

**ZONING CHANGE REVIEW SHEET**

CASE: C14-2022-0205  
Denny's Condos

DISTRICT: 1

ZONING FROM: CH-CO-NP

TO: LI-PDA-NP, as amended 01/05/2023

ADDRESS: 1601 North IH 35 Service Road Northbound

SITE AREA: 1.28 Acres

PROPERTY OWNER:  
McGrane Living Trust

AGENT:  
Alice Glasco Consulting  
(Alice Glasco)

CASE MANAGER: Joi Harden (512-974-1617 joi.harden@austintexas.gov)

STAFF RECOMMENDATION:

**Staff does not support the applicant's request of LI-PDA-NP; staff supports an alternate recommendation of CH-V-CO-NP.** *For a summary of the basis of staff's recommendation, see case manager comments on page 2.*

PLANNING COMMISSION ACTION / RECOMMENDATION:

February 28, 2023:

CITY COUNCIL ACTION:

TBD

ORDINANCE NUMBER:

ISSUES:

The rezoning case initially requested CH-V-PDA-NP. Further research noted that PDA cannot be added to the CH base zoning district if the property is less than 10 acres in size, per City Code section 25-2-582. The applicant revised the request January 5, 2023, to the current request of request LI-PDA-NP **Please see Exhibit C- Applicant Letter.**

CASE MANAGER COMMENTS:

The subject property is located on the northbound frontage road of IH 35, zoned CH-CO-NP and developed with restaurant land use. The property has frontage on the IH 35 service road on the west and East 16<sup>th</sup> Street to the south. Immediately to the east is a property zoned CH-V-CO-NP that is developed with hotel/motel land use. The next property to the east is Oakwood Cemetery, zoned P-H-NP. Across East 16<sup>th</sup> to the south is the Swede Hill neighborhood. The neighborhood is primarily zoned SF-3-NP and developed with single family residential uses, but other zoning designations and land uses. Other nearby zoning designations include MF-3-NP, MF-2-NP and LR-MU-NP. Most of these properties are also developed with single family residential land uses. To the north, across East Martin Luther King Boulevard are unzoned properties owned by The University of Texas (UT) and

developed with offsite accessory parking and outdoor sports and recreation facilities. Across IH 35 to the west are CS and MF-4 properties that are developed with UT uses, including the Frank Erwin Center. ***Please see Exhibits A and B—Zoning Map and Aerial Exhibit.***

The rezoning request of LI-PDA-NP would remove conditions established by the current zoning under Ordinance # 951214-F and establish new land uses and site development regulations. Conditions of the current zoning that are proposed to be changed:

1. General retail sales (convenience) is prohibited—would become permitted use
2. Cocktail lounge is prohibited—would become conditional use
3. Residential development is limited to 170 units per acre – remove limit

The LI-PDA-NP rezoning request would add condominium/townhouse, multifamily and group residential as permitted land uses and prohibit the following uses: (1) Agricultural Sales and Services, (2) Automotive Rentals, (3) Automotive Repair Services, (4) Automotive Sales, (5) Automotive Washing (All types) (6) Campground, ((7) Commercial Blood Plasma Center, (8) Pawn Shop, (9) Commercial Off-Street Parking, (10) Construction Sales and Services, (11) Convenience Storage, (12) Drop-Off Recycling Collection Facility, (13) Electronic Prototype Assembly, (14) Equipment Repair Services, (15) Equipment Sales, (6) Exterminating Services, (17) Funeral Services, (18) Communication Services, (19) Off-Site Accessory Parking, (20) Safety Services, , (21) Kennels, (22) Liquor Sales, (23) Laundry Services, (24) Monument Retail Sales, (25) Outdoor Entertainment, (conditional), (26) Transportation Terminal, (27) Vehicle Storage, (28) Limited Warehousing and Distribution, (29) Pet Services, (30) Restaurant (Drive-in, Fast Food) (32) Service Station, (33) Custom Manufacturing, (34) Hospital Services (general), (35) Local Utility Services, and (36) Maintenance and Service Facilities, (37) Basic Industry, (38) Recycling center, (39) Resource Extraction, (40) General warehousing and distribution, (41) Scrap and Salvage.

