

## ZONING CHANGE REVIEW SHEET

CASE: C14-2022-0111 (Burnet & 183)

DISTRICT: 4

ADDRESS: 8909 & 9034 Burnet Road

ZONING FROM: CS-NP

TO: CS-MU-V-NP

SITE AREA: 2.57 acres (34,356 sq. ft.)

PROPERTY OWNER: PCD BURNET LTD (PCD BURNET LLC) (Peter L. Donovan, Manager)

AGENT: Armbrust & Brown, PLLC (Michael J. Whellan)

CASE MANAGER: Sherri Sirwaitis (512-974-3057, [sherri.sirwaitis@austintexas.gov](mailto:sherri.sirwaitis@austintexas.gov))

STAFF RECOMMENDATION:

**Staff recommends CS-MU-V-NP, General Commercial Services-Mixed Use-Vertical Mixed Use Building-Neighborhood Plan Combining District, zoning.**

PLANNING COMMISSION ACTION / RECOMMENDATION:

**November 8, 2022: Approved staff's recommendation for CS-MU-V-NP zoning by consent (11-0, R. Schneider-absent); C. Hempel-1st, J. Shieh-2nd.**

CITY COUNCIL ACTION:

**December 8, 2022**

ORDINANCE NUMBER:

ISSUES: N/A

CASE MANAGER COMMENTS:

The property in question is a 2.57 acre lot located at the southeast corner of Research Boulevard (U.S. Highway-183 Southbound Service Road) and Burnet Road that is currently developed with an Indoor Sports and Recreation use (Highland Lanes Bowling Alley). There are commercial uses (Colonnade Retail Center) to the north, across Research Boulevard/U.S. Highway 183, that are zoned NBG-CMU-NP. To the south, there are restaurant (Olive Garden) and retail sales uses (Cavender's Boot City) zoned CS-NP. The lot to the east contains a Retail Sales-General use (Furniture Row) and a Cocktail Lounge (Emerald Tavern Games and Café) that are zoned CS-NP and CS-1-CO-NP respectively. Across Burnet Road to the west, there is another retail center (Crossroads Shopping Center) that is zoned CS. The applicant is requesting CS-MU-V-NP zoning to redevelop the site under consideration with a 300-unit multifamily residential use. The agent has stated that the intent is to construct a Vertical Mixed Use (VMU2) project with 12% of the unit to be income restricted as affordable housing units for households earning up to 60% MFI. *(please see Applicant's Summary Letter- Exhibit C).*

The staff recommends General Commercial Services-Mixed Use-Vertical Mixed Use Building-Neighborhood Plan Combining District, zoning as the site meets the intent of the zoning district. The property is within the Burnet Road Activity Corridor, as identified on the Growth Concept Map in the Imagine Austin Comprehensive Plan. In addition, the property takes access to Burnet Road, a Level 3 arterial roadway, and is located along the Burnet Road Enhanced Metro Rapid Route according to the System Plan that was adopted by Capital Metro and the Austin City Council in 2020. The North Burnet/Gateway Neighborhood Plan and Transit Oriented District (TOD) is directly to the north across U.S. Highway 183/ Research Boulevard. Currently, the NBG-CMU-NP zoning on the tract of land to the north will permit a maximum 60 feet in height and 2:1 FAR and up to 120 feet in maximum height and 3:1 FAR, with development bonus.

This site under consideration is within the Wooten portion of the Crestview/Wooten Combined Neighborhood Planning Area. The Future Land Use Map (FLUM) calls for this site to be designated as "Mixed Use". As the proposed zoning is consistent with this land use designation, an NPA is not required.

The applicant agrees with the staff's recommendation.

### BASIS OF RECOMMENDATION:

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

General Commercial Services district is intended predominately for commercial and industrial activities of a service nature having operating characteristics or traffic service requirements generally incompatible with residential environments.

Mixed Use combining district is intended for combination with selected base districts, in order to permit any combination of office, retail, commercial, and residential uses within a single development.

Vertical Mixed Use Building (V) combining district may be applied in combination with any commercial base zoning district and allows for a combination of office, retail, commercial and residential uses within a vertical mixed use building.

Neighborhood Plan district denotes a tract located within the boundaries of an adopted Neighborhood Plan.

