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May 8, 2020

Cathy Norman
President
University Area Partners, Inc., a Texas non-profit corporation
c/o Mike McHone
P.O. Box 8142
Austin, Texas 78713-8142
Via First Class Mail
Via Electronic Mail at: mchone1234@sbcglobal.net

Re: 2001 Guadalupe Street, Austin, TX 78705 (the "Property") incident to the City of Austin Zoning Application Case No. C14-2020-0007 ("Zoning Application") and Offer of Resolution

Ms. Norman and Mr. McHone:

As you know, this firm represents the interests of Powell-Corbett, LLC ("Owner" or "Client") with respect to the pending Zoning Application submitted to the City of Austin for the Property and which University Area Partners, Inc. ("UAP") has filed an objection.

The purpose of this letter is to outline for UAP a compromise solution that would be beneficial to UAP and to our Client such that the hearing with the City of Austin Planning Commission on our Client's Zoning Application scheduled for May 12, 2020 is allowed to proceed unopposed.

By way of background, our Client has submitted an application to the City of Austin for Commercial Services-Mixed Use Zoning ("CS-MU"). The fundamental reason for our Client's Zoning Application is that under the University Neighborhood Overlay ("UNO"), our Client's development of the Property will be limited to a height of 65 feet. The City of Austin Land Development Code allows a property owner 90 feet of height. This 25-foot difference translates to approximately 24, 938 square feet of density.

Specifically, under UNO, developments with 65-foot height limitations typically allow a developer to achieve 5 full stories of building ($95\% \text{ of } 8750 = 8312.5 \text{ square feet of land} \times 5 \text{ stories} = 41,562 \text{ square feet of building}$).

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In contrast the Affordability Unlocked Bonus Program (“AUBP”) allows i) Type 1 height limit of 75 feet, assuming 7 stories = 58,187 square feet; and ii) Type 2 height limit of 90 feet assuming at least 8 stories = 66,500 square feet approximately.

In support thereof, please see the April 17, 2020 memorandum from Charles Dunn of Hutson Land Planners Development Consultants, LLC to our Client and attached herewith as Exhibit “A” which outlines the differences between UNO and the AUBP.

In order to resolve UAP’s pending objection to our Client’s Zoning Application, I have been in communication with Mr. McHone in recent weeks related to our Client’s offer to UAP which is as follows:

If the CS-MU zoning for the Property is obtained the Owner shall cause: i) the Property to be impressed with a written restrictive covenant (“Restrictive Covenant”) executed by my Client and recorded in the real property records in Travis County, Texas which shall require that the Property comply with the UNO design standards (streetscape and design guidelines) as set forth herein on Exhibit “B”. The Restrictive Covenant shall run with the land and in the event that the Property is sold to a successor owner, such Restrictive Covenant shall be in full force and effect; and ii) any fee paid by the Owner in lieu of on-site affordability will be restricted for use in the University Neighborhood Overlay area. Additionally, any multifamily redevelopment on the site shall comply with the Affordability Unlocked Bonus Program (Austin LDC 25-1, Article 15, Division 4, 25-1-720 through 25-1-725 and 25-2-518) as set forth in Exhibit “C”. As such, if the proposed CS-MU zoning for the Property is approved by City Council, and the Property is redeveloped as a multifamily development, any fee in lieu of on-site affordability monies would be paid to the City of Austin Neighborhood Housing & Community Development Department and restricted for use in the University Neighborhood Overlay area.


Please be advised that we deliver this letter to UAP in order to reach a fair and reasonable compromise to UAP’s current objection to our Client’s Zoning Application prior to the Planning Commission hearing scheduled on May 12, 2020. If UAP agrees with the foregoing compromise, we will commence drafting of the proposed Restrictive Covenant such that UAP’s current objection to the Zoning Application may be withdrawn and we may notify the City that we have reached a fair and equitable compromise.

Specifically, by signing below, the parties acknowledge and agree that: i) the foregoing offer is agreeable to UAP and to the Owner; ii) that UAP shall withdraw its opposition to the May 12, 2020 Planning Commission hearing and that UAP and the Owner shall finalize a mutually agreeable form of the Restrictive Covenant prior to City Council final approval of the Zoning Application; and iii) and upon the City Council’s approval of the CS-MU zoning for the Property, the Restrictive Covenant shall be recorded.

We appreciate your time and consideration of this proposal and look forward to working with you on a compromise that is in both parties’ interest and mutual benefit.