There are additional prohibited uses proposed by the neighborhood in which the applicant does not object:

1. Group Home (Class I, limited and general & Class II)
2. Railroad Facilities
3. Telecommunications Tower,
4. Transitional Housing, Bail Bond Services, Pedicab Storage and Dispatch,
5. Restaurant Limited (drive thru and fast food) and Light Manufacturing.

Site development standards that are proposed are:

1. The maximum floor-to-area ratio (FAR) is 8 to 1
2. The maximum height is 200 feet
3. The minimum front yard setback is 0-50 feet
4. The minimum street side yard setback is 0-50 feet
5. The minimum interior side yard setback is 0 feet
6. The minimum rear yard setback is 0 feet
7. The maximum building coverage is 95%
8. The maximum impervious cover is 95%

Staff does not support the rezoning request of LI-PDA-NP and supports CH-V-CO-NP instead.

CH-V-CO-NP would eliminate the conditional overlays of the existing zoning regarding General retail sales (convenience), Cocktail lounge would become a conditional use instead of a prohibited use, and would remove the residential units limit, as the applicant requested. In summary, staff supports all the conditions listed above proposed by the applicant. CH zoning allows increased height in relation to reduced impervious cover up to 120 feet. Beyond that, additional building height and FAR can be achieved if VMU-2 is utilized. Utilizing VMU-2 to increase height would require affordable housing units.

Staff does not support the addition of LI- Limited Industrial to this site. Per City Code, “Limited industrial service (LI) district is the designation for a commercial service use or limited manufacturing use generally located on a moderately-sized site.” Also, per Code, “Commercial highway services (CH) district is the designation for a use that has operating and traffic generation characteristics that require that the use be located at the intersection of state maintained highways other than scenic arterial roadways. A CH district designation may be applied to a single major mixed-use development of a service nature that includes any combination of office, retail, commercial, and residential uses. A CH district may include a high-density residential use. Site development regulations and performance standards applicable to a CH district are designed to ensure adequate access to and from all uses.” The addition of LI is not appropriate at this location in close proximity to single family residential and civic land uses. The request of LI-PDA-NP is not consistent with the intent of the base district and is proposed in order to request increased height, FAR, impervious cover and more.

**BASIS OF RECOMMENDATION:**

1. *The proposed zoning should be consistent with the purpose statement of the district sought.*
2. *Zoning changes should promote compatibility with adjacent and nearby uses and should not result in detrimental impacts to the neighborhood character.*
3. *Zoning should allow for reasonable use of the property.*
4. *The rezoning should be consistent with the policies and principles adopted by the City Council or Planning Commission.*

**EXISTING ZONING AND LAND USES:**

	ZONING	LAND USES
Site	CH-CO-NP	Restaurant
North	CH-CO-NP, Unzoned, P-NP	Hotel-motel, Parking garage, Outdoor sports and recreation
South	SF-3-NP, MF-3-NP, MF-2-NP, LR-MU-NP	Single family residential
East	P-H-NP	Oakwood Cemetery
West	MF-4, Unzoned	Indoor entertainment, University facilities

**NEIGHBORHOOD PLANNING AREA:** Organization of Central East Austin Neighborhoods (OCEAN)

**OVERLAYS:** Capital View Corridor

**TIA:** Deferred to time of site plan, if triggered

**WATERSHED:** Waller Creek

NEIGHBORHOOD ORGANIZATIONS:

Del Valle Community Coalition	East Austin Conservancy
Swede Hill Neighborhood Association	Waller Creek Conservancy
Austin Heritage Tree Foundation	Downtown Austin Alliance
Downtown Austin Neighborhood Association	Lower Waller Creek
Austin Neighborhoods Council	The Real Estate Council of Austin
Friends of the Emma Barrientos MACC	Oakwood Neighborhood Association
United East Austin Coalition	Swede Hill Lofts HOA
Sierra Club, Austin Regional Group	SELTexas
Central Austin Community Development Corporation Preservation	
Organization of Central East Austin Neighborhoods (OCEAN)	