2. *Zoning changes should promote compatibility with adjacent and nearby uses.*

The proposed CS-MU-V-NP site is located at the southeast intersection of U. S. Highway 183/Research Boulevard and Burnet Road, a Level 3 arterial roadway, and is surrounded by commercial zoning district designations. There is NBG-CMU-NP zoning to the north, CS-NP zoning to the south and east and CS zoning to the west.

3. *Zoning should allow for reasonable use of the property.*

The staff's recommendation of CS-MU-V-NP zoning will permit the applicant to redevelop this site with a mixture of residential, office, civic and commercial uses that will serve the surrounding community. In addition, the applicant's intent to construct 300 multifamily residential units at this location supports the goals stated in the Imagine Austin Comprehensive Plan and the Strategic Housing Blueprint.

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

The property under consideration is located along the Burnet Road Activity Corridor and is next to North Burnet/Gateway Station Regional Center. The City Council recently passed an amendment to Subchapter E relating to Vertical Mixed Use Buildings (Ordinance No. 20220609-080) that will allow for VMU1 and VMU2 buildings along a light rail line as depicted on Exhibit Attached to Resolution No. 20200807-003 (Project Connect Contract with Voters). The site under consideration is located along the Burnet Road Enhanced Metro Rapid Route according to the System Plan that was adopted by Capital Metro and the Austin City Council in 2020 (*please see Resolution No. 20200807-003 -Exhibit A: System Plan - Exhibit D*).

EXISTING ZONING AND LAND USES:

	ZONING	LAND USES
<i>Site</i>	CS-NP	Indoor Sports and Recreation (Highland Lanes Bowling Alley)
<i>North</i>	NBG-NP	Retail Center (Colonnade: Planned Parenthood, Casa Chapala, Zaika Indian Contemporary Cuisine, Block Advisors, People Ready, Mikado Japanese Cuisine, Honey Baked Ham, Salon Change, All Wireless Repair, Todd Pilates Fitness Studio, 1 World Karate, Apartment Experts, Onin Staffing, Let's Relax)
<i>South</i>	CS-NP	Restaurant (Olive Garden), Retail Sales (Cavender's Boot City)
<i>East</i>	CS-NP, CS-1-CO-NP	Retail Sales-General (Furniture Row), Cocktail Lounge (Emerald Tavern Games and Café)
<i>West</i>	CS	Retail Center (Crossroads Shopping Center: Bon Aire, Kung Fu Tea, The Soccer Corner, Palms Social, West Marine, Cycle Gear Motorcycle Apparel and Accessories, Pluckers Wing Bar, Make It Sweet, Tabu Lingerie, Li Massage, Cloud Dental, TRND Setters Barber Shop, Chili's, Le Bleu, Craving Vapor, Hook & Reel Cajun Seafood Bar, Avis/Budget Rentals, Dover Saddlery, Yisel Jewelry, Humpty's Wall of Breakfast, Modern Muse Beauty Collective, Fast Signs, Paradise on Ice Daiquiris to Go, Apartment Specialists, Painting with a Twist, Trudy's North Star)

NEIGHBORHOOD PLANNING AREA: Crestview/Wooten Combined Neighborhood Plan (Wooten)

TIA: Deferred to the time of Site Plan

WATERSHED: Little Walnut Creek

SCHOOLS: Austin I.S.D.  
Pillow Elementary  
Padron Elementary  
Burnet Middle School

NEIGHBORHOOD ORGANIZATIONS:

Austin Independent School District  
Austin Lost and Found Pets  
Austin Neighborhoods Council  
Friends of Austin Neighborhoods  
Friends of North Shoal Creek  
Homeless Neighborhood Association

Neighborhood Empowerment Foundation  
 North Austin Neighborhood Alliance  
 North Burnet Gateway Neighborhood Staff Liaison  
 North Growth Corridor Alliance  
 North Shoal Creek Neighborhood Association  
 North Shoal Creek Neighborhood Contact Team  
 NW Austin Neighbors  
 Red Line Parkway Initiative  
 SELTEXAS  
 Shoal Creek Conservancy  
 Sierra Club, Austin Regional Group  
 Wooten Neighborhood Plan Contact Team

