

CASE # CS-2011-0106  
ROW # \_\_\_\_\_

Amended Appl

**CITY OF AUSTIN  
APPLICATION TO BOARD OF ADJUSTMENT  
GENERAL VARIANCE/PARKING VARIANCE**

**WARNING: Filing of this appeal stops all affected construction activity.**

**PLEASE: APPLICATION MUST BE TYPED WITH ALL REQUESTED INFORMATION COMPLETED.**

STREET ADDRESS: 5300, 5304, 5400 North Lamar Boulevard Austin, Texas 78751

LEGAL DESCRIPTION: Subdivision – Bednar Addn III / Bednar Addn II  
Lot(s) 1-2 / A less S 1086.83 SF Block A / - Outlot - / - Division - / -

I/We Michele Rogerson Lynch on behalf of myself/ourselves as authorized agent for

Camden Property Trust affirm that on November 16, 2011,

hereby apply for a hearing before the Board of Adjustment for consideration to:

X ERECT \_\_\_\_\_ ATTACH \_\_\_\_\_ COMPLETE \_\_\_\_\_ REMODEL \_\_\_\_\_ MAINTAIN

A 6.5 foot retaining wall associated with the development of a vertical mixed use (VMU) building providing for a three to five story building. The specific variance request is to allow for a 6.5 foot retaining wall to be located within 0-5 feet (instead of 25 feet) from property zoned CS-MU-CO-NP on which a use permitted in an SF-5 or more restrictive zoning district (duplex/condo) is located (25-2-1063(B)(2)).

in a CS-MU-V-CO-NP district.  
(zoning district)

**NOTE: The Board must determine the existence of, sufficiency of and weight of evidence supporting the findings described below. Therefore, you must complete each of the applicable Findings Statements as part of your application. Failure to do so may result in your application being rejected as incomplete. Please attach any additional support documents.**

**VARIANCE FINDINGS: I contend that my entitlement to the requested variance is based on the following findings (see page 5 of application for explanation of findings):**

**REASONABLE USE:**

1. The zoning regulations applicable to the property do not allow for a reasonable use because:

The proposed retaining wall is needed to lower the site approximately 3 feet to convey drainage away from the adjacent single family lots and the triggering duplex/condo lot and level out the property to accommodate the proposed VMU building. The design of the VMU dictates the location of the fire lane access and subsequent retaining wall. The design of the VMU received a compatibility variance to height from the same adjacent duplex/condo lot on November 14, 2011. The proposed retaining wall was intended to be a part of that request, but was removed due to the lack of notification in advance of the meeting.

**HARDSHIP:**

2. (a) The hardship for which the variance is requested is unique to the property in that:

The location of the retaining wall within the 25 foot setback of a commercially zoned property being utilized as a duplex/condo is designed to meet engineering requirements to convey drainage and to lower the fire lane area to be flush with proposed Austin Energy utility transformers. Otherwise, the transformers would be lower than the proposed fire lane and in conflict with Austin Energy regulations for access to transformers, which require the access road to be either flush with or within 6 inches of the transformer. In addition, the retaining wall lowers the site, which in turn lowers the building visually from the view of the adjacent condo/duplex triggering compatibility.

In addition, the hardship for relocating the retaining wall out of the 25 foot setback is related to the overall VMU design. As recently presented to the Board of Adjustments on November 14, 2011, the physical limitations pertain to an urban site bounded by standard single family uses triggering compatibility as well as newly developed duplex/condo uses that are located within a commercially zoned tract. In working with the Brentwood Neighborhood, the owner agreed to honor all compatibility setbacks and heights on the Property, while increasing the setback for an increased landscaped area. The project was designed and ready to be developed, but was put on hold during the recent economic downturn. In that time period an adjacent property zoned CS-MU-CO-NP was redeveloped to a duplex/condo use, which resulted in a need for compatibility variances that were not anticipated. The project was carefully designed to be placed as far away from traditional single family homeowners as possible and thus it was pushed closer to the tract that is now triggering compatibility. The change of use on the adjacent property did not

require notification and was not discovered until a recent site visit was conducted prior to site plan submittal.

Lastly, the design of the project is also constrained by additional right-of-way (ROW) requirements on North Lamar and by development of the City's desired Commercial Design Standards streetscape improvements for Core Transit Corridors (15 feet). A waiver to reduce the ROW width was recently approved by the City, but still requires a total of 57 feet of ROW for the side of North Lamar on which the project is located, which pushes the project closer to the duplex/condo.

