

## SECOND AND THIRD READING SUMMARY SHEET

ZONING CASE NUMBER: C14-2019-0046.SH – The Abali

DISTRICT: 1

REQUEST: Approve second and third readings of an ordinance amending City Code Title 25 by rezoning property locally known as locally known as 4603, 4605, 4607, 4609 and 4611 N. IH-35 Service Road Northbound (Upper Boggy Creek Watershed). Applicant request: From family residence-neighborhood plan (SF-3-NP) combining district zoning, limited office-neighborhood plan (LO-NP) combining district zoning, and community commercial-conditional overlay-neighborhood plan (GR-CO-NP) combining district zoning to multifamily residence-high density-conditional overlay-neighborhood plan (MF-6-CO-NP) combining district zoning. First reading approved on June 6, 2019. Vote 8-1.

DEPARTMENT COMMENTS: No conditions were added.

OWNERS: Saeed Moshfegh, Bahrami Behzad & Nemerow Investments, LLC (Saeed Moshfegh).

AGENT: The Abali, LLC (Megan Lasch)

DATE OF FIRST READING: First reading approved on June 6, 2019.

CITY COUNCIL HEARING DATES:

June 20, 2019:

June 6, 2019: To grant MF-6-CO-NP as recommended by Staff, (8-1) [Tovo- 1<sup>st</sup>, Renteria- 2<sup>nd</sup>, Flannigan-Nay. Harper-Madison, Casar – Off the dais]

CITY COUNCIL ACTION: 1<sup>st</sup> reading- 06/06/2019

ORDINANCE NUMBER:

ASSIGNED STAFF: Heather Chaffin  
e-mail: [heather.chaffin@austintexas.gov](mailto:heather.chaffin@austintexas.gov)

## **ZONING CHANGE REVIEW SHEET**

CASE: C14-2019-0046.SH

DISTRICT: 1

ZONING FROM: SF-3-NP, LO-NP, GR-CO-NP

TO: MF-6-CO-NP

ADDRESS: 4603, 4605, 4607, 4609 & 4611 N. IH-35 Service Road Northbound

SITE AREA: 0.916 Acres

PROPERTY OWNERS:

Saeed Moshfegh, Bahrami Behzad &  
Nemerow Investments, LLC

AGENT:

The Abali, LLC  
Megan Lasch

CASE MANAGER: Heather Chaffin (512-974-2122, [heather.chaffin@austintexas.gov](mailto:heather.chaffin@austintexas.gov))

STAFF RECOMMENDATION:

**Staff supports the Applicant's request to rezone the property SF-3-NP, LO-NP and GR-CO-NP to MF-6-CO-NP. The conditional overlay (CO) establishes a maximum building height of 45' on the property.** *For a summary of the basis of staff's recommendation, see case manager comments on page 2.*

PLANNING COMMISSION ACTION / RECOMMENDATION:

May 28, 2019:

CITY COUNCIL ACTION:

June 6, 2019:

ORDINANCE NUMBER:

## ISSUES:

The proposed rezoning is for a S.M.A.R.T. Housing multifamily development that will also use housing tax credits. The proposed development would provide 5 market-rate units and 51 below market-rate units, ranging from 30% to 60% MFI. ***Please see Exhibit C—SMART Housing Letter.***

A restrictive covenant termination, C14R-87-087(RCT), is requested in conjunction with the proposed rezoning.

## CASE MANAGER COMMENTS:

The subject tract comprised of five lots that front on the northbound service road of IH 35 North, north of Airport Boulevard. The lots are zoned SF-3-NP, LO-NP and GR-CO-NP and are a mix of single family residential, commercial services, and undeveloped land uses. Immediately north of the rezoning tract is a single lot that is zoned SF-3-NP and is developed with a single family residence. Further north is a lot zoned GR-MU-CO-NP that is developed with a veterinary clinic. Further north is Mueller PUD, with a greenbelt and commercial shopping center. Immediately to the south and east is a single family neighborhood zoned SF-3-NP. Further south are lots zoned LO-NP and LO-CO-NP with a mix of uses, including duplex residential. ***Please see Exhibits A and B—Zoning Map and Aerial Exhibit.***

Staff supports the Applicant's MF-6-CO-NP rezoning request. The 0.916 acre tract is located along IH 35 and backs up to a single family neighborhood. Multifamily development would provide a buffer and transition from the highway area for the residential neighborhood. There are numerous services and retail opportunities within walking distance to the north at Mueller PUD. The proposed rezoning would allow the addition of 51 affordable dwelling units, furthering the Council adopted goals of increased affordable housing options.