**AREA CASE HISTORIES:**

NUMBER	REQUEST	COMMISSION	CITY COUNCIL
C14-2021-0059 (2100 Polaris Avenue)	CS-CO-MU-NP to CS-MU-NP	6/08/21: Motion to approve the staff's recommendation of CS-MU-CO-NP zoning by consent (11-0, Y. Flores and J. Shieh-absent); A. Azhar-1st, J. Mushtaler-2nd.	7/29/21: Approved staff's recommendation of CS-MU-CO-NP zoning by consent on 1st reading (11-0); L. Pool-1st, P. Ellis-2nd.  10/21/21: Approved CS-MU-CO-NP zoning by consent on 2nd/3rd readings (10-0, G. Casar-off dais); A. Kitchen-1st, M. Kelly-2nd.
C14-2015-0132 (Calvin's Liquor: 8820 Burnet Road, Ste. 505)	CS to CS-1	11/10/15: Approved staff's recommendation for CS-1-CO zoning, with a conditional overlay to prohibit Cocktail Lounge use on the property, on consent (11-0); N. Zaragoza-1 <sup>st</sup> , P. Seeger-2 <sup>nd</sup> .	12/10/15: Approved CS-1-CO district zoning on all 3 readings (9-1, O. Houston-No, S. Adler-absent); D. Zimmerman-1 <sup>st</sup> , D. Garza-2 <sup>nd</sup> .
C14-03-0002 (9325 Burnet Road)	LI to CS	3/26/03: Recommended for approval by consent, with the addition of the following restrictions added to staff's proposed conditional overlay for this case: 1) Use of the property as an adult bookstore shall be restricted to not more than 7,500 square feet of gross floor area and 2) Use of the property as an adult arcade, adult cabaret, adult lounge, adult novelty shop, adult service business and adult theater is prohibited.	6/05/03: Granted CS-CO on all 3 readings (7-0)

		Vote: 7-0 (Off Dais: Pratt, Absent: Spelman.); M. Armstrong-1 <sup>st</sup> , M. Casias-2 <sup>nd</sup> .	
C14-01-0037 (North Austin Civic Association Neighborhood Plan)	MF-2, SF-2, SF-3 to NO-NP  MF-2, LO, MF-3, CS to GR-NP CS, SF-3 to P-NP	4/17/01: Approved Staff rec. of NO-NP, CS-NP, MF-2-NP, LO-NP, GR-NP, P-NP, LI-NP (9-0); with 25 foot vegetative buffer on south boundary of Tract 19	5/24/01: Approved PC rec. on all three readings, except for Tract 9-1 <sup>st</sup> reading only (6-0)  8/9/01: Approved CS-NP for Tract 9 (7-0); 2 <sup>nd</sup> /3 <sup>rd</sup> readings

RELATED CASES:

C8-AI-3167 - Subdivision Case

EXISTING STREET CHARACTERISTICS:

Name	ASMP Classification	ASMP Required ROW	Existing ROW	Existing Pavement	Sidewalks	Bicycle Route	Capital Metro (within ¼ mile)
Burnet Road (divided with median)	Level 3	120 feet	~134 feet	120 feet	Yes	Yes	Yes
Research Boulevard Service Road (SB)	Level 4	None listed, TXDOT maintained road	None listed	40 feet	Yes	No, TXDOT maintained Road.	Yes

OTHER STAFF COMMENTS:Comprehensive Planning

**Project Name and Proposed Use:** 8909 BURNET RD. C14-2022-0111. 2.57 acres from CS-NP to CS-V-MU-NP. 300 units, with 12 percent of these as income-restricted affordable housing for households earning up to 60 percent of Median Family Income and 4,000 sq ft of office/retail.