- (b) The hardship is not general to the area in which the property is located because:

The hardship is not general to the area because this Property in particular is one of a few along this stretch of North Lamar that has the necessary depth for a VMU that enables the VMU to comply with compatibility standards. The duplex/condo is located in an area set for more intense commercial and higher density mixed use development. The design of the VMU is specific to this property and dictates the location of a required retaining wall that is specific to this property.

#### **AREA CHARACTER:**

3. The variance will not alter the character of the area adjacent to the property, will not impair the use of adjacent conforming property, and will not impair the purpose of the regulations of the zoning district in which the property is located because:

The variance will not alter the character of the area adjacent to the Property as the retaining wall will not be visible from the adjacent duplex/condo due to extensive fencing and landscaping standards agreed upon with the adjacent owner. The duplex/condo lot specifically in question is developed as a more urban industrial/warehouse design and is not of a standard duplex single family home style that would be more out of scale with the VMU.

Lastly, the purpose of VMU developments is to increase density on urban corridors while respecting compatibility from traditional single family homes in adjacent neighborhoods. The allowance of a higher level residential use within a commercial zoning category such as the duplex/condo in a CS-MU-CO-NP district is more closely suited to a VMU and intended to be more in line with the densification of urban areas and should not be treated as strictly for compatibility purposes.

**PARKING:** (Additional criteria for parking variances only.)

Request for a parking variance requires the Board to make additional findings. The Board may grant a variance to a regulation prescribed Section 479 of Chapter 25-6 with respect to the number of off-street parking spaces or loading facilities required if it makes findings of fact that the following additional circumstances also apply:

1. Neither present nor anticipated future traffic volumes generated by the use of the site or the uses of sites in the vicinity reasonable require strict or literal interpretation and enforcement of the specific regulation because:

N/A

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2. The granting of this variance will not result in the parking or loading of vehicles on public streets in such a manner as to interfere with the free flow of traffic of the streets because:

N/A

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3. The granting of this variance will not create a safety hazard or any other condition inconsistent with the objectives of this Ordinance because:

N/A

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4. The variance will run with the use or uses to which it pertains and shall not run with the site because:

N/A

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**NOTE:** The Board cannot grant a variance that would provide the applicant with a special privilege not enjoyed by others similarly situated or potentially similarly situated.

**APPLICANT CERTIFICATE** – I affirm that my statements contained in the complete application are true and correct to the best of my knowledge and belief.

Signed Michele R Lynch Mail Address 301 Congress Ave., Ste 1075

City, State & Zip Austin, TX 78701

Printed Michele Rogerson Lynch, Metcalfe Williams, LLP Phone 512.467.4559 Date \_\_\_\_\_

**OWNERS CERTIFICATE** – I affirm that my statements contained in the complete application are true and correct to the best of my knowledge and belief.

Signed T. Triggs, V.P. Real Estate Investments Mail Address 3 Greenway Plz, Ste. 1300

City, State & Zip Houston, Texas 77046-0391

Printed Todd Triggs Phone 713-354-2614 Date 11-17-11

**Danae Falvo**

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**From:** Lund, Lena [Lena.Lund@austinenergy.com]  
**Sent:** Wednesday, November 16, 2011 11:28 AM  
**To:** Danae Falvo  
**Subject:** 5400 North Lamar  
**Attachments:** Untitled Extract Pages.pdf

Danae,

Below are AE's comments that I sent to BOA for your case on the November 14, 2011 Agenda. When I receive your sketch, I will review it and respond back via email.

Thank you,

**E-6 C15-2011-0106 Michele Rogerson Lynch for Todd Triggs  
5400 North Lamar**

**APPROVED BY AUSTIN ENERGY provided any existing or future improvements meet AE clearance criteria requirements as well as be in compliance with the National Electric Safety Code and OSHA.** Required clearances from the duct bank to be installed - 5' min from any permanent structure; clearances for the transformer locations - 5' on all non operating sides and 10' on operating sides. The proposed retaining wall cannot be located in any Electric Utility Easement or PUE. The truck access that is required to our transformers is 20' horizontal width and 35' vertical clearance. If you have any questions, please call Chad Leingang at 505-7116.

