements	Maximum Income Limit (as % of MFI)*		Affordability Period		Fee-in-Lieu Rate	Year Adopted	Most Recent Amendment	Original Ordinance	Land Development Code Reference
					Owner	Rental	Owner	Rental					
Downtown Density Bonus (DDB)	Density Bonus	Central Business Distict	Increased maximum height and floor-to-area ratio (FAR)	10% of residential bonus area	120%	80%	99 years	40 years	$3 to $10 per gross bonus square foot for residential projects only. No fee for non-residential projects.	2013		Ordinance No. 20130627-105	§ 25-2-586
East Riverside Corridor (ERC) Development Bonus	Density Bonus	East Riverside Corridor Regulating District	Increased maximum height, FAR, and modification to compatability standards	25% of bonus area	80%	60%	99 years	40 years	$1 per gross bonus square foot for buildings over 90 ft. (no in-lieu option under 90')	2013		Regulating Plan	§ 25-2-149
Micro-Unit Density Bonus	Density Bonus	Applies to multifamily use in Transit Oriented Development Districts or along Core Transit Corridors when units are 500 square feet or less	Waiver of minimum site area requirements and reduction in off-street parking requirements	10% of total units	80%	50%	99 years	40 years	None	2014		Ordinance No. 20141211-228	§ 25-2-780
North Burnet Gateway (NBG) Development Bonus	Density Bonus	North Burnet Gateway Regulating District	Increased maximum height and FAR	10% of bonus area	80%	60%	99 years	40 years	$7 per gross bonus square foot	2009		Ordinance No. 20090312-035	§ 25-2-148
Planned Unit Development (PUD) Density Bonus	Density Bonus	Planned Unit Developments where the proposed land use exceeds base entitlements	Increased maximum height, FAR, and building coverage	10% of bonus area (rental) and 5% of bonus area (ownership)	80%	60%	99 years	40 years	$7 per gross bonus square foot	2008	Ordinance No. 20131003-096	Ordinance No. 20080618-098	§ 25-2-Subchapter B Article 2.5
Rainey Street Density Bonus	Density Bonus	Rainey Street Subdistrict	Waiver of maximum height up to 8:1 FAR	5% of total residential area	80%	80%	none	none	None	2005	Ordinance No. 20140227-054	Ordinance No. 20050407-063	§ 25-2-739
S.M.A.R.T. Housing	Fee Waivers & Development Incentives	Citywide	Permit, inspection, and Capital Recovery fee waivers	At least 10% of total units	80%	80%	1 year	5 years	None	2007	Ordinance No. 20071129-100	Ordinance No. 20141106-124	§ 25-1 Article 15.2
S.M.A.R.T. Housing Greenfield Single-Family Density Bonus	Density Bonus	SF-2 & SF-3 zoning districts on lots 3 acres or greater	Site may be developed under SF-4A zoning district standards	10% of total units	80% and 100%	60%	1 year	5 years	None	2008		Ordinance No. 20080131-132	§ 25-2-566
S.M.A.R.T. Housing Greenfield Multi-Family Density Bonus	Density Bonus	Undeveloped lots with MF-2 through MF-5 zoning	Site may be developed under MF-6 zoning district standards	10% of total units	80% and 100%	60%	99 years	40 years	None	2008		Ordinance No. 20080131-132	§ 25-2-567
Transit Oriented Development (TOD) Development Bonus	Density Bonus	Plaza Saltillo, Crestview, and MLK Transit Oriented Development Districts	Increased maximum height, FAR, and modification to compatability standards	At least 10% of total area	80%	50% and/or 60%	99 years	40 years	$12 per gross bonus square foot	2009		Ordinance No. 200902012-070	§ 25-2 Subchapter C Article 3.10
University Neighborhood Overlay (UNO) Density Bonus (Pre 2/24/14)	Density Bonus	University Neighborhood Overlay District, On or Before February 24, 2014	Increased maximum height, FAR, and modification to compatability and parking standards	At least 10% of total units	65% and/or 80%	65% and/or 80%	15 years	15 years	None	2004	Ordinance No. 20140213-056	Ordinance No. 040902-58	§ 25-2 Subchapter C Article 3.09
							15 years	15 years	$0.50 per net rentable square foot				
University Neighborhood Overlay (UNO) Density Bonus (Post 2/24/14)	Density Bonus	University Neighborhood Overlay District, After February 24, 2014	Increased maximum height, FAR, and modification to compatability and parking standards	At least 10% of total area	50% and/or 60%	50% and/or 60%	40 years	40 years	$1 per net rentable square foot for residential use or $2 per net rentable square foot for hotel use	2014		Ordinance 20140213-056	§ 25-2 Subchapter C Article 3.09
							40 years	40 years					
Vertical Mixed Use (VMU)	Density Bonus	Vertical Mixed Use and Mixed Use Combining Districts	Relaxed site area requirements, setbacks, and parking requirements, and waiver of FAR	10% of total units	80 and 100%	60% or 80%	99 years	40 years	None (Fee amount for commercial space above ground floor pending)	2010	Ordinance No. 20130606-088	Ordinance No. 20100408-049	§ 25-2-Subchapter E Article 4.3