Yes	Imagine Austin Decision Guidelines
	<b>Complete Community Measures</b>
Y	<b>Imagine Austin Growth Concept Map:</b> Located within or adjacent to an Imagine Austin Activity Center, Imagine Austin Activity Corridor, or Imagine Austin Job Center as identified the Growth Concept Map. <b>Name(s) of Activity Center/Activity Corridor/Job Center:</b> Burnet Road Activity Corridor and next to North Burnet/Gateway Station Regional Center
Y	<b>Mobility and Public Transit:</b> Located within 0.25 miles of public transit stop and/or light rail station.
Y	<b>Mobility and Bike/Ped Access:</b> Adjoins a public sidewalk, shared path, and/or bike lane.
Y	<b>Connectivity, Good and Services, Employment:</b> Provides or is located within 0.50 miles to goods and services, and/or employment center.
	<b>Connectivity and Food Access:</b> Provides or is located within 0.50 miles of a grocery store/farmers market.
	<b>Connectivity and Education:</b> Located within 0.50 miles from a public school or university.
	<b>Connectivity and Healthy Living:</b> Provides or is located within 0.50 miles from a recreation area, park or walking trail.
	<b>Connectivity and Health:</b> Provides or is located within 0.50 miles of health facility (ex: hospital, urgent care, doctor's office, drugstore clinic, and/or specialized outpatient care.)
Y	<b>Housing Affordability:</b> Provides a minimum of 10% of units for workforce housing (80% MFI or less) and/or fee in lieu for affordable housing.
Y	<b>Housing Choice:</b> Expands the number of units and housing choice that suits a variety of household sizes, incomes, and lifestyle needs of a diverse population (ex: apartments, triplex, granny flat, live/work units, cottage homes, and townhomes) in support of Imagine Austin and the Strategic Housing Blueprint.
Y	<b>Mixed use:</b> Provides a mix of residential and non-industrial uses.
	<b>Culture and Creative Economy:</b> Provides or is located within 0.50 miles of a cultural resource (ex: library, theater, museum, cultural center).
	<b>Culture and Historic Preservation:</b> Preserves or enhances a historically and/or culturally significant site.
	<b>Creative Economy:</b> Expands Austin's creative economy (ex: live music venue, art studio, film, digital, theater.)
	<b>Workforce Development, the Economy and Education:</b> Expands the economic base by creating permanent jobs, especially in industries that are currently not represented in particular area or that promotes a new technology, and/or promotes educational opportunities and workforce development training.
	<b>Industrial Land:</b> Preserves or enhances industrial land.
7	<b>Total Number of "Yes's"</b>

Environmental

The site is not located over the Edwards Aquifer Recharge Zone. The site is located in the Little Walnut 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.

Zoning district impervious cover limits apply in the Urban Watershed classification.

According to floodplain maps there is no floodplain within or adjacent to the project location.

Standard landscaping and tree protection will be required in accordance with LDC 25-2 and 25-8 for all development and/or redevelopment.

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.

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 sq. ft. cumulative is exceeded, and on site control for the two-year storm.

At this time, no information has been provided as to whether this property has any preexisting approvals that preempt current water quality or Code requirements.

#### Fire

No comments.

#### Parks and Recreation

Parkland dedication will be required for the new applicable uses proposed by this development, multifamily with CS-V-MU-NP zoning, at the time of subdivision or site plan, per City Code § 25-1-601. Whether the requirement shall be met with fees in-lieu or dedicated land will be determined using the criteria in City Code Title 25, Article 14, as amended. Should fees in-lieu be required, those fees shall be used toward park investments in the form of land acquisition and/or park amenities within the surrounding area, per the Parkland Dedication Operating Procedures § 14.3.11 and City Code § 25-1-607 (B)(1) & (2).

If the applicant wishes to discuss parkland dedication requirements in advance of site plan or subdivision applications, please contact this reviewer: [thomas.rowlinson@austintexas.gov](mailto:thomas.rowlinson@austintexas.gov). At the applicant's request, PARD can provide an early determination of whether fees in-lieu of land will be allowed.

#### Site Plan

Site plans will be required for any new development other than single-family, two-family or duplex residential.

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. The site is subject to compatibility standards due to the proximity of the SF-2 district to the west.



Any new development is subject to Subchapter E. Design Standards and Mixed Use. Additional comments will be made when the site plan is submitted.

This tract is already developed and the proposed zoning change is a footprint within the existing development. The applicant is responsible for requesting relocation and demolition permits once the site plan is approved. The City Historic Preservation Officer will review all proposed building demolitions and relocations prior to site plan approval. If a building meets city historic criteria, the Historic Landmark Commission may initiate a historic zoning case on the property.

#### Transportation

A Traffic Impact Analysis (TIA) shall be required at the time of site plan if triggered, when land uses and intensities will be known per LDC 25-6-113.

#### Water Utility

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. The water and wastewater utility plan must be reviewed and approved by Austin Water for compliance with City criteria and suitability for operation and maintenance.