EXISTING STREET CHARACTERISTICS:

Name	ASMP Classification	ASMP Required ROW	Existing ROW	Existing Pavement	Sidewalks	Bicycle Route	Capital Metro (within ¼ mile)
N IH 35 SCRDNB	4	Defer to TxDOT	~385'-416'	46'	Yes	Yes	Yes
E. 16 <sup>th</sup> Street	1	58'	60'	34'	Yes	No	No

OTHER STAFF COMMENTS:COMPREHENSIVE PLANNING

Yes	Imagine Austin Decision Guidelines
Complete Community Measures	
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: Next to Downtown Regional Center and 0.11 miles from the E MLK Activity Corridor</b>
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.
Y	<b>Connectivity and Education:</b> Located within 0.50 miles from a public school or university.
Y	<b>Connectivity and Healthy Living:</b> Provides or is located within 0.50 miles from a recreation area, park or walking trail.

Y	<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.)
	<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.
	<b>Mixed use:</b> Provides a mix of residential and non-industrial uses.
Y	<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.
9	<b>Total Number of "Yes's"</b>

#### ENVIRONMENTAL

1. The site is not located over the Edwards Aquifer Recharge Zone. The site is in the Waller 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.
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. Currently, 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, two-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. The site is subject to compatibility standards due to the proximity of the SF-3-NP districts to the south.
- SP 3. Any new development is subject to Subchapter E. Design Standards and Mixed Use. Additional comments will be made when the site plan is submitted.

SP 4. 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.

SP 5. A portion of the site is within the Oakwood Cemetery Capitol View Corridor. An application for a Capitol View Corridor Height Determination would be required.

### TRANSPORTATION

ATD 1. The adjacent street characteristics table is provided below:

Name	ASMP Classification	ASMP Required ROW	Existing ROW	Existing Pavement	Sidewalks	Bicycle Route	Capital Metro (within ¼ mile)
N IH 35 SCRDNB	4	Defer to TxDOT	~385'-416'	46'	Yes	Yes	Yes
E. 16 <sup>th</sup> Street	1	58'	60'	34'	Yes	No	No

ATD 2. ATD has no objections to the proposed PDA amendment of site development standards or uses.

ATD 3. A transportation assessment/traffic Impact analysis shall be required at the time of site plan if triggered, when land uses and intensities will be known per LDC 25-6-113 and TCM 10.2.1.

### PARKS AND RECREATION

PR1: Parkland dedication will be required for the new applicable uses proposed by this development, multifamily with CH-V-PDA-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.

WATER UTILITY

AW1. 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.