DISCLAIMER: The City of Austin Neighborhood Housing and Community Development Department makes reasonable efforts to ensure the information contained herein is accurate and current. However, this document is not intended to provide a comprehensive summary of all policy/program requirements. Interested parties should refer to the appropriate sections (referenced herein) of the Land Development Code and Regulating Plans for further details.

*MFI = Median Family Income. See http://www.austintexas.gov/page/income-limits for more information.

Appendix B: Memo outlining NHCD staff recommendation for density bonus programs

This memorandum and attached recommendations are provided in response to Resolution No. 20180823-077 which directed staff 1) to develop recommendations for code and regulating plan amendments needed to recalibrate density bonus policy affordability and fee-in-lieu requirements; and 2) to return to Council with recommendations and options that encourage on-site affordability and consider risks of diminishing the number of affordable units and fees-in-lieu. It also responds to Resolution No. 20180510-050 which initiated code amendments and amendments to uncodified ordinances to prohibit source of income discrimination in all units, and require good cause eviction protections in rent-restricted units or all units in properties that participate in City density bonus or other similar incentive programs.

Resolution No. 20180823-077

The City of Austin has 12 different density bonus policies, each adopted independently between 2004 and 2010. Given the dynamics of housing submarkets change over time, and many affordability requirements in these policies have not been comprehensively re-evaluated since their adoption, staff recognizes this as an opportunity to not only recalibrate the City's density bonus policies, but also to offer recommendations for policy updates. To that end, the goal of the attached staff recommendations is to update Austin's density bonus policies to generate the greatest number of on-site affordable housing units (in developments with residential uses) and to maximize the fees in lieu of affordable units (in developments without residential uses).

The modeling completed for existing density bonus policies as part of CodeNEXT is not sufficient because it considered only changing fees, not reassessing the percentage of units required as called for by this resolution. Therefore, economic modeling will be necessary to assess and recommend affordable unit set-aside requirements, fee levels, and development entitlements for existing density bonus programs. Other staff recommendations described in the attachment include allowing administrative approvals of fees in lieu of affordable units in certain circumstances, instituting fees for non-residential projects participating in density bonus programs, and inserting proportionate unit mix requirements and source of income protections into all density bonus policies. Also included is a recommendation to increase enforcement mechanisms for the policies. Staff suggests these recommendations, and the findings of the recalibration modeling, be used to make code amendments to update the density bonus policies.

As stated above and on page 5 of the attachment, staff recommends the inclusion of source of income protections and good cause eviction protections in density bonus units be considered during this recalibration and code amendment process.
Under the Austin Strategic Housing Blueprint Implementation one- to two-year work plan, the City's other affordable housing incentive program, S.M.A.R.T. Housing, will be updated and enhanced. Staff recommends this update process consider the source of income and good cause eviction protections for S.M.A.R.T. Housing.

Next Steps

Staff will await Council direction to initiate the code amendment process to update the density bonus policies, should Council decide to move forward with these recommendations. With that direction, staff will obtain a consultant through a competitive solicitation to undertake the necessary recalibration and economic modeling.