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Very truly yours,



John M. Joseph

Acknowledged and Agreed by Owner:

Powell Corbett, LLC, a Texas limited liability company



By: Sally Powell Corbett, Managing Member

Acknowledged and Agreed by University Area Partners, Inc.:

By: Cathy Norman, President

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Exhibit A
Charles Dunn Memorandum

Hutson Land Planners & Development Consultants, LLC

Memo

To: Powell – Corbett LLC
From: Hutson Land Planners; Charles Dunn
Date: April 17, 2020
Re: Corbett Property; 2001 Guadalupe Street

As requested, Hutson Land Planners & Development Consultants, LLC has reviewed the University Area Partners (UAP) letter dated April 9, 2020. This memorandum is intended to provide information helpful in the evaluation University Neighborhood Overlay requirements and the Affordability Unlocked Bonus Program (AUBP).

The portions of the letter provided by Michael McHone for the UAP are reviewed below.

UAP Letter

“Although your letter indicates that your client has agreed to the University Neighborhood Overlay (UNO) Design Guidelines and Streetscape, it falls short in providing the increased density and affordability allowed by administratively opting-in to the UNO District.”

Increased density would be obtained for the property through the Affordability Unlocked Bonus Program (AUBP). Allowing for greater density and affordability than allowed by UNO.

UAP Letter

“A comparison of these differences is as follows:

2001 Guadalupe is currently zoned CS and has 8750 Sq ft per TCAD.

CS allows for 95% impervious cover and has a allowed FAR of 2:1;

The street and side yards are required to be 10 ft and the maximum height is 60ft.

There are landscaping and open space requirements for redevelopment with mixed use.”

The AUBP provides for in LDC 25-2-518 - QUALIFYING DEVELOPMENT;

- (D) A qualifying development is not required to comply with:
- (1) the height and setback requirements of Article 10 (*Compatibility Standards*) except to maintain side setbacks as required by the base zoning district;
 - (2) the maximum floor-to-area ratio for the applicable base zoning district under Section 25-2-492 (*Site Development Regulations*);
 - (3) Subchapter F (*Residential Design and Compatibility Standards*) except to maintain side setbacks as required by the base zoning district;
 - (4) Section 25-2-773 (*Duplex Residential Use*); or
 - (5) minimum site area requirements.

AUBP provides in 25-2-534 - QUALIFYING DEVELOPMENT EXCEPTIONS.

(A) In this section, a qualifying development is a development certified under Section 25-1-724 (*Certification*) and participating in the Affordability Unlocked Bonus Program.

(G) If a qualifying development is also eligible to utilize a separate density bonus program that grants density bonuses for the provision of affordable dwelling units or for the payment of a fee-in-lieu for affordable housing, then the qualifying development may comply with the least restrictive site development requirements if all affordable dwelling units are provided on-site.

Thus providing the subject property with no required setbacks and no limit on the FAR.

UAP Letter

“Your client is seeking to add MU overlay to the property. The MU has site area requirements based on the bedrooms of the residential units; (LDC Appendix F section 4.2). For comparison purposes I have used the "1200 sq ft of site area for dwelling units with 2 or more bedrooms". $(8750 \text{ Sq ft} / 1200 = 7.29 \text{ units} \times 4 \text{ bedrooms per unit} = 28 \text{ bedrooms})$. The 2:1 FAR yields a total building size of 17500 Sq ft.

The AUBP allows qualifying development not to comply with minimum site area or FAR requirements as stated in above in 25-518 (2) and (5).

UAP letter

“The UNO Dobie Sub-district requires a project to provide UNO streetscape, design guidelines, and onsite affordability. The maximum height is 65 ft. UNO allows for those CS uses that are compatible with a pedestrian dominated environment (Local Uses) and residential uses in commercial base districts through an administrative process of opting-in at Site Plan submittal.

UNO waives all yards, landscaping, and site area requirements and has no FAR. A property with CS base district zoning would be allowed 95% impervious cover.”

The subject property as part of the requested zoning change has agreed to comply with the UNO streetscape and design guidelines. AUBP allows for increased height based on the development qualifying for the program. Type 1 development may construct to a height that is 1.25 of the applicable height of the base district; CS with 60 feet is allowed 75 feet. Type 2 development may construct to a height that is 1.5 of the applicable height of the base district; CS with 60 feet is allowed 90 feet. Commercial uses as allowed in the base district are limited to 25 percent of the gross floor area. FAR restrictions do not apply, impervious cover of 95 percent allowed, front setback of 5 feet is required.