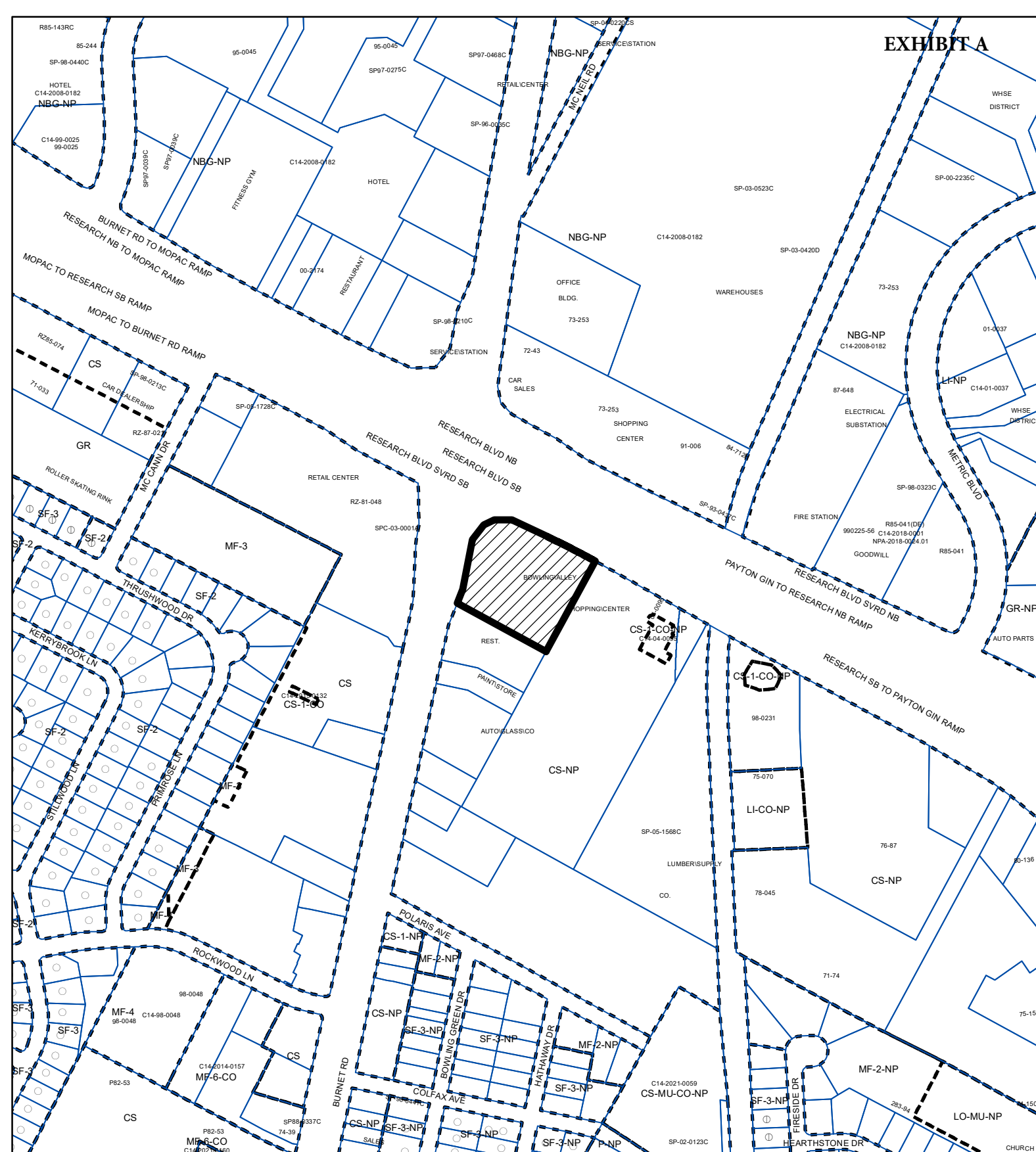
Depending on the development plans submitted, water and or wastewater service extension requests may be required. All water and wastewater construction must be inspected by the City of Austin.