The applicant has requested a variance to increase the maximum compatibility height requirement of Section 25-2-1063 (C) (1) (b) from two stories and 30 feet in height to four stories and 45 feet 4 inches in order to erect a Vertical Mixed Use building in a "CS-MU-V-CO-NP" zoning district. The Land Development Code states that the height limitations for a structure are two stories and 30 feet, if the structure is 50 or less from property on which a use permitted in an "SF-5" or more restrictive zoning district is located.

The applicant has requested a variance to increase the maximum compatibility height requirement of Section 25-2-1063 (C) (2) (b) from three stories and 40 feet in height to four stories and 45 feet 4 inches in order to erect a Vertical Mixed Use building in a "CS-MU-V-CO-NP" zoning district. The Land Development Code states that the height limitations for a structure are three stories and 40 feet, if the structure is more than 50 feet and not more than 100 feet from property on which a use permitted in an "SF-5" or more restrictive zoning district is located.

The applicant has requested a variance to decrease the minimum compatibility setback requirement of Section 25-2-1063 (B) (2) from 25 feet to 10 feet in order to allow a retaining wall structure for a Vertical Mixed Use building in a "CS-MU-V-CO-NP" zoning district.

Lena Lund  
Austin Energy  
Public Involvement/Real Estate Services  
721 Barton Springs Road, Suite 102.4  
Austin, TX 78704-1145  
512-322-6587  
512-322-6101 Fax

11/18/2011

**Lund, Lena**

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**From:** Leingang, Chad  
**Sent:** Thursday, November 10, 2011 7:27 AM  
**To:** Lund, Lena  
**Subject:** RE: Camden Lamar Heights - 5400 N. Lamar

Ms. Lund,

I don't see a problem with the set back change as long as you provide proper clearances from the duct bank to be installed (5' min from any permanent structure) and provide the appropriate clearances for the transformer locations (5' on all non operating sides and 10' on operating sides.) Just make sure that the retaining wall isn't located in any Electric Utility Easement or PUE and we should be good. The truck access that is required to our transformers is 20' horizontal width and 35' vertical clearance. Any further questions feel free to call or email.

Thank you,

Chad Leingang  
Austin Energy  
Dist. Design (NW)  
Ph#512-505-7116

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**From:** Lund, Lena  
**Sent:** Tuesday, November 08, 2011 1:50 PM  
**To:** Leingang, Chad  
**Subject:** Camden Lamar Heights - 5400 N. Lamar

Chad,

I have received a board of adjustment review request for the above referenced property requesting to reduce the 25 ft compatibility setback to 10 feet in order to erect a retaining wall. I have marked the proposed retaining wall in red on the attached plan, can you please take a look at it and let me know if this retaining wall is in conflict with your proposed design to serve this development. If possible, can you send me a response by this Thursday because I have to turn in my comments to the Board of Adjustments before Monday's meeting? Thank you,

Lena Lund  
Austin Energy  
Public Involvement/Real Estate Services  
721 Barton Springs Road, Suite 102.4  
Austin, TX 78704-1145  
512-322-6587  
512-322-6101 Fax

11/10/2011







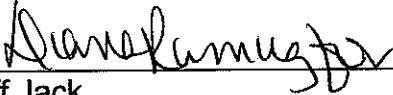
**December 12, 2011 – POSTPONED TO JAN 9, 2012**

**FINDING:**

1. The Zoning regulations applicable to the property do not allow for a reasonable use because: property is located along a major core transit corridor (north Lamar) that is bounded by single family zoning and uses to the west as well as a recently developed duplex/condo use within a CS-MU-CO-NP zoning district, which trigger compatibility
  
2. (a) The hardship for which the variance is requested is unique to the property in that: hardship of the property pertains to the physical limitations of an urban site bounded by standard single family uses triggering compatibility as well as newly developed duplex/condo uses that are located within commercially zoned tract  
  
(b) The hardship is not general to the area in which the property is located because: this property in particular is one of a few along this stretch of North Lamar that has the necessary depth for a VMU that enables the VMU to comply with compatibility standards, the duplex/condo is located in an area set for more intense commercial and higher density mixed use development
  
3. The variance will not alter the character of the area adjacent to the property, will not impair the use of adjacent conforming property, and will not impair the purpose of the regulations of the zoning district in which the property is located because: the variance will not alter the character of the area adjacent to the property as the size and scale of the building will be residential in character for those portions adjacent to the single family homes as well as the duplex/condo on the CS-MU-CO-NP tract.

