

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.

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

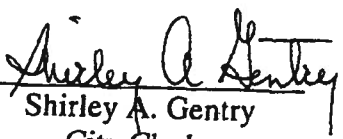
WHEREAS, the plan does not allow for a phased-in redevelopment scenario by parcel that will work towards implementing the vision established and also takes into account short term changes in building ownership and occupancy; **NOW, THEREFORE,**

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