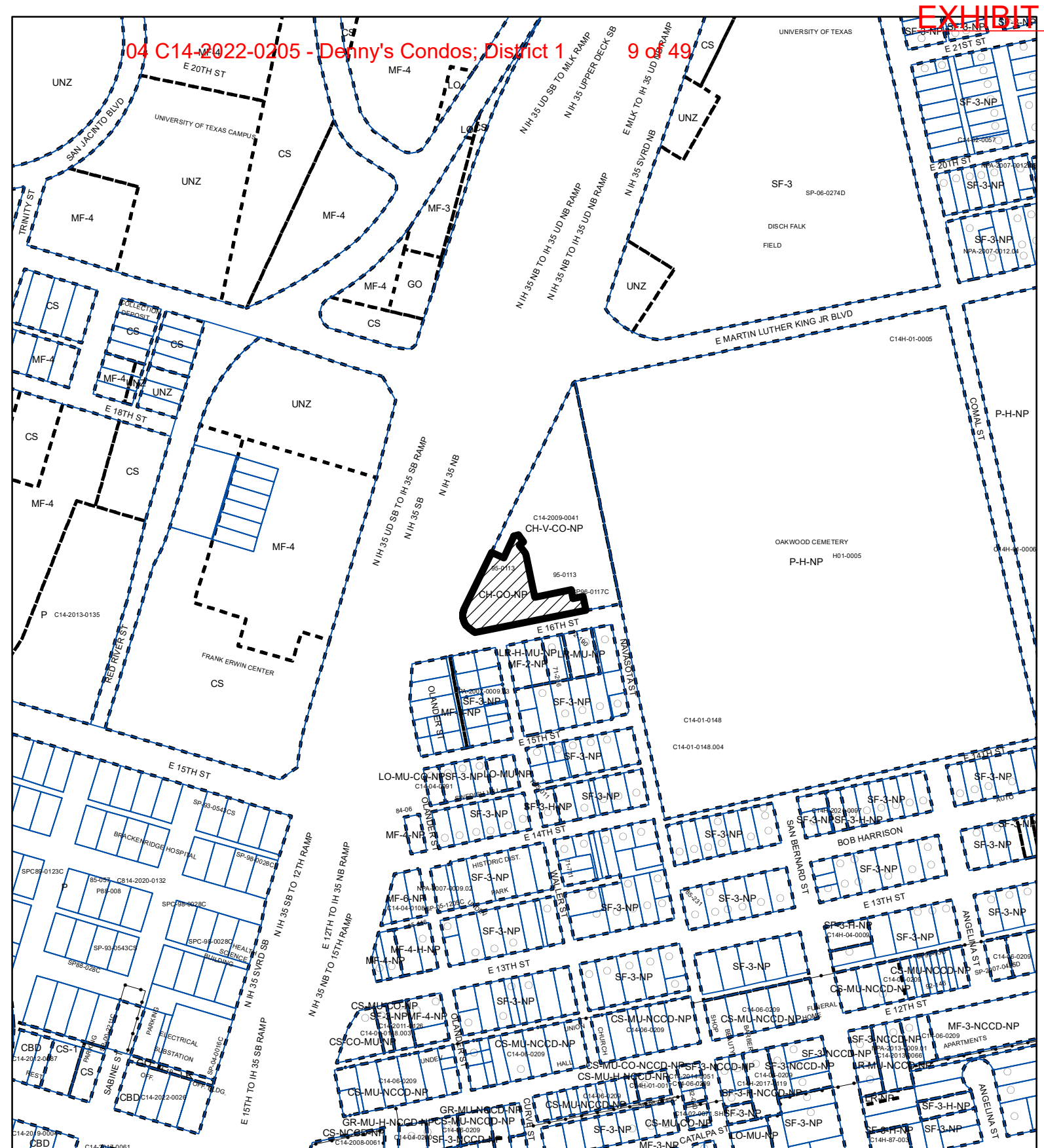
Based on current public infrastructure configurations, it appears that service extension requests (SER) will be required to provide service to this lot. For more information pertaining to the Service Extension Request process and submittal requirements contact the Austin Water SER team at [ser@austintexas.gov](mailto:ser@austintexas.gov).




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. Applicant Letter
- D. Compatibility on Corridor/ Corridor Overlay Ordinance
- E. VMU Ordinance
- F. Commercial Highway Regulations
- G. Site Development Standards