UAP letter

In UNO developments a 65ft height limit typically allows a developer to achieve 5 full stories of building.

(95% of 8750 = 8312.5 sq ft of land X 5 stories = 41,562 sq ft of building).

AUBP allows Type 1 height limit of 75 feet, assuming 7 stories = 58,187 sf of approximately. Type 2 height limit of 90 feet assuming at least 8 stories = 66,500 sf approximately.

UAP letter

“UNO projects require two tiers of affordability. The first tier is required to be on-site and is 10% of the units or bedrooms at 60% of the median apartment rate as

determined by the COA NHCD Department adjusted on an annual basis of the Austin CPI. The affordability term is 40 years and the current rate per month is \$ 887.

The 2nd tier of affordability is 50% of the Austin median rate and is currently \$ 663 per month.

The alternative to providing the 2' tier of Affordability onsite is to pay a onetime fee into the UNO Housing Trust Fund administered by NHCD for the construction in the UNO of projects with 30% or more on site affordability. The current fee is \$1.00 per net sq ft of the residential component of a project. This fee is paid at the completion of the project.”

AUBP also has two types of development; Type 1 requires 25% affordable units and for rental development at least 50% of the total units or sleeping units serving incomes averaging 60 % median family income (MFI) or below and at least 20% of the total units or sleeping units serving households with incomes of 50% MFI or below. Type 2 requires at least 50% of affordable units include two or more bedrooms and for rental development at least 75% of the total units or sleeping units serve incomes 60 percent MFI or below or at least 10% with incomes of 30% MFI or below. Owner occupied development requires at least 75% of units serve 80%MFI or below or at least 50% of the units serving household incomes of 80% MFI or below if the property is located within a ¼ mile of an activity corridor designated by imagine Austin and is served by bus or transit line.

The minimum affordability period for rental development is the greater period as required by City of Austin or Austin Housing Finance Corp (AHFC) funding or 40 years, LDC 25-1-723 (E). Owner occupied dwelling units are 99 years following issuance of a certificate of occupancy, LDC 25-1-723.

Utilization of the AUBP requires a greater percentage of affordable housing than required by UNO and requires in some instances affordable housing for lower MFI participants.

UAP letter

“Given the full benefits of UNO to the redevelopment of the district and accomplishing the goals of the Central Austin Combined Neighborhood Plan, University Area Partners have continuously opposed "one-off" rezoning request for property in the district that can take advantage of opting-in to UNO.”

The vision and goals of the Central Austin Combined Neighborhood Plan are;

Vision

The Central Austin Neighborhood Plan shall preserve the historical character and integrity of single-family neighborhoods. It shall allow multifamily development and redevelopment in appropriate areas to reflect the historical nature and residential character of the neighborhood. The plan will address the needs of a diverse, pedestrian-oriented community and provide safe parks and attractive open spaces. The plan will foster and create compatible density in areas that are appropriate for student housing; new development will be appropriately oriented and scaled relative to its neighborhood in the combined planning area.

Goals

Goal One

Preserve the integrity and character of the single-family neighborhoods.

Goal Two

Preserve the historic character and resources of the Central Austin Combined Neighborhood Planning Area neighborhoods.

Goal Three

Allow mixed-use development along the existing commercial corridors that is pedestrian oriented, neighborhood friendly, neighborhood scaled, and serves neighborhood needs.

Goal Four

West Campus should become a dense, vibrant, mixed-use and pedestrian oriented community.

Goal Five

Provide a safe environment and opportunities for all modes of transport.

Goal Six

Enhance and preserve existing open space, parks, and the natural environment.

The proposed zoning request for 2001 Guadalupe certainly meets the vision and goals as outlined in the Central Austin Combined Neighborhood Plan as requested by the University Area Partners.

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Exhibit B

University Neighborhood Overlay (“UNO”) Design Standards

12.1.2 – Building Design Standards

Buildings, including enclosed and unenclosed parking garages, shall avoid long expanses of blank, unarticulated exterior walls visible from a street, public plaza or public open space. The direction given here regarding massing and articulation of a building's public exterior is considered a matter of human comfort, achievable in any architectural style or design approach.