Based on conversations with neighborhood representatives, the Applicant has agreed to reduce the maximum building height from 90 feet to 45 feet. Staff has received correspondence from neighborhood organizations in support of the proposed rezoning. ***Please see Exhibit D - Correspondence.***

## BASIS OF RECOMMENDATION:

1. *The proposed zoning should be consistent with the purpose statement of the district sought.*

Multifamily residence highest density (MF-6) district is the designation for multifamily and group residential use. An MF-6 district designation may be applied to a use in a centrally located area near supporting transportation and commercial facilities, an area adjacent to the central business district or a major institutional or employment center, or an area for which the high density multifamily use is desired. This property is located on a highway and is in close proximity to Mueller PUD, which contains commercial services, medical services and more.

2. *The proposed zoning should be consistent with the goals and objectives of the City Council.*

As a SMART Housing project, this rezoning reflects the goals of the Austin Strategic Housing Blueprint.

3. *Zoning should promote a transition between adjacent and nearby zoning districts, land uses, and development intensities.*

MF-6-CO-NP will create a transition between IH 35 and the single family residential properties to the east.

4. *Zoning should promote clearly-identified community goals, such as creating employment opportunities or providing for affordable housing.*

As a SMART housing project, this rezoning promotes the goal of increased affordable housing supply.

EXISTING ZONING AND LAND USES:

	ZONING	LAND USES
Site	SF-3-NP, LO-NP, GR-CO-NP	Single family residential, Commercial Services, Undeveloped
North	SF-3-NP, GR-MU-CO-NP, PUD	Single family residential, Greenbelt, Retail shopping center
South	SF-3-NP, LO-NP, LO-CO-NP	Single family residential, Vacant, duplex residential
East	SF-3-NP	Single family residential
West	IH 35, CS-CO-NP	IH 35

NEIGHBORHOOD PLANNING AREA: Upper Boggy Creek

SCHOOLS:

Maplewood Elementary School      Kealing Middle School      McCallum High School

TIA: N/A

WATERSHED: Boggy Creek

NEIGHBORHOOD ORGANIZATIONS:

Homeless Neighborhood Association	AISSD
Ridgetop Neighborhood Association	SELTexas
Delwood II Neighborhood Organization	Preservation Austin
Del Valle Community Coalition	The Midtown Alliance
Claim Your Destiny Foundation	Austin Inncity Alliance
Friends of Austin Neighborhoods	Anberly Airport Association
Neighborhood Empowerment Foundation	Neighbors United for Progress
Central Austin Community Development Corporation	Sierra Club
Upper Boggy Creek Neighborhood Planning Team	Bike Austin
Mueller Community Associations	Black Improvement Association
Mueller Neighborhood Association	Austin Neighborhoods Council
North Austin Neighborhood Alliance	
North Loop Neighborhood Plan Contact Team	

AREA CASE HISTORIES:

<b>CITY FILE # / NAME</b>	<b>ZONING FROM &amp; TO</b>	<b>PLANNING COMMISSION</b>	<b>CITY COUNCIL</b>
C14-2008-0240 4701 N. IH 35 Service Road NB	GR-MU-CO-NP to GR- MU-CO-NP, to allow Pet svs, Business support svs, & Gen retail- convenience	01/13/2009: Approved as rec by staff, on consent	01/29/2009: Ord 20090129-044 as rec by PC, on consent

EXISTING STREET CHARACTERISTICS:

<b>Name</b>	<b>ROW</b>	<b>Pavement</b>	<b>Classification</b>	<b>Sidewalks</b>	<b>Bicycle Route</b>	<b>Capital Metro (within ¼ mile)</b>
Northbound IH 35 Service Road NB	250'	220'	Highway	Yes	Yes, shared lane	No

OTHER STAFF COMMENTS:

ENVIRONMENTAL

1. The site is not located over the Edwards Aquifer Recharge Zone. The site is located in the Boggy Creek Watershed of the Colorado River Basin, which is classified as an Urban Watershed by Chapter 25-8 of the City's Land Development Code. It is in the Desired Development Zone.
2. Zoning district impervious cover limits apply in the Urban Watershed classification.
3. According to floodplain maps there is no floodplain within or adjacent to the project location.
4. Standard landscaping and tree protection will be required in accordance with LDC 25-2 and 25-8 for all development and/or redevelopment.
5. At this time, site specific information is unavailable regarding vegetation, areas of steep slope, or other environmental features such as bluffs, springs, canyon rimrock, caves, sinkholes, and wetlands.
6. This site is required to provide on-site water quality controls (or payment in lieu of) for all development and/or redevelopment when 8,000 s.f. cumulative is exceeded, and on site control for the two-year storm.

SITE PLAN

- SP 1. Site plans will be required for any new development other than single-family or duplex residential.
- SP 2. Any development which occurs in an SF-6 or less restrictive zoning district which is located 540 feet or less from property in an SF-5 or more restrictive zoning district will be subject to compatibility development regulations.
- SP 3. Any new development is subject to Subchapter E. Design Standards and Mixed Use.

## TRANSPORTATION

TR1. Per Ordinance No. 20170302-077, off-site transportation improvements and mitigations may be required at the time of site plan application.

TR2. A traffic impact analysis was not required for this case because the traffic generated by the proposed zoning does not exceed the threshold of 2,000 vehicle trips per day.

TR3. The Austin Metropolitan Area Transportation Plan calls for 400 feet of right-of-way for IH-35. With the approval of the Texas Department of Transportation, 200 feet of right-of-way from the existing centerline should be dedicated and/or reserved for IH 35 according to the Transportation Plan at the time of the subdivision and/or site plan application, whichever comes first. [LDC 25-6-51 and 25-6-55].

TR4. Additional right-of-way maybe required at the time of subdivision and/or site plan.

TR5. Access to IH-35 shall be approved by the Texas Department of Transportation. Access may be restricted/limited after further review.

TR6. Janae Spence, Urban Trails, Public Works Department, Mike Schofield, Bicycle Program, Austin Transportation Department may provide additional comments regarding bicycle and pedestrian connectivity per the Council Resolution No. 20130620-056.

TR7. According to the Austin 2014 Bicycle Plan approved by Austin City Council in November, 2014, an urban trail is recommended for IH 35. Mike Schofield, Bicycle Program, Austin Transportation Department may provide additional comments and requirements for right-of-way. dedication and bicycle facility construction in accordance with LDC 25-6-55 and LDC 25-6-101.