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 Map
- C. Applicant's Request Letter
- D. Resolution No. 20200807-003 - Exhibit A: System Plan
- E. Correspondence from Interested Parties

~~EXHIBIT A~~



 SUBJECT TRACT

 PENDING CASE

 ZONING BOUNDARY

## ZONING

ZONING CASE#: C14-2022-0111

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 Housing and Planning Department for the sole purpose of geographic reference. No warranty is made by the City of Austin regarding specific accuracy or



**Created: 8/19/2022**

$$1'' = 400'$$



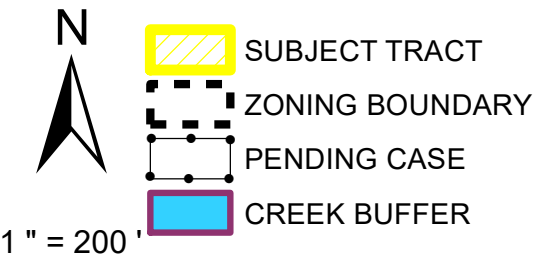


## Burnet & 183

ZONING CASE#: C14-2022-0111  
 LOCATION: 8909 Burnet Rd  
 SUBJECT AREA: 2.57 Acres  
 GRID: K31  
 MANAGER: Sherri Sirwaitis



Created: 8/30/2022  
 by: MeekSS



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**ARMBRUST & BROWN, PLLC**

ATTORNEYS AND COUNSELORS

100 CONGRESS AVENUE, SUITE 1300  
 AUSTIN, TEXAS 78701-2744  
 512-435-2300

FACSIMILE 512-435-2360

July 13, 2022

Jerry Rusthoven, Chief Zoning Officer  
 City of Austin  
 Housing and Planning Department  
 1000 E. 11th St.  
 Austin, TX 78702

Re: Rezoning application for 8909 and 9034 Burnet Rd.

Dear Mr. Rusthoven:


I am submitting the enclosed application to rezone the property from CS-NP to CS-V-MU-NP in order to provide a Vertical Mixed-Use 2 ("VMU2") project featuring 300 units, with 12 percent of these as income-restricted affordable housing for households earning up to 60 percent of Median Family Income.

Approving this rezoning would provide new affordable housing units at a strategic location on a major transit corridor:

- **This project would provide affordable housing, as one of the city's first VMU2 projects.** It would lock in an estimated 36 new affordable units for households earning up to 60 percent of MFI, including a proportionate mix of multi-bedroom affordable units. This proposal would not change the base zoning designation; instead it would allow the applicant to participate in the VMU density bonus program, which requires on-site affordable housing.
- **The property is strategically located along the Burnet corridor, at its intersection with US-183.** The city has designated Burnet Road as an appropriate location for growth and for the VMU2 program, identifying it as an Imagine Austin Corridor, a Transit Priority Network Roadway, and a 2016 Mobility Bond Corridor. Additionally, the property is served by one of only two active MetroRapid bus lines in the city (the 803 bus).
- **A VMU2 project at this site would be fully compatible with the surrounding zoning – and would be meaningfully buffered from single-family.** The property is surrounded to the east, south, and west (across Burnet Road) by CS and CS-1-zoned property, and to the north (across US-183) by the North Burnet/Gateway Regulating Plan area. Additionally, the site is meaningfully buffered from single-family areas, with the closest single-family lot over 480 ft. away, across Burnet Road.
- **Approving Vertical Mixed-Use at this site would fulfill the Future Land Use Map designation of this site as "Mixed-Use."** The Crestview/Wooten Combined Neighborhood Plan's Future Land Use Map designates the site for Mixed-Use. However, today, the current zoning only allows commercial uses. The requested CS-V-MU-NP zoning would fulfill the neighborhood plan's expectation for mixed-use zoning by adding the Vertical Mixed-Use overlay, while also maintaining the same base zoning designation that already exists today (CS).

Thank you for your consideration. Please do not hesitate to reach out with any questions related to this request.

Respectfully,

A handwritten signature in black ink, appearing to read 'Michael J. Whellan', with a stylized, flowing script.