For a project to be in compliance with the design guidelines, it must score a minimum of 8 points using the following point system:

- a. interruptions in the plane of a building façade shall be introduced at a spacing not to exceed 40-feet. This can be achieved through the articulation of wall surfaces, changes in fenestration patterns, or other building design elements. (2 points)
- b. use of contrasting materials, textures and colors, (2 points)
- c. introduction of windows and openings that promote visual and physical interaction between interior of building and street activity (2 points),
- d. the use of awnings or colonnades at street level, (1 point)
- e. variety of the roof line, (1 point)
- f. articulation of building entrances so they are distinguished from the general massing of the building, (1 point)
- g. the use of functional elements such as balconies or projected window boxes to promote the breakdown of a façade. (1 points)

12.1.3 - Placement of Windows

- a. inhabited spaces on the ground level shall have a minimum of 70% glass at sides facing a street; where inhabited spaces at ground level hold residential uses, the minimum glass percentage shall be reduced to 40%.
- b. inhabited spaces on the second level shall have a minimum of 40% glass at sides facing a street.
- c. glass at ground/street level and second level must have a transmittance ratio of 0.6 or higher.

12.1.4 - Building Materials

- a. the use of EIFS below a height of 65 feet is not allowed.
- b. the use of highly reflective glass is not allowed.
- c. wood shingles and wood siding are not allowed.

d. the use of exposed concrete block as a finish material is not allowed. This includes split-faced, ground face and integrally colored flat concrete block.

12.1.5 - Parking Garages - Flat Slab Requirement

Where adjacent to a public street, the floors of a structured parking garage, either stand-alone or mixed into the mass of a building, must either be flat or, if sloping, be hidden from view from the street(s), public plaza or public open space.

12.1.6 - Historical Authenticity

Buildings located adjacent to a historic landmark shall create some accommodating element in their massing which will mitigate the contrast between the two.

12.1.7 - Streetscape Design Standards

Includes standards for placement of street trees, light poles and street furnishings.

I. STREET TREES:

An owner shall install, irrigate and maintain street trees along an adjacent street right-of-way.

a. all new trees shall be shade trees (non-utility compatible), unless conflict with utilities exist; see I (f). Refer to the Environmental Criteria Manual (ECM) Appendix 'F', for approved street trees species.

b. street trees must be in scale with adjacent buildings and must be placed so as to create a continuous canopy at maturity.

c. trees shall have a minimum of 5-inch caliper (measured 12 inches above the root ball) at installation, with a typical canopy height of 14 to 16 feet for Class I Shade trees. Minimum clearance for tree limbs and branches must be 7'-6" above the level of the sidewalk to avoid potential conflict with pedestrians. Trees shall be trimmed proportionally to an ultimate clearance height of 14'-0" above the sidewalk and street at maturity.

d. trees shall be installed 4'-0" O.C. back from face of curb, parallel to the curb.

e. the standard tree spacing is 22'-0" O.C. If existing conditions preclude the standard spacing, shade trees may be planted at a distance not to exceed 30'-0" O.C.; utility compatible trees spacing shall not exceed 24'-0" O.C.

f. where existing utilities are in conflict with in-ground planting of shade trees, applicant shall:

- plant utility compatible trees in above grade planters if both overhead and underground utilities are in place;
- plant utility compatible trees in-ground, if conflict is with overhead lines;
- plant shade trees in above grade planters, if conflict is with underground utilities.

g. a minimum pedestrian clear zone width of 5 feet will be provided between the edge of a tree grate/planting bed and any walls/planters and/or other vertical element associated with a development (refer to COA Detail 710S-6A). If above grade planters are used, the minimum pedestrian clear zone shall be 6 feet (as per COA Detail 432S-7D).

h. a new tree planted in a sidewalk must have a 6 feet x 6 feet tree grating which shall comply with COA Standard Detail 437S-2. A different plant bed configuration with or without a tree grate, may be approved by the Planning and Development Review Department, based on specific needs and an alternative form of equivalent compliance.

II. PEDESTRIAN SCALE STREET LIGHTING:

All development shall provide pedestrian scale street lighting along an adjacent street right-of-way.

a. the standard pedestrian scale streetlight pole spacing is 44'-0" O.C.; lights may be placed as far apart as 72'-0" O.C. if existing conditions preclude the recommended spacing.

b. on corner properties, the distance between the corner and the first light pole shall not exceed 25'-0".

c. light poles shall be installed 4'-0" O.C. back from face of curb, aligned with the street trees.

d. A minimum spacing of 11'-0" O.C. shall be maintain between a light pole and a street tree.

e. the "Pecan Street Light Pole" is the University Neighborhood Overlay fixture.

III. STREET FURNISHINGS:

Street furnishings, including benches, bike racks and trash receptacles, shall be provided by any development located within the Dobie, Guadalupe and Inner West Campus Sub-districts.