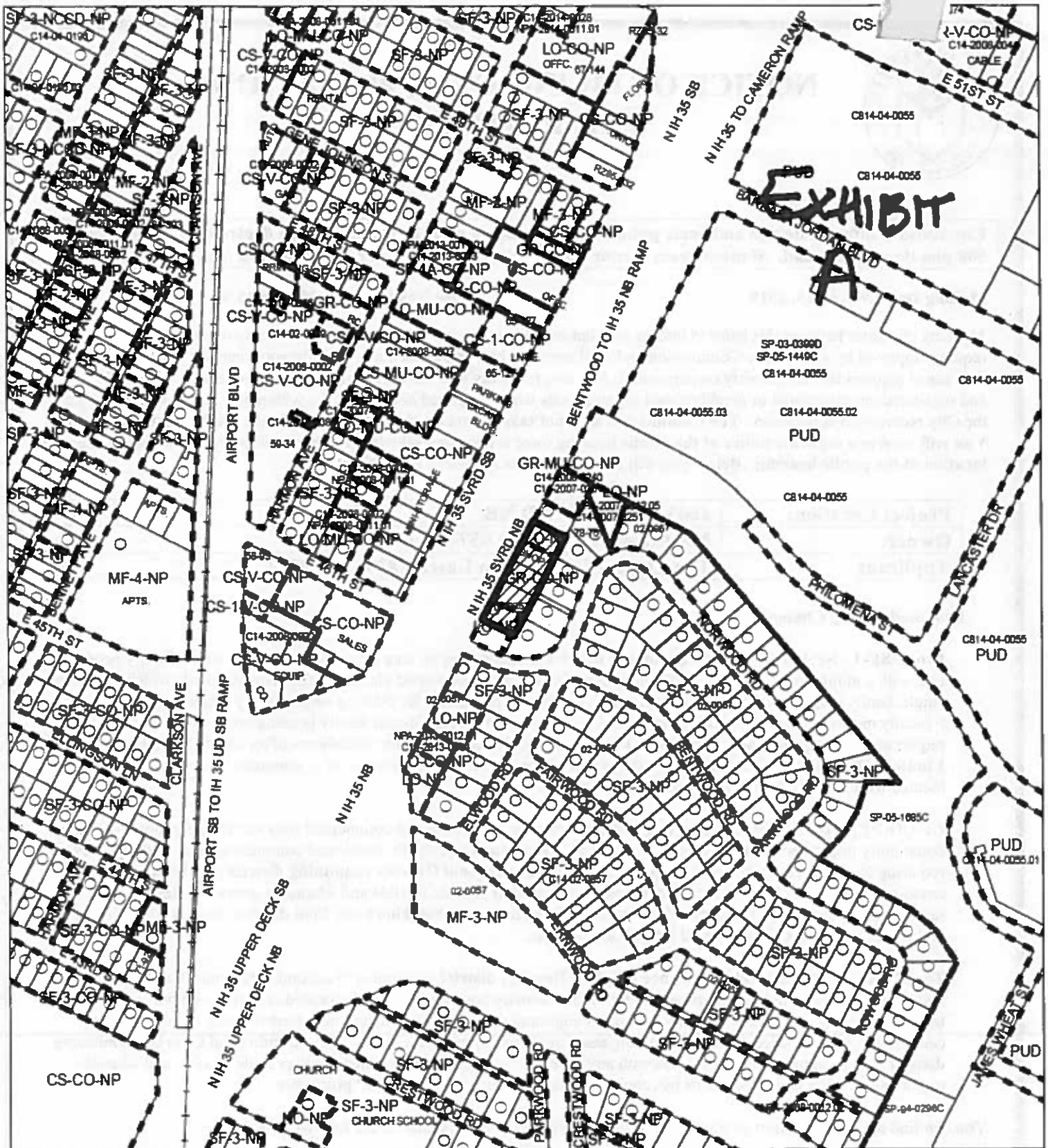
TR8. FYI – the existing driveways and sidewalks along IH-35 shall be required to be removed and/or reconstructed at the time of the site plan application in accordance with the Land Development Code and Transportation Criteria Manual. Approval is required from the Texas Department of Transportation and City of Austin.

## WATER UTILITY

1. The landowner intends to serve the site with City of Austin water and wastewater utilities. The landowner, at own expense, will be responsible for providing any water and wastewater utility improvements, offsite main extensions, utility relocations and or abandonments required by the land use. Water and wastewater utility plans must be reviewed and approved by the Austin Water Utility for compliance with City criteria. All water and wastewater construction must be inspected by the City of Austin. The landowner must pay the City inspection fee with the utility construction. The landowner must pay the tap and impact fee once the landowner makes an application for a City of Austin water and wastewater utility tap permit.

## INDEX OF EXHIBITS TO FOLLOW

- A: Zoning Map
- B. Aerial Exhibit
- C. SMART Housing Letter
- D. Correspondence



- SUBJECT TRACT
- PENDING CASE
- ZONING BOUNDARY

1" = 400'