If you have questions, please contact Rosie Truelove, Director, at (512) 974-3064 or rosie.truelove@austintexas.gov; or Erica Leak, Acting Assistant Director, at (512) 974-9375 or erica.leak@austintexas.gov.

cc: Spencer Cronk, City Manager J. Rodney Gonzales, Assistant City Manager Greg Guernsey, Director, Planning and Zoning Department

Background

The City of Austin has 12 different density bonus policies each adopted independently between 2004 and 2010. The policiesAustin Strategic Housing Blueprint. [1] are voluntary development incentives tied to base zoning or overlay districts, each varying in allowable development entitlements and required community benefits, with most only available in specific parts of the city. Since inception, these policies have created 1,459 dwelling units affordable to households earning no more than 50, 60, 80, or 100 percent of the area median family income (depending on the policy used), without the use of any public subsidy. It is estimated that the cost to buy down these units from market rates to the affordable rates would be greater than $75 million. Additionally, these policies have generated $4,584,734 in fee-in-lieu revenue used to subsidize the provision of housing and services to persons experiencing chronic homelessness and the development of very low income housing. Perhaps most noteworthy is that the overwhelming majority of these affordable units are located in mixed income, high opportunity communities with good access to public transit, addressing several goals identified in Imagine Austin, Strategic Direction 2023, and the

[1] This memo refers to both density bonus *policies*, which are regulations that reside in the City Land Development Code and Regulating Plans and are set by ordinance, and density bonus *programs*, meaning the implementation of the density bonus regulations.

Resolution No. 20180823-077 directed staff to 1) develop recommendations for code and regulating plan amendments needed to recalibrate density bonus policy affordability and fee-in-lieu requirements, and 2) to bring back to Council recommendations and options that encourage on-site affordability and consider risks of diminishing the number of affordable units and fees-in-lieu. Given that the dynamics of housing submarkets change over time, and that many of the affordability requirements in these policies

have not been comprehensively re-evaluated since their adoption, staff recognize this as an opportunity not only to recalibrate the City's density bonus policies, but also to offer recommendations for policy updates. These recommendations are listed in the table on the next page.

Staff Recommendations

NHCD's central goal in providing these recommendations is to update Austin's density bonus policies to generate the greatest number of on-site affordable housing units (in developments with residential uses) and to maximize the fees in lieu of affordable units (in developments with non-residential uses). While maximizing the number of affordable units built and fees collected is the central goal, staff recognize that there are many other competing goals and priorities in the community. As directed in Resolution No. 20180823-077, staff have sought to incorporate these other policy goals where feasible and have noted where enforcement of these goals may diminish participation and unit yield.

Consultant for Economic Modeling & Recalibration

Should Council initiate code amendments based on these recommendations, staff will obtain a consultant through a competitive solicitation process to evaluate and recalibrate the affordable unit set-aside requirements, fee levels, and development entitlements for existing density bonus programs. The modeling will take into account various levels of affordability (income levels and numbers of affordable units) to assess impacts to production of units. The modeling completed for existing density bonus policies as part of CodeNEXT is not sufficient because it considered only changing fees, not reassessing percentages of affordable units required as called for by this resolution. Changing market conditions and the lack of a comprehensive review of existing policies' performance necessitate recalibration. Modeling unit production at different income levels and numbers of affordable units will help the City understand the trade-offs between height, density, deeper levels of affordability, and numbers of units.

Other Recommendations

The table below describes other staff recommendations, including allowing administrative approvals of fees in lieu of affordable units in certain circumstances, instituting fees for non-residential projects participating in density bonus programs, and inserting proportionate unit mix requirements and source of income protections into all density bonus policies. Staff recommend that these proposals, and the findings of the recalibration modeling, be used to make code amendments to update the density bonus policies.

Staff Recommendations for Updating Existing Density Bonus Policies Density Bonus Policy*	**Recommendation**	**Justification**
All	Update the affordable unit set-asides and affordable housing fee rates in all policies to reflect the results of the new recalibration, and move affordable housing fee rates from	Updating the set-aside and fee requirements will implement the findings of the new economic modeling and recalibration. As suggested in

	disparate ordinances and land development code sections to the City's Fee Schedule.	Resolution 20180823-077, moving fee rates from many different ordinances into the City's Fee Schedule will allow Council to annually approve the fees with the city budget and will provide for annual review and updates as necessary.
All	Standardize the basis of affordability requirements across all policies (i.e., total units, bonus units, bonus area, and net rentable area).	Currently, some policies require a percentage of units to be affordable, while some require a percentage of square footage (and define square footage in different ways, habitable versus total, for example). Standardization across policies will make administration and implementation easier and will make requirements clearer for developers and community members.
All	Define terms and address discrepancies in existing code or regulating plan language.	For transparency and ease of use/ administration, clean up language in all policies where it lacks clarity (this does not alter the original requirements of the policies, it merely clarifies confusing language where needed).

