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**North Burnet Gateway (NBG) Regulating Plan
Code Amendment Information Sheet**

Amendment: Amend the NBG Regulating Plan to allow certain industrial and commercial uses that were allowed prior to the NBG Regulating Plan to continue in the Neighborhood Residential (NR) and Neighborhood Mixed Use (NMU) Subdistricts.

Initiation: Council passed Resolution Number 20100826-045 directing staff to process amendments related to allowing certain legal non-conforming uses to continue or change in the NR Subdistrict for a set period of time.

Background: Properties used as warehouse/office were zoned LI, Limited Industrial Services prior to the NBG Regulating Plan and allowed to have certain commercial and industrial uses not permitted in the NBG Regulating Plan. The NBG Regulating Plan changed the base zoning on these properties by establishing subdistricts with specific permitted uses. All industrial uses except for Custom Manufacturing and many other commercial uses permitted by the LI zoning district were no longer allowed in the NR and NMU Subdistricts.

Concern: The NBG Overlay replaced the LI zoning base district with subdistricts, which prohibited certain LI uses previously allowed. The only industrial use allowed to remain was Custom Manufacturing, which is listed as a conditional use. Most buildings in the subdistricts were and are being used for the LI uses now prohibited. These uses were in existence on the site prior to the NBG Regulating Plan that changed them to legally non-conforming. City of Austin Code Section 25-2-941 outlines regulations for maintaining the current tenants and uses as legally non-conforming.

This created a number of problems. First, a non-conforming use status is determined on a tenant by tenant basis (not a project by project basis). As a result, even if the remainder of a building (e.g. 90%) is being used for industrial uses, when an existing tenant vacates, that 10% of space that was vacated can only be used for the uses allowed in the NBG Plan. You end up forcing non-industrial uses into what is essentially an industrial building. Further, if a current tenant is operating as a Light Manufacturing use, then the only type of LI use that may replace that tenant within that space in the building is one that also operates as a Light Manufacturing use. So, the industrial uses previously allowed may not be used interchangeably on a tenant by tenant basis. In addition, a non-conforming use loses its status if that tenant space is vacant for more than 90 consecutive days.

Proposed Language: The proposed language to resolve the non-conforming uses concern reinstates three of the previously allowed LI uses (Limited Warehousing and Distribution, Custom Manufacturing (conditional) and Light Manufacturing). Additionally, other previously allowed Commercial uses under the LI district are permitted with some conditions. H-Occupancy uses as defined by Building and Fire Codes are prohibited. Lastly, the amendment only applies to developments in these subdistricts that do not require a site plan or have site plans approved prior to March 23, 2009 (effective date of plan). So, if an owner does redevelop a site, at that point the site will be limited to the uses in the NBG Regulating Plan.

Summary: The NBG Regulating Plan's purpose is a long term vision and plan to consolidate existing industrial uses in a certain area while promoting a more mixed use, high density development area over the next 20-30 years. It was not intended that the existing buildings be forced to convert now or to force non-industrial tenants into an industrial building. The amendment strikes a balance between the long term vision and the short term impact of vacancies and replacement of existing industrial tenants by allowing a building to complete its useful life cycle before converting.

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RESOLUTION NO. 20100826-045

WHEREAS, the North Burnet Gateway Regulating Plan was adopted by Council on March 12, 2009; and

WHEREAS, the North Burnet Gateway Plan envisions transit oriented development with dense mixed use development that transitions to single family residential development; and

WHEREAS, some of the existing properties are currently legally nonconforming according to adopted district use regulation and, if the occupant changes, the use must be the same type as the current existing legally nonconforming use; and

WHEREAS, the plan recognizes that the redevelopment is market driven and will occur over the next twenty to thirty years; and

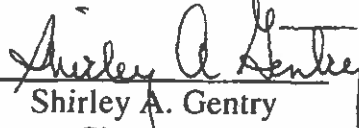
WHEREAS, the plan does not allow for a phased-in redevelopment scenario by parcel that will work towards implementing the vision established and also takes into account short term changes in building ownership and occupancy; **NOW, THEREFORE,**

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF AUSTIN:

The City Manager is directed to process amendments to the North Burnet Gateway Regulating Plan to allow certain legal non-conforming uses to continue or change in the Neighborhood Residential Subdistrict for a set period of time.