## ZONING

ZONING CASE#: C14-2019-0046.SH

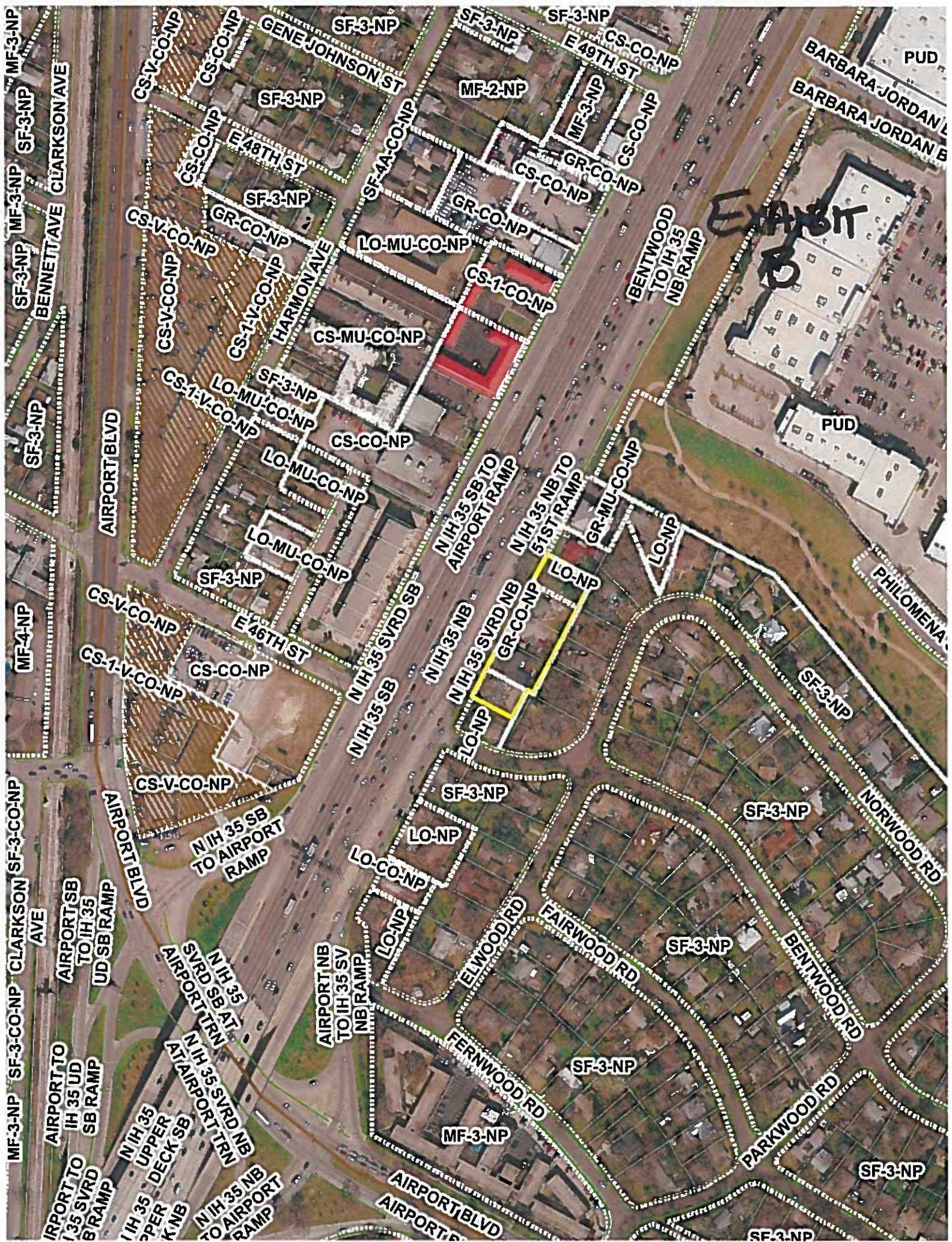
This product is for informational purposes and may not have been prepared for or be suitable for legal, engineering, or surveying purposes. It does not represent an on-the-ground survey and represents only the approximate relative location of property boundaries

This product has been produced by CTM for the sole purpose of geographic reference. No warranty is made by the City of Austin regarding specific accuracy or completeness.



Created: 3/5/2019







# City of Austin



P.O. Box 1088, Austin, TX 78767  
[www.cityofaustin.org/housing](http://www.cityofaustin.org/housing)

EXHIBIT  
C

## Neighborhood Housing and Community Development Department

April 9, 2019 (Revision to letter dated February 25, 2019)

### S.M.A.R.T. Housing Certification

Saigebrook Development and O-SDA Industries - The Abali - 4603-4611 N IH 35 (ID 638)

#### TO WHOM IT MAY CONCERN:

Saigebrook Development and O-SDA Industries (development contact: Megan Lasch: 830-330-0762 (o); [megan@o-sda.com](mailto:megan@o-sda.com)) is planning to develop a 56 unit multi-family development named The Abali, LLC at 4603-4611 IH 35, Austin TX 78744. The project will be subject to a minimum 5 year affordability period after issuance of a certificate of occupancy, unless funding requirements are longer.

The applicant has submitted evidence that they have contacted the Delwood 2 Neighborhood Association and the Upper Boggy Creek Neighborhood Plan Contact Team. The applicant provided documentation where they are being responsive to neighborhood residents concerns.