Density Bonus Policy*	**Recommendation**	**Justification**
All	Strengthen compliance and enforcement mechanisms in policies and program rules. Add affirmative marketing plan requirements for affordable units.	For transparency, clarity of enforcement process, and ease of use/ administration, provide more information in policies and program rules on enforcement mechanisms and requirements. As in the CodeNEXT draft, add requirements for affirmative

		marketing plans for affordable units.
DDB; Rainey; UNO (has hotel only)	Add an affordable housing fee requirement for non-residential development where it does not exist today.	These policies do not currently have fee rates for non-residential development, although non-residential projects can access a bonus. The City has likely foregone revenue due to this omission, and will likely continue to do so if a non-residential fee is not adopted.
Micro Unit; Rainey; S.M.A.R.T. SF & MF Density Bonus; VMU	Add a requirement that allows the Housing Director to approve payment of a fee in lieu of on-site units for residential projects where it does not exist today. Establish decision making criteria to guide the Housing Director in making that determination.	Requiring Council approval of fees in lieu of on-site units adds significant costs, time, and uncertainty to the development process. This can negatively impact participation in the density bonus program as developers seek to avoid that increased cost and uncertainty. Setting fees that are commensurate with (or higher than) the cost to provide units on-site, combined with clear policy requirements informed by community input, will create a policy framework that is depoliticized, where on-site units are prioritized and fees are allowed only in cases that meet the policy criteria. For example, the in lieu fee amount could be set at 120% the cost of creating an affordable unit in the census tract of the development.
TOD	Change the requirement that Council must approve payment of a fee for non-residential development, by	Projects that have no residential component cannot provide affordable units on-site. Allowing an

	allowing the Housing Director to approve the fee payment instead.	administrative approval of the fee payment makes the process clearer, fairer, and more efficient.
NBG; TOD; UNO	Remove geographic restrictions on the use of fee-in-lieu revenue	Some policies stipulate that fees collected through the density bonus program can only be spent within a specified radius of the density bonus district. This requirement limits the City's ability to layer funding into affordable housing developments in a timely manner, even in developments that are serving vulnerable populations or are in gentrifying or high opportunity areas.

All (unit mix already required in DDB & Rainey)	Add the requirement that property owners provide affordable multi-bedroom units proportional to the ratio of the multi-bedroom units in the overall development. Add an option to allow property owners to provide a 2- or 3-bedroom unit in lieu of two or three 1-bedroom/efficiency units.	While this requirement increases the cost to participate in a density bonus program and can disincentivize participation, the community and Council have identified the need for more affordable units that can serve multiple-person households. The option to provide fewer units if more bedrooms are provided is an attempt to balance the cost to provide multiple bedroom units with the need to ensure that the bonus policy remains attractive to participants. This was a recommendation proposed under CodeNEXT.

All	Add the requirements that affordable units shall be of like quality to the market rate units and shall be dispersed throughout the development.	The citywide Affordable Housing Bonus Program proposed under CodeNEXT included requirements for comparable quality and unit dispersion, drawing on density bonus policies in other cities. Comparable quality and unit dispersion requirements help ensure fair and equitable housing opportunities for the residents of affordable units.
All (already exists in DDB & Rainey)	Add the requirement that property owners accept the use of rental vouchers in the affordable rental units to all policies where it does not currently exist.	Although state law prohibits municipalities from requiring property owners to accept Housing Choice Vouchers, cities can incentivize acceptance of vouchers through bonus policies. Staff recommends that density bonus policies require that vouchers be accepted for the income-restricted affordable units created through density bonus programs. The recommendation that the requirement to accept vouchers apply only to affordable units is an attempt to balance the need for an effective voluntary program with the costs to participate. Because of the way the Housing Authority of the City of Austin (HACA) sets its payment standard (i.e., the maximum amount they will pay through a voucher), rents on market-rate units in most density bonus buildings would still be out of reach for voucher holders.