In the Outer West Campus Sub-district, only developments with greater than 150 linear feet of cumulative street frontage shall be required to provide street furnishings described here.

Within a given project, the street furnishings will compliment each other and the development they are a part of.

Permitted finishes shall be one or a combination of the following: decay resistant hardwoods (benches slats only), and corrosion resistant finishes such as aluminum, cast iron, stainless steel or galvanized steel.

Whenever applicable, street furnishings will be anchored with rust-resistant fasteners and treated with rust prohibitive coating, zinc epoxy primer, and powdercoat finish for superior corrosion resistance. All surfaces shall be pretreated with a grafitti preventer.

The street furnishing requirements are as follows:

a. Trash Receptacles: A minimum of one (1) receptacle shall be provided:

- For mid-block properties, the receptacle shall be located within 12 feet of a primary entrance(s), aligned with lights and trees.
- For corner properties, two (2) additional receptacles shall be provided adjacent to the corner ramps, facing both streets, (as per COA Standard Detail 432S-8C).

b. Bike Racks: A minimum of four (4) bike racks, in addition to those required in other sections of the code.

- Bike racks shall be installed perpendicular to the curb, 4'-0" O.C. back from face of curb, aligned with trees and light poles (as per COA Standard Detail 710S-6A).
- Bike racks shall be Class III, Type 1 inverted "U"(1-2 spaces only) - as per COA Standard Detail 710-S-1 (page 1 of 3).
- Racks shall be made of continuous welds, with smooth edges. Finishes shall be one of the following: cast aluminum, stainless or galvanized steel or plastic color coated carbon steel.
- Stainless steel tubing shall be 1 ½ inch,
- When applicable, a fade resistant powder coat finish color shall use RAL color standards for compatibility with other products.

c. Benches: A minimum of two (2) 5-foot wide benches with middle arm shall be installed per street frontage:

- Standard placement: perpendicular to the curb and aligned with the trees and light poles, and facing each other arranged in a conversational grouping (as per COA Standard Detail 432S-9C),
- If existing conditions preclude the standard placement benches may be placed parallel to the building, facing the street, within 6 inches of the building exterior wall (as per COA Standard Detail 432S),
- Finishes may be metal or a combination of metal frame with wood slats.
- Only hardwoods that are responsibly produced, durable and resistant to fire, moisture, insects, decay or vandalism i.e. Redwoods, shall be used. Stained, painted or varnished wood shall not be allowed.
- If a corner property, two (2) benches will be installed along each street frontage for a total of four (4) benches minimum.

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Exhibit C

Affordability Unlocked Bonus Program

Division 4. - Affordability Unlocked Bonus Program.

§ 25-1-720 - PURPOSE, APPLICABILITY, SHORT TITLE, AUTHORITY, AND CONFLICT.

- (A) The purpose of this division is to establish a voluntary affordable housing bonus program that allows for increased density for residential dwelling units.
- (B) This division applies within the zoning jurisdiction.
- (C) This division may be cited as "Affordability Unlocked Bonus Program".
- (D) The director may adopt, implement, and enforce:
 - (1) program guidelines; and
 - (2) administrative rules in accordance with [Chapter 1-2](#) (*Administrative Rules*).
- (E) A provision of this title that is specifically applicable to a qualifying development governs over a conflicting provision of this title.

§ 25-1-721 - DEFINITIONS.

In this division,

- (1) GOVERNMENT-OPERATED AFFORDABLE HOUSING PROGRAM means a program operated by a federal, state, or local department that provides financial or other form of subsidy for the purpose of providing affordable housing.
- (2) HOUSING FOR OLDER PERSONS means housing for households with at least one individual who is at least 62 years of age at the time of initial occupancy.
- (3) MFI means median family income for the Austin metropolitan statistical area.
- (4) QUALIFYING DEVELOPMENT means a development certified under [Section 25-1-724](#) (*Certification*) and participating in the Affordability Unlocked Bonus Program.
- (5) SLEEPING UNIT means a bedroom in a structure that serves as a dwelling unit for seven or more unrelated individuals who share amenities, such as a kitchen, bathrooms, or living areas.
- (6) SUPPORTIVE HOUSING means housing that includes non-time-limited affordable housing assistance with wrap-around supportive services for individuals experiencing homelessness, as well as other individuals with disabilities.

§ 25-1-722 - ELIGIBILITY.