This revision changes the total number of units from 55 to 56.

NHCD certifies that the proposed development meets the S.M.A.R.T. Housing standards at the pre-submittal stage. Since an estimated 11% of the units (6) will serve households at or below 30% Median Family Income (MFI), an estimated 42% of the units (23) will serve households at or below 50% MFI, an estimated 40% of the units (22) will serve households at or below 60% MFI and the remaining 5 units will be market rate, the development will be eligible for 100% waiver of fees listed in Land Development Code, Chapter 25-1-704, as amended or other fees waived under a separate ordinance with the exception of the Capital Recovery Fees for the 5 market rate units. This development is not fully in accordance with the requirements under the Texas Local Government Code, Chapter 395.16(g) and 42 U.S.C. Section 12745 (A)(1) as it relates to how housing qualifies as affordable housing and therefore the 4 market rate units are not eligible to receive any CRF fee waivers under the S.M.A.R.T. Housing Ordinance. The expected fee waivers include, but are not limited to, the following fees.

AWU Capital Recovery Fees  
Building Permit  
Concrete Permit  
Electrical Permit  
Mechanical Permit  
Plumbing Permit  
Site Plan Review

Misc. Site Plan Fee  
Construction Inspection  
Subdivision Plan Review  
Misc. Subdivision Fee  
Zoning Verification  
Land Status  
Determination

Building Plan Review  
Parkland Dedication (by  
separate ordinance)  
Neighborhood Plan  
Amendment Fee

**Prior to issuance of building permits and starting construction, the developer must:**

- Obtain a signed Conditional Approval from the Austin Energy Green Building Program stating that the plans and specifications for the proposed development meet the criteria for a Green Building Rating. (Contact Austin Energy Green Building: 512-482-5300 or [greenbuilding@austinenenergy.com](mailto:greenbuilding@austinenenergy.com)).
- Submit plans demonstrating compliance with the required accessibility or visitability standards.

**Before a Certificate of Occupancy will be granted, the development must:**

- Pass a final inspection and obtain a signed Final Approval from the Green Building Program. (Separate from any other inspections required by the City of Austin or Austin Energy).
- Pass a final inspection to certify that the required accessibility or visitability standards have been met.
- An administrative hold will be placed on the building permit, until the following items have been completed: 1) the number of affordable units have been finalized and evidenced through a sealed letter from project architect and/or engineer, 2) a Restrictive Covenant stating the affordability requirements and terms has been filed for record at the Travis County Clerk Office.

The applicant must demonstrate compliance with S.M.A.R.T. Housing standards after the after the certificate of occupancy has been issued or repay the City of Austin, in full, the fees waived for this S.M.A.R.T. Housing certification.

Please contact me by phone 512.974.3128 or by email at [Sandra.harkins@austintexas.gov](mailto:Sandra.harkins@austintexas.gov) if you need additional information.

Sincerely,



Sandra Harkins, Project Coordinator  
Neighborhood Housing and Community Development

Cc: Rosa Gonzales, AE  
Jonathan Orenstein, AWU

Ellis Morgan, NHCD      Mashell Smith, ORS



The Cherrywood Neighborhood is bounded by IH-35, Airport Road and Manor Road and is flourishing neighborhood of homes, businesses, and green spaces in Central Austin.

EXHIBIT

P.O. Box 4631 | Austin, TX 78765 | [steering@cherrywood.org](mailto:steering@cherrywood.org) | [www.cherrywood.org](http://www.cherrywood.org)

D

Mayor Steve Adler  
Council Member Natasha Harper-Madison  
Mayor Pro Tem Delia Garza  
Council Member Sabino Renteria  
Council Member Greg Casar  
Council Member Ann Kitchen  
Council Member Jimmy Flannigan  
Council Member Leslie Pool  
Council Member Paige Ellis  
Council Member Kathie Tovo  
Council Member Alison Alter

22 April 2019

Re: NPCT Rec Ltr: NPA-2019-0012.01.SH\_The Abali

Dear Mayor Adler and Members of Council;

This letter is to affirm the support of the Cherrywood Neighborhood Association (CNA) for the above-referenced proposed Neighborhood Plan Amendment. The amendment relates to the proposed change of the Future Land Use Map for the properties at 4603-4611 Northbound IH35 service road in the Delwood II Neighborhood from Office to Multi-family.