		Staff have received direction from Council (via Resolution No. 20180510-050) to require good cause tenant protections in density bonus units. Inserting these protections into a voluntary policy without damaging its ability to attract participants will require robust bonus entitlements and incentives. This can be analyzed as part of the recalibration process, but will mostly likely result in decreased participation in density bonus programs.
TOD	Streamline and condense Transit-Oriented Development density bonus affordability requirements into a single tier.	For transparency and ease of use/ administration, the different density bonus tiers in TOD regulating plans should be streamlined. The current structure is ambiguous and financially unviable. As of January 2019, no projects have been completed that have complied with both tiers of requirements.
All (except Micro-Unit; VMU)	Add an incentive reducing minimum parking requirements in density bonus policies where it does not exist today.	Parking requirements can be a barrier to providing housing in terms of cost and taking up usable space. To build a marketable development, developers and their investors have an incentive to provide parking necessary to meet demand. But they should be able to explore innovative methods of meeting that demand. VMU allows for a 40% reduction in required parking; Micro-Unit bonus allows a 75% reduction. Other policies can

		be updated to add parking reductions as an incentive.
TOD	Update income limits for affordable ownership units in TODs to a level where it is more likely for a household to qualify for a mortgage.	Currently, the MLK TOD and Plaza Saltillo TOD policies require ownership units to be available to households at 60% MFI in certain circumstances. This MFI level is too low for most households to be able to obtain a mortgage. Thus, even if these units were built (which would require substantial additional subsidy), it would be difficult to identify households at 60% MFI who would qualify for mortgages to purchase the units.
NBG; Micro-Unit; S.M.A.R.T. SF & MF Density Bonus; VMU	Add an incentive waiving or modifying compatibility requirements (Land Development Code, Chapter 25-2, Subchapter C, Article 10) for projects with on-site affordable housing in policies where it does not exist today.	Compatibility requirements can be a significant barrier that makes projects infeasible on some sites. When projects are providing affordable housing units on-site, waivers of compatibility requirements should be considered, especially in areas identified for dense development. This would greatly enhance the attractiveness of participating in the density bonus program.
ERC; TOD;	Expand waivers of compatibility requirements for projects with on-site affordable housing in policies that already allow waivers of some compatibility requirements.	Compatibility requirements can be a significant barrier that makes projects infeasible on some sites. When projects are providing affordable housing units on-site, waivers of compatibility

		requirements should be considered, especially in areas identified for dense development. This would greatly enhance the attractiveness of participating in the density bonus program.
TOD; VMU	Through the economic modeling process, consider increasing the maximum allowable height with a density bonus to 85 feet in the Vertical Mixed Use and Transit Oriented Development zoning districts, where appropriate.	This increase in allowable height for projects participating in the program would enhance the attractiveness of the bonus policy and increase participation by allowing the most profitable building typology (where market rents support it) of 5-story wood frame over 2-story podium. Focusing on TOD and VMU policies would ensure that these buildings are only allowed in areas that are already identified as appropriate for denser development.
VMU	Change the current requirement to provide retail space in VMU buildings to a requirement to provide occupied space built to commercial standards but not required to be used for commercial purposes. This would allow for changes in demand for commercial space over time.	VMU properties are struggling to find retail tenants for their ground floor spaces. This recommendation proposes a more flexible policy that would promote a better use of the building and ensure more eyes on the street. Occupied space could include leasing offices, amenities (like gyms), small groceries, or retail space. Building the space to commercial standards would allow it to be used for commercial purposes when available.

S.M.A.R.T. SF & MF Density Bonus	For the Single Family Bonus: Remove minimum 3-acre threshold that a project has to meet to take advantage of the bonus. For the Multifamily Greenfield Bonus: allow the bonus to be used on infill lots that have been previously developed.	The S.M.A.R.T. SF & MF Density Bonuses allow S.M.A.R.T. Housing-certified projects to take advantage of a higher density zoning district in certain cases, enabling the developments to include a greater number of affordable units. Removing these restrictions would allow these bonuses to be utilized in more circumstances, promoting geographic dispersion of affordable units throughout high opportunity and centrally located areas.

**Density Bonus Policy Key: DDB = Downtown Density Bonus S.M.A.R.T. SF & MF Density Bonus = S.M.A.R.T. Single ERC = East Riverside Corridor Family Bonus and Multifamily Greenfield Bonus NBG = North Burnet Gateway UNO = University Neighborhood Overlay TOD = Transit-Oriented Development VMU = Vertical Mixed Use*

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