

CodeNEXT: What Went Wrong? Top Ten Reasons!

CodeNEXT will no doubt go down in the history of urban America as the most controversial and costly attempt ever to update a land development code. And the biggest failure!

After investing more than five years and \$8 million, Austin finally ended its fractious, frustrating and futile pursuit of a new code. CodeNEXT failed for many reasons, including an inexperienced staff, the wrong consultant; an unrealistic work scope; a poor process and product; a divided community, commission and council; and a mayor and council who refused to heed early warning signs. In the end, CodeNEXT had become nothing more than a vehicle to make developers richer at the expense of current residents - an overweight Trojan horse bearing too many gifts for the development industry. Drafted to increase entitlements and reduce regulations, it would have most certainly created a feeding frenzy for land speculators, accelerating Austin's affordability and gentrification problems. Where did it go wrong?

1. CodeNEXT failed because of an inexperienced staff.

CodeNEXT had five project managers in five years; none of whom had ever before revised an entire land development code for a city the size of Austin. The first manager retired, the second moved to Colorado, the third resigned under fire, the fourth followed the second one to Colorado, and the fifth had a limited record managing previous city code projects.

2. CodeNEXT failed because of the wrong consultant.

It is a given that Opticos is a highly-respected consultant group. But the relevant question should have been: were they the right consultant for CodeNEXT? Opticos is a new urbanist firm that specializes in form-based codes. They had never revised a comprehensive use-based code for a major American city. It was like hiring an acclaimed podiatrist to perform brain surgery.

3. CodeNEXT failed because of an unrealistic work program.

Whoever put the CodeNEXT work program together had little, if any, code updating experience. Attempting to simultaneously produce code text, maps and technical manuals was insane. Most major code updates are divided into bite-size modules to make them more digestible. Mapping is usually addressed after the text is adopted and technical manuals are never in the mix

4. CodeNEXT failed because of a misused citizens advisory group.

The CodeNEXT Citizens Advisory Group (CAG) felt its role was unclear and frustrated by its inability to get requested information from staff. After 45 months of thumb-twiddling, the CAG was given only four months to review the 1,100-page first draft. With so little time, the CAG was unable to give the draft the due diligence it required, and not one member voted to support it. Unfazed, staff disbanded the CAG before the second draft and map were released.

5. CodeNEXT failed because of a poor process and product.

The first CodeNEXT draft was called a “beast” and “deeply flawed.” It was essentially three totally different codes crudely slapped together. One was “form-based” for the central city and one was “use-based” for outlying areas; plus, 25 percent of the city retained its old zoning. The concept was difficult to understand and viewed as just a clumsy attempt to push new urbanism.

6. CodeNEXT failed because of widespread citizen opposition.

When Rudyard Kipling penned his famous phrase, “*East is East and West is West, and never the twain shall meet,*” he never anticipated CodeNEXT. In Austin, the twain finally met when east and west residents came together in a joint effort to defend their neighborhoods from CodeNEXT. Neighborhoods all over town passed anti-CodeNEXT resolutions.

7. CodeNEXT failed because of anti-code poll and hearing results.

Surveys confirmed that residents strongly disliked CodeNEXT. A 2018 summer poll showed that Austinites, who had an opinion of CodeNEXT, were four to one against it, and East Austinites were six to one against. Over 400 residents turned out at four hearings before the land use commissions and council, where CodeNEXT opponents outnumbered proponents two to one.

8. CodeNEXT failed because of blindness to Fairness and the “Rule of Law.”

Two citizen protests relating to CodeNEXT were rejected by council. One asked for it be put to the voters for approval because of distrust of the process. The other sought compliance with City Charter limits on developer-related membership on the Planning Commission. As a result, a successful petition was initiated requiring voter approval, but Council still refused to put it on the ballot. The courts overruled the city. When the city failed to address planning commission membership, citizens asked and got the Attorney General to file suit in Court against the city and the other sought Charter compliance on developer influence on the planning commission.

9. CodeNEXT failed because of polarized land use commissions.

In October 2017, the Zoning and Platting Commission (ZAP) unanimously passed a resolution offering recommendations and asking that deadlines be extended. Frustrated by staff’s resistance to consider its suggestions, ZAP called for termination of CodeNEXT in May 2018. The Planning Commission, on the other hand, intensified its efforts to push for a more pro-developer document. It came up with 950 amendments at the last minute and with little public input, most of which enhanced entitlements.

10. CodeNEXT failed because of a divided mayor and council.

In a funny yet futile attempt to show unity regarding CodeNEXT, Council and staff donned matching yellow vests and hard hats on June 6th. One ATXN observer said it looked like a “convention of school crossing guards.” By June 19th, council positions had hardened with a “pro-neighborhood wing” and a “pro-density wing.” On August 1st, the Mayor admitted that CodeNEXT should “cease,” and on August 9th, the Council unanimously voted to end it. In retrospect, only the mayor and council could have prevented the failure of CodeNEXT. Although they had been warned for over two years that it was a “runaway train on the wrong track,” they refused to make even minor course corrections.

Epilogue: Next Steps ... Where do we go from here?

1. Dump the name “CodeNEXT”.
2. Seek outside review and advice.
3. Hire an experienced project manager.
4. Start cleaning up the current code.
5. Accelerate small area planning.
6. Stop cherry-picking Imagine Austin.
7. Initiate incremental amendments.
8. Be open, transparent and inclusive.
9. Prohibit premature political meddling.
10. Stop demonizing those who don’t agree with you.

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