ADOPTED: August 26, 2010

ATTEST:


Shirley A. Gentry
City Clerk

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**Regulating Plan for the
North Burnet/Gateway Zoning District
Austin, Texas**

1.2. APPLICABILITY

1.2.1. General Applicability

This Document applies to all development within the NBG Zoning District as shown in Figure 1-1. This Document sets forth the regulations for the North Burnet/Gateway Zoning District. The relevance of the regulations in Articles 2 through 7 will vary based upon the NBG Subdistrict that applies to a specific piece of property and the type of roadway(s) that is adjacent to it as well as the size of the site and type of development. Figures 1-4 and 1-5 summarize the applicability of each Article and section of this Document.

1.2.2. Land Use and General Development Standards

A. Except as provided in Subsection B, All properties in the NBG Zoning District are subject to the following Articles and Sections of this Document (see Figure 1-4):

1. Article 2, Land Use Standards;
2. Subsection 3.5.2, Dedication of NBG Collector Streets
3. Section 4.2, General Development Standards;
4. Section 4.10, Public Open Space and Trails; and
5. Article 6, Development Bonus

B. For specific properties in the Neighborhood Residential (NR) subdistrict and Neighborhood Mixed Use (NMU) subdistrict, as shown in Figure 1-6

1. The land use standards in Section 2.3.3, and Figure 2-1 of this Document apply only to proposed development requiring a site plan under LDC Section 25-5 and to development authorized by a site plan submitted after March 23, 2009;

2. For all other existing development, the permitted, conditional and prohibited land use regulations of the Limited Industrial Services (LI) zoning district under LDC Section 25-2-491 apply, with the following exceptions:

a. The following uses are prohibited:

- Agricultural Sales and Services;
- Bail Bond Services;
- Campground;
- Drop off Recycling Collection Facility;
- Equipment Sales;
- Exterminating Services;
- Monument Retail Sales;
- Outdoor Entertainment;
- Outdoor Sports and Recreation;

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- Scrap and Salvage;
- Vehicle Storage;
- Basic Industry;
- General Warehousing and Distribution;
- Recycling Center;
- Resource Extraction;
- Community Events;
- Railroad Facilities;
- Automotive Washing;
- Equipment Repair Services;
- Laundry Services;
- Maintenance and Service Facilities;

b. The following uses are permitted, with conditions:

- A Construction Sales and Services use shall be permitted if the use is operated in an enclosed structure and does not include outdoor storage of merchandise, construction materials, equipment or vehicles.
- Automotive Rentals: A maximum of 10 fleet cars is allowed in the NR, and NMU subdistricts;
- Automotive Sales: A maximum of 20 vehicles for sale or rental is allowed on the site.

c. Existing Private Primary Education Facility or Private Secondary Educational Facility uses in place prior to [date of this amendment] are permitted uses.

3. Uses that are classified as H-Occupancy as defined by the International Building Code and the Fire Code are prohibited.

1.5 NONCONFORMING USES AND NONCOMPLYING STRUCTURES

All properties within the NBG Zoning District shall remain subject to Article 7 Nonconforming Uses and Article 8 Noncomplying Structures in the City LDC Sections 25-2-941 through 25-2-964. With reference to Article 7, all uses are governed by Group "D" regulations prescribed by Section 25-2-947.

2.3 NORTH BURNET/GATEWAY SUBDISTRICTS

2.3.1 Applicability

| Standard | Applies if the NBG Subdistrict is: | | | | | | Applies if the Adjacent Street is: | | | | Applies to the following: |
|---|------------------------------------|-----|-----|----|-----|----|------------------------------------|-----|----|-----|---|
| | LOD | CRU | NRW | NR | FRW | CI | CIC | TPC | UR | FWY | |
| Section 2.3 North Burnet/Gateway Subdistricts | ● | ● | ● | ● | ● | ● | ● | ● | ● | ● | All development. See Section 1.2.2 for applicability of land use standards. |

2.3.2 NBG Subdistricts General

- A. The locations of the NBG Subdistricts in the NBG Zoning District are depicted in Figure 1-2.
- B. The NBG Subdistricts vary in terms of use, development intensity, and level of urban character.
- C. All NBG Subdistricts permit combinations of uses within a building or a site.