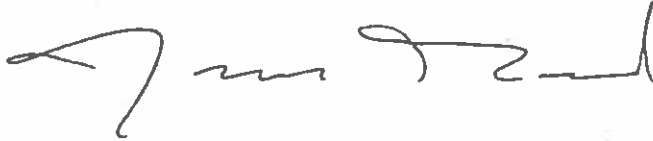
At a regular Steering Committee meeting we voted, in behalf of CNA, to support our Land Use and Transportation (LUT) Committee's recommendation that (1) we recommend approval of the zoning change to MF-6-CO and (2) that we recommend approval of the change to the Upper Boggy Creek Neighborhood (UBC) Plan Future Land Use Map (FLUM). The vote was unanimous in favor with one abstention by a member who is employed by the Texas Department of Housing and Community Affairs (TDHCA).

We understand that the zoning change will carry a height requirement of a maximum of forty two (42) feet. We also understand that the project, at four stories, may be subject to review by the Board of Adjustment to waive compatibility requirements if they are not otherwise addressed by Council in the "Affordability Unlocked" resolution.



We would like to express our appreciation for the tireless outreach by Meghan Lasch of Saigebrook Development of O-SDA in presenting this project to the Contact Team and Delwood II Neighborhood Association. We appreciate your consideration of the Contact Team's strong support for this Neighborhood Plan Amendment.

Yours,

A handwritten signature in black ink, appearing to read 'Jim Reed', written in a cursive style.

Jim Reed, Chair  
Steering Committee, CNA

Cc: Greg Guernsey, Planning and Zoning Department  
Maureen Meredith, Planning and Zoning Department  
William Burkhardt, Planning Commission  
Conor Kenny, Planning Commission  
Patricia Seeger, Planning Commission  
Jeffrey Thompson, Planning Commission  
Todd Shaw, Planning Commission  
Awais Azhar, Planning Commission  
Patrick Howard, Planning Commission  
Robert Schneider, Planning Commission  
James Shieh, Planning Commission  
James Schissler, Planning Commission  
Fayez Kazi, Planning Commission  
Yvette Flores, Planning Commission  
Greg Anderson, Planning Commission  
Karen McGraw, Planning Commission  
Ann Teich, Planning Commission

Delwood 2 Neighborhood Association

May 10, 2019

City Council Zoning Commission  
Austin City Hall  
301 West 2nd Street  
Austin, Texas 78701

Via Electronic Delivery

RE: The Abali Project and Application for Zoning Change

Dear Members of the City Council Zoning Commission:

It is my pleasure to provide documentation that the Delwood 2 Neighborhood Association overwhelmingly voted to approve the requested zoning change from Limited Office to MF-6 required for the proposed affordable housing complex, the Abali. This involves properties 4603, 4605, 4607, 4609, 4611 on the North I-35 Service Road.

Megan Lasch with Saigebrook Development and O-SDA initially contacted the leadership of the Neighborhood Association about the proposed project and provided a tour of a like development. Shortly thereafter, she presented the proposal to neighborhood residents. Although the majority of Delwood 2 residents support affordable housing, there were questions regarding traffic flow and parking. In addition to the two encounters previously mentioned, Ms. Lasch met with Delwood 2 residents on three more occasions providing additional information and listening to neighborhood input. Based on feedback from neighbors, Ms. Lasch was able to make changes that resulted in increased parking for the complex. In addition to the meetings with neighbors, Ms. Lasch provided contact information for individuals who might want to follow-up with her about concerns. Several neighbors who originally were skeptical about the project, spoke with her and contacted me

explaining that they were impressed with her comprehensive response to their issues, her integrity, and her business model.

On behalf of the Neighborhood Association, we want to thank Megan Lasch for the time she devoted to providing information, answering questions, and developing a relationship with Delwood 2 residents. We will be pleased to have the Abali and its residents as part of our neighborhood community.

Please contact me if you have questions or need additional information.

Respectfully,

A handwritten signature in cursive script, reading "Karen Brinkman". The signature is written in black ink and is positioned above the printed name.

Karen Brinkman

President, Delwood 2 Neighborhood Association

Email: \_\_\_\_\_

Mobile: 512-924-8407