(A)

A proposed development qualifies as a Type I development and is eligible for this program if:

- (1) it includes:
 - (a) a minimum of three dwelling units,

(b) only affordable dwelling units; or

(c) one or more structures that serve as a dwelling unit for seven or more unrelated individuals who share amenities, such as a kitchen, bathrooms, or living areas;

(2) at least 25 percent of the affordable dwelling units include two or more bedrooms, supportive housing, housing for older persons, or any combination of the three;

(3) not more than 25 percent of the proposed development's gross floor area is for commercial uses;

(4) it is new construction, it is redevelopment of a site without existing multi-family structures, or the existing development on the site complies with the requirements in Subsection (D); and

(5) it meets the requirements set forth in [Section 25-1-723](#) (*Affordability Requirements*).

(B) Except for a proposed development participating in a government-operated affordable housing program with stricter requirements, the applicant for a proposed rental development:

(1) shall incorporate lease provisions that are consistent with:

(a) the U.S. Department of Housing and Urban Development (HUD) Section 8 Tenant-Based Assistance Housing Choice Voucher (HCV) Program related to the termination of tenancy by owner;

(b) any lease addendum required as a condition to receive city or Austin Housing Finance Corporation (AHFC) funds; and

(c) 24 C.F.R. § 245.100 related to a tenant's right to organize; and

(2) may not discriminate on the basis of an individual 's source of income as defined in [Section 5-1-13](#) (*Definitions*).

(C) A proposed development qualifies as a Type 2 development and is eligible for additional bonuses if it meets the standards imposed in Subsections (A) and (B) plus one or more of the following:

(1) at least 50 percent of the affordable dwelling units include two or more bedrooms;

(2) for a rental development:

(a) at least 75 percent of the total units or sleeping units serve households whose incomes average 60 percent MFI or below, rounded up to the nearest unit or sleeping unit; or

(b) at least 10 percent of the affordable units or sleeping units serve households with incomes of 30 percent MFI or below, rounded up to the nearest unit or sleeping unit; or

(3) for an owner-occupied development, at least 75 percent of the owner-occupied dwelling units or sleeping units serve households whose incomes average 80 percent MFI or below; or

(4) is located within ¼ mile of an activity corridor designated in the Imagine Austin Comprehensive Plan and is served by a bus or transit line.

(D) A proposed development that will require the applicant to redevelop or rebuild an existing multi-family structure is eligible for this program if:

- (1) the proposed development meets the standards imposed in Subsections (A) and (B);
- (2) the existing multi-family structure requires extensive repairs and for which rehabilitation costs will exceed 50 percent of the market value, as determined by the building official;
- (3) the proposed development will replace all existing units that were affordable to a household earning 80 percent MFI or below in the previous year and have at least as many bedrooms;
- (4) the applicant provides current tenants with:
 - (a) notice and information about the proposed development on a form approved by the director; and
 - (b) relocation benefits that are consistent with Federal Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, 42 U.S.C.A. 4601, *et seq.* ; and
- (5) the applicant grants current tenants the option to lease a unit of comparable affordability and size following completion of redevelopment.

Source: [20190509-027](#), Pt. 2, 5-20-19.

- **§ 25-1-723 - AFFORDABILITY REQUIREMENTS.**

- (A) An applicant complies with the requirements in this section if the applicant participates in a government-operated affordable housing program that imposes, at a minimum, the same affordability requirements.
- (B) A rental development must comply with at least the following:
- (1) at least 50 percent of the total units or sleeping units serve households whose incomes average 60 percent MFI or below; and
 - (2) at least 20 percent of the total units or sleeping units serve households with incomes of 50 percent MFI or below.
- (C) Except for a Type 2 owner-occupied development that complies with the requirements in [Section 25-1-722\(C\)\(3\)](#), at least 50 percent of the owner-occupied dwelling units or sleeping units must serve households whose incomes average 80 percent MFI or below.
- (D) If the number of units required in this section include less than a whole unit, the unit number is rounded up to the nearest whole unit.
- (E) The minimum affordability period for a rental development is the greater of the affordability period required for development receiving city or Austin Housing Finance Corporation (AHFC) funds or 40 years following the issuance of the last certificate of occupancy required for the qualifying development.
- (F) The minimum affordability period for an owner-occupied dwelling unit is 99 years following the issuance of a certificate of occupancy for the owner-occupied dwelling unit.
- (G) In a multi-phased qualifying development, the director may begin the minimum affordability period upon the issuance of the last certificate of occupancy for each phase.

Source: [20190509-027](#), Pt. 2, 5-20-19.