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Susan Walker  
Executive Liaison

  
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Jeff Jack  
Chairman



## NOTICE OF PUBLIC HEARING LAND DEVELOPMENT CODE VARIANCE

**Mailing Date:** December 29, 2011

**Case Number:** C15-2011-0106

Please be advised that the City of Austin has received an application for a variance from the Land Development Code.

<b>Owner:</b>	Camden Property Trust; Todd Triggs, (713) 354-2614
<b>Applicant:</b>	Michelle Rogerson Lynch, (512) 404-2251
<b>Address:</b>	5300, 5304, and 5400 N. Lamar Lot 1 Block A Bednar Addition III Lot 2 Block A Bednar Addition III Lot A Less S 1,086.83 SF Bednar Addition II

**Variance Request(s):** The applicant has requested a variance to decrease the minimum compatibility setback requirement of Section 25-2-1063 (B) (2) from 25 feet to between 0-5 feet in order to allow a retaining wall structure for a Vertical Mixed Use building in a "CS-MU-V-CO-NP" zoning district.

This application is scheduled to be heard by the Board of Adjustment on January 9, 2012. The meeting will be held at City Council Chambers, 301 West 2<sup>nd</sup> Street beginning at 5:30 PM.

You are being notified because City Ordinance requires that all property owners and utility account holders within 500 feet of the proposed development and affected neighborhood organizations be notified when an application is scheduled for a public hearing. If you have any questions concerning this application, please contact **Susan Walker of the Planning and Development Review Department at 512-974-2202** and refer to the Case Number at the top right of this notice. However, you may also find information on this case at our web site [www.ci.austin.tx.us/devreview/index.jsp](http://www.ci.austin.tx.us/devreview/index.jsp).

For additional information on the City of Austin's land development process, please visit our web site [www.ci.austin.tx.us/development](http://www.ci.austin.tx.us/development).

## PUBLIC HEARING INFORMATION

Although applicants and/or their agent(s) are expected to attend a public hearing, you are not required to attend. However, if you do attend, you have the opportunity to speak FOR or AGAINST the proposed development or change. You may also contact a neighborhood or environmental organization that has expressed an interest in an application affecting your neighborhood.

During a public hearing, the board or commission may postpone or continue an application's hearing to a later date, or recommend approval or denial of the application. If the board or commission announces a specific date and time for a postponement or continuation that is not later than 60 days from the announcement, no further notice is required.

A board or commission's decision may be appealed by a person with standing to appeal, or an interested party that is identified as a person who can appeal the decision. The body holding a public hearing on an appeal will determine whether a person has standing to appeal the decision.

An interested party is defined as a person who is the applicant or record owner of the subject property, or who communicates an interest to a board or commission by:

- delivering a written statement to the board or commission before or during the public hearing that generally identifies the issues of concern (*it may be delivered to the contact person listed on a notice*); or
- appearing and speaking for the record at the public hearing; and:
- occupies a primary residence that is within 500 feet of the subject property or proposed development;
- is the record owner of property within 500 feet of the subject property or proposed development; or
- is an officer of an environmental or neighborhood organization that has an interest in or whose declared boundaries are within 500 feet of the subject property or proposed development.

A notice of appeal must be filed with the director of the responsible department no later than 10 days after the decision. An appeal form may be available from the responsible department.

For additional information on the City of Austin's land development process, visit our web site: [www.ci.austin.tx.us/development](http://www.ci.austin.tx.us/development).

Written comments must be submitted to the board or commission (or the contact person listed on the notice) before or at a public hearing. Your comments should include the name of the board or commission, or Council; the scheduled date of the public hearing; the Case Number; and the contact person listed on the notice.