2.3.3 Land Use Summary Table

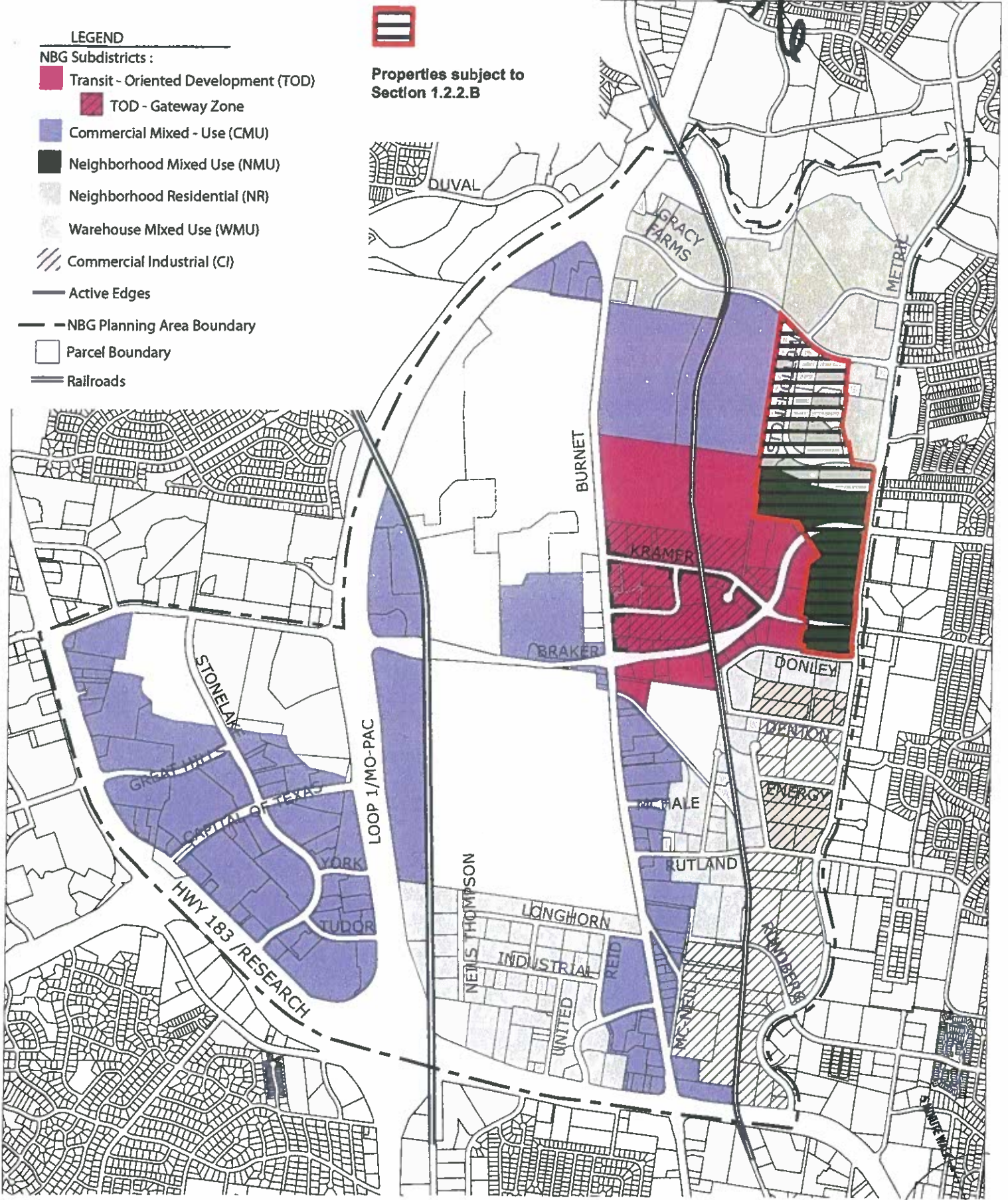
The Land Use Summary Table in Figure 2-1 establishes the permitted, conditional, and prohibited uses according to NBG Subdistrict and any additional regulations that apply to a particular use in a specific subdistrict. See Section 1.2.2 for applicability of land use standards.

Figure 2-1: NBG ZONING DISTRICT LAND USE TABLE

Add the following footnote to Figure 2-1: See Section 1.2.2 for applicability of land use standards.

Figure 1 - 2 : North Burnet / Gateway (NBG) Zoning District Subdistrict Map

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FIGURE 1-6







 Properties subject to Section 1.2.2.B

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Figure 1-6 : Properties Subject to Section 1.2.2.B

- LEGEND**
-  NBG Zoning District
 -  NBG Planning Area Boundary
 -  Parcel Boundary
 -  Railroads


Properties subject to Section 1.2.2.B