§ 25-1-724 - CERTIFICATION.

- (A) If the director certifies that a proposed development meets the requirements of this division, the accountable official is authorized to process a development application as a qualifying development.
- (B) Before the director may certify that a proposed development meets the requirements of this division, the applicant shall execute:
- (1) an agreement to preserve the minimum affordability period and related requirements imposed by this division; and
 - (2) a document for recording in the real property records that provides notice of or preserves the minimum affordability requirements imposed by this division.
- (C) The form of the documents described in Subsection (B) must be approved by the city attorney.
- (D) The director may certify an applicant who complies with the requirements in Subsection (B) because the applicant participates in a government-operated affordable housing program that imposes, at a minimum, the same affordability requirements.

Source: [20190509-027](#), Pt. 2, 5-20-19.

§ 25-1-725 - POST-CONSTRUCTION REQUIREMENTS AND PENALTY.

- (A) For a rental development, the property owner or the property owner's agent shall provide the director with information that allows the director to verify compliance with the affordability requirements. The information shall be provided on an annual basis and on a form approved by the director.
- (B) If, for any reason, the director is unable to confirm that the affordability requirements were met during any 12-month period, the preceding 12 months may not be used to satisfy the minimum affordability requirements in [Section 25-1-723](#) (*Affordability Requirements*).
- (C) An applicant complies with the requirements in this section if the applicant complies with monitoring and income verification requirements that are imposed and enforced as part of a government-operated affordable housing program.
- (D) A person commits an offense if the person fails to comply with the requirement in Subsection (A). A culpable mental state is not required, and need not be proved. A person commits a separate offense for each day the person fails to provide the documentation. Each offense is punishable by a fine not to exceed \$500.

§ 25-2-518 - QUALIFYING DEVELOPMENT.

- (A) In this section, a qualifying development is a development certified under Section 25-1-724 (Certification) and participating in the Affordability Unlocked Bonus Program.
- (B) Notwithstanding any ordinance or City Code provision to contrary, a qualifying development is a permitted use under Section 25-2-491 (Permitted, Conditional, and Prohibited Uses) in:

- (1) a residential base zoning district;
- (2) a commercial base zoning district;
- (3) a special purpose base zoning district, except on a site designated:

- (a) agricultural (AG),
- (b) aviation (AV); or

- (4) a combining and overlay district.

(C) No more than 25 percent of the gross floor area of the qualifying development may be comprised of commercial uses. The permitted commercial uses are determined using the base zoning district.

(D) A qualifying development is not required to comply with:

(1) the height and setback requirements of Article 10 (Compatibility Standards) except to maintain side setbacks as required by the base zoning district;

(2) the maximum floor-to-area ratio for the applicable base zoning district under Section 25-2-492 (Site Development Regulations);

(3) Subchapter F (Residential Design and Compatibility Standards) except to maintain side setbacks as required by the base zoning district;

(4) Section 25-2-773 (Duplex Residential Use); or

(5) minimum site area requirements.

(E) This subsection applies to a qualifying development located in urban residence (SF-5) or more restrictive zoning district and the height of the development exceeds 35 feet or three stories.

(1) A qualifying development must comply with:

(a) Section 25-2-1066 (Screening Requirements); and

(b) Subsections (A) and (B) in Section 25-2-1067 (Design Regulations).

(2) A person must enclose a refuse receptacle, including a dumpster.

(3) The location of and access to a refuse receptacle is subject to review and approval by the accountable official.

(4) A person may not collect or allow another to collect refuse receptacles between 10:00 p.m. and 7:00 a.m.

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A PROFESSIONAL CORPORATION

JOHN M. JOSEPH
DIRECTOR

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May 8, 2020

Cathy Norman
President
University Area Partners, Inc., a Texas non-profit corporation
c/o Mike McHone
P.O. Box 8142
Austin, Texas 78713-8142
Via First Class Mail
Via Electronic Mail at: mchone1234@sbcglobal.net

Re: 2001 Guadalupe Street, Austin, TX 78705 (the "Property") incident to the City of Austin Zoning Application Case No. C14-2020-0007 ("Zoning Application") and Offer of Resolution

Ms. Norman and Mr. McHone:

As you know, this firm represents the interests of Powell-Corbett, LLC ("Owner" or "Client") with respect to the pending Zoning Application submitted to the City of Austin for the Property and which University Area Partners, Inc. ("UAP") has filed an objection.