Michael J. Whellan



METRO



projectconnect

# SYSTEM PLAN INITIAL INVESTMENT

Adopted June 10, 2020

EXHIBIT A

## LEGEND

### LIGHT RAIL

- Orange Line
- Potential Future Extension
- Blue Line

### METRO RAIL

- Red Line
- Green Line
- Potential Future Extension

### METRO RAPID

- Gold Line
- Enhanced MetroRapid Route
- Potential Future Extension

### METROBUS

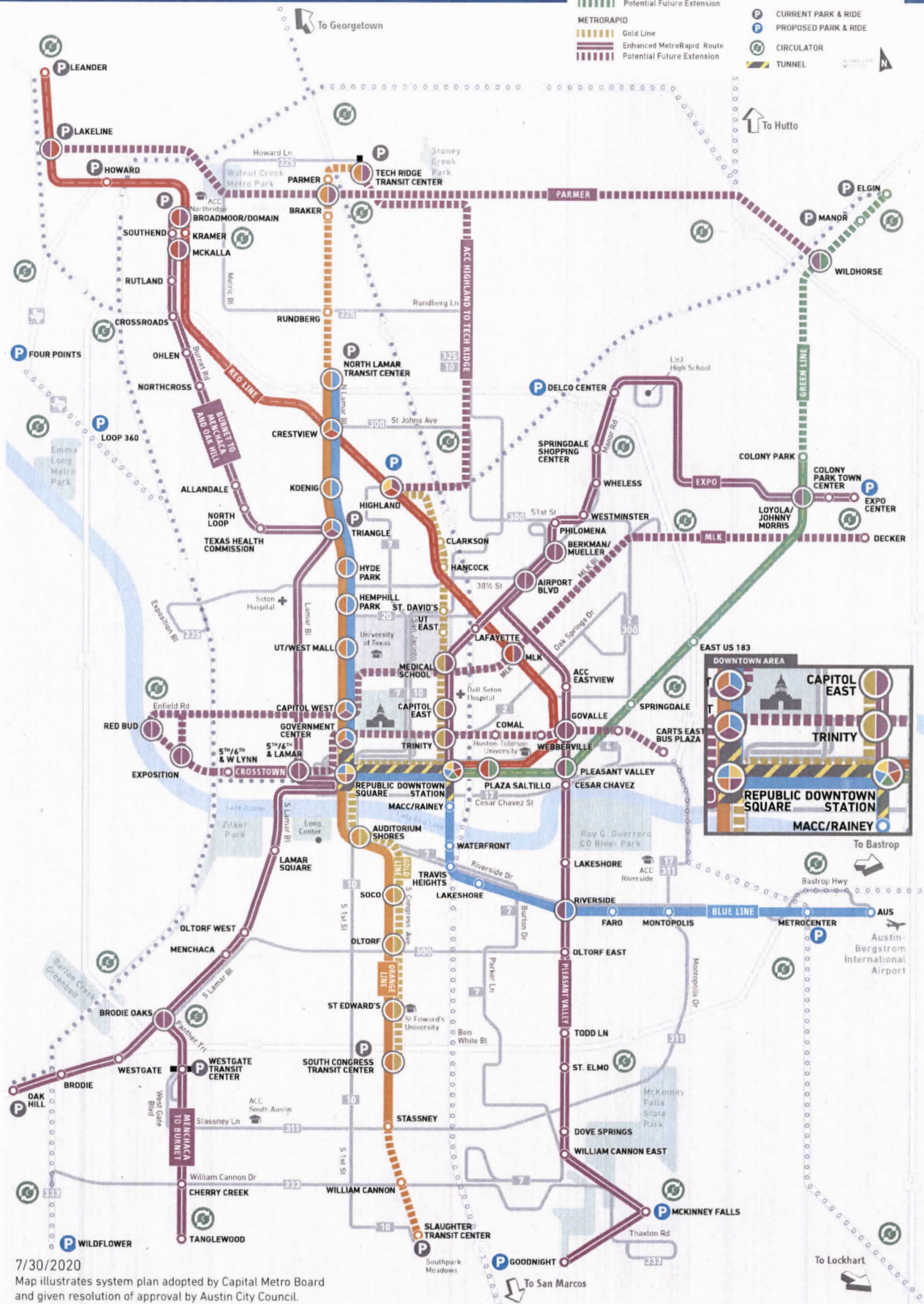
- Current Frequent Local Routes

### METRO EXPRESS

- Current Metro Express
- Future Metro Express

### ADDITIONAL AVAILABLE SERVICES

- MetroAccess
- MetroBike
- CURRENT PARK & RIDE
- PROPOSED PARK & RIDE
- CIRCULATOR
- TUNNEL



7/30/2020

Map illustrates system plan adopted by Capital Metro Board and given resolution of approval by Austin City Council.