**Case Number: C15-2011-0106 – 5300,5304&5400 N Lamar Blvd**

**Contact: Susan Walker, 512-974-2202**

**Public Hearing: Board of Adjustment, January 9, 2012**

I am in favor  
 I object

Your Name (please print) \_\_\_\_\_

Your address(es) affected by this application \_\_\_\_\_

Signature \_\_\_\_\_

Date \_\_\_\_\_

Daytime Telephone: \_\_\_\_\_

Comments: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
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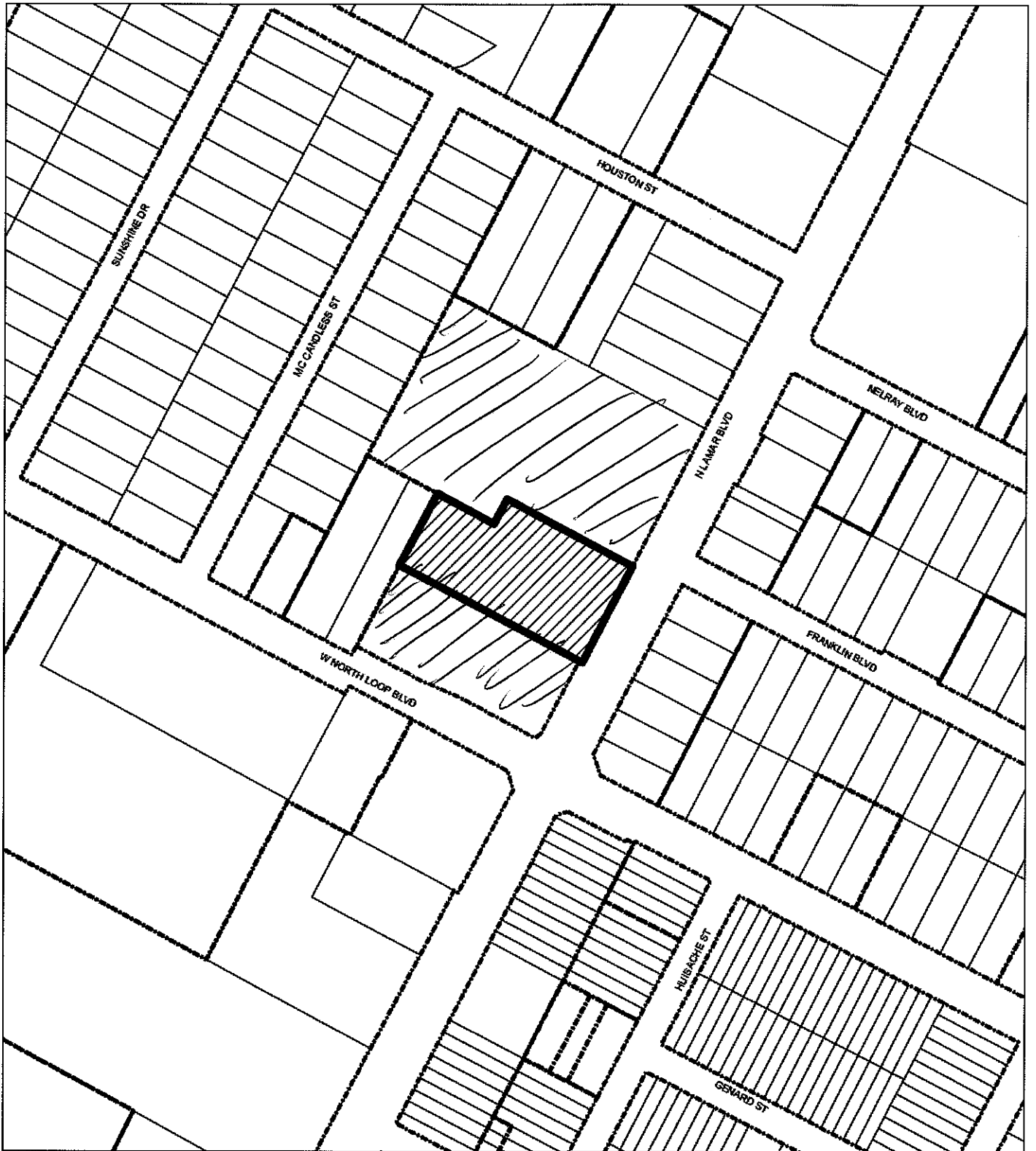
**If you use this form to comment, it may be returned to:**

City of Austin-Planning & Development Review Department/ 1st Floor

Susan Walker

P. O. Box 1088

Austin, TX 78767-1088



SUBJECT TRACT



ZONING BOUNDARY

CASE#: C15-2011-0106  
 LOCATION: 5400 NORTH LAMAR BLVD



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.

This product 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.