The purpose of this letter is to outline for UAP a compromise solution that would be beneficial to UAP and to our Client such that the hearing with the City of Austin Planning Commission on our Client's Zoning Application scheduled for May 12, 2020 is allowed to proceed unopposed.

By way of background, our Client has submitted an application to the City of Austin for Commercial Services-Mixed Use Zoning ("CS-MU"). The fundamental reason for our Client's Zoning Application is that under the University Neighborhood Overlay ("UNO"), our Client's development of the Property will be limited to a height of 65 feet. The City of Austin Land Development Code allows a property owner 90 feet of height. This 25-foot difference translates to approximately 24, 938 square feet of density.

Specifically, under UNO, developments with 65-foot height limitations typically allow a developer to achieve 5 full stories of building ($95\% \text{ of } 8750 = 8312.5 \text{ square feet of land} \times 5 \text{ stories} = 41,562 \text{ square feet of building}$).

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May 8, 2020

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In contrast the Affordability Unlocked Bonus Program ("AUBP") allows i) Type 1 height limit of 75 feet, assuming 7 stories = 58,187 square feet; and ii) Type 2 height limit of 90 feet assuming at least 8 stories = 66,500 square feet approximately.

In support thereof, please see the April 17, 2020 memorandum from Charles Dunn of Hutson Land Planners Development Consultants, LLC to our Client and attached herewith as Exhibit "A" which outlines the differences between UNO and the AUBP.

In order to resolve UAP's pending objection to our Client's Zoning Application, I have been in communication with Mr. McHone in recent weeks related to our Client's offer to UAP which is as follows:

If the CS-MU zoning for the Property is obtained the Owner shall cause: i) the Property to be impressed with a written restrictive covenant ("Restrictive Covenant") executed by my Client and recorded in the real property records in Travis County, Texas which shall require that the Property comply with the UNO design standards (streetscape and design guidelines) as set forth herein on Exhibit "B". The Restrictive Covenant shall run with the land and in the event that the Property is sold to a successor owner, such Restrictive Covenant shall be in full force and effect; and ii) any fee paid by the Owner in lieu of on-site affordability will be restricted for use in the University Neighborhood Overlay area. Additionally, any multifamily redevelopment on the site shall comply with the Affordability Unlocked Bonus Program (Austin LDC 25-1, Article 15, Division 4, 25-1-720 through 25-1-725 and 25-2-518) as set forth in Exhibit "C". As such, if the proposed CS-MU zoning for the Property is approved by City Council, and the Property is redeveloped as a multifamily development, any fee in lieu of on-site affordability monies would be paid to the City of Austin Neighborhood Housing & Community Development Department and restricted for use in the University Neighborhood Overlay area.

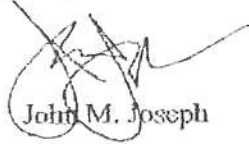
Please be advised that we deliver this letter to UAP in order to reach a fair and reasonable compromise to UAP's current objection to our Client's Zoning Application prior to the Planning Commission hearing scheduled on May 12, 2020. If UAP agrees with the foregoing compromise, we will commence drafting of the proposed Restrictive Covenant such that UAP's current objection to the Zoning Application may be withdrawn and we may notify the City that we have reached a fair and equitable compromise.

Specifically, by signing below, the parties acknowledge and agree that: i) the foregoing offer is agreeable to UAP and to the Owner; ii) that UAP shall withdraw its opposition to the May 12, 2020 Planning Commission hearing and that UAP and the Owner shall finalize a mutually agreeable form of the Restrictive Covenant prior to City Council final approval of the Zoning Application; and iii) and upon the City Council's approval of the CS-MU zoning for the Property, the Restrictive Covenant shall be recorded.

We appreciate your time and consideration of this proposal and look forward to working with you on a compromise that is in both parties' interest and mutual benefit.

May 8, 2020
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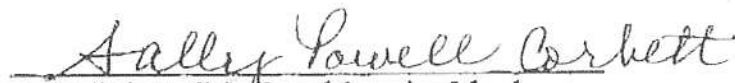
Very truly yours,



John M. Joseph

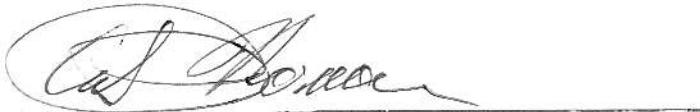
Acknowledged and Agreed by Owner:

Powell Corbett, LLC, a Texas limited liability company



By: Sally Powell Corbett, Managing Member

Acknowledged and Agreed by University Area Partners, Inc.:



By: Cathy Norman, President