-  SUBJECT TRACT
-  PENDING CASE
-  ZONING BOUNDARY

## ZONING

ZONING CASE#: C14-2022-0205

$$1'' = 400'$$

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

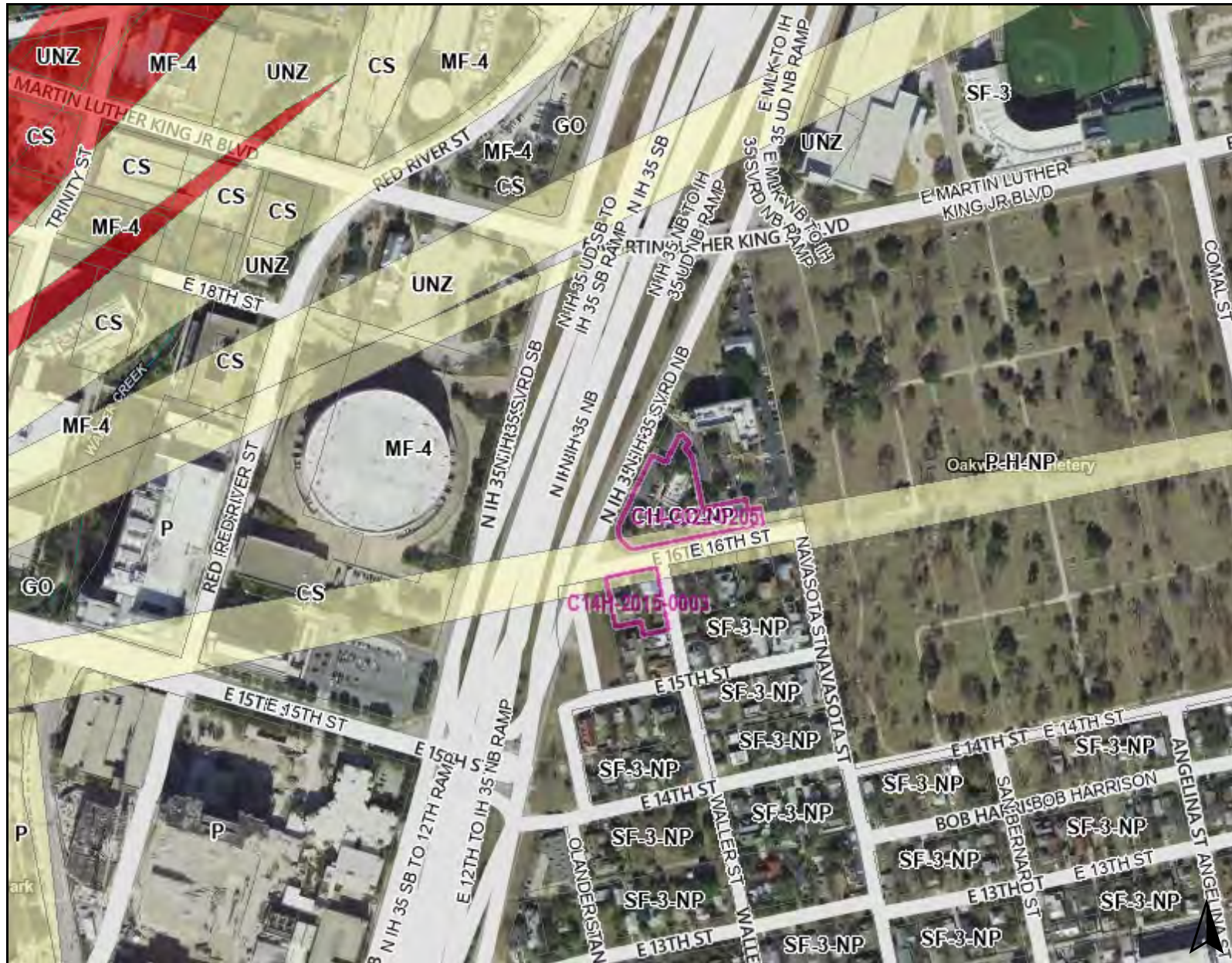


**Created: 8/2/2022**





# Property Profile



## Legend

Property

Street Labels

Review Cases

Zoning Review Cases- IN REVIEW



Zoning 1

Zoning Text



Zoning 2

Capitol View Corridors

City of Austin

State of Texas Corridors

## Notes



2/24/2023

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**ALICE GLASCO CONSULTING**

January 5, 2023 (Amended)

Rosie Truelove, Director  
Housing and Planning Department  
1000 E. 11<sup>th</sup> Street, Suite 200  
Austin, Texas 78702

RE: 1601 N. IH 35 SVRD NB – Denny’s Condos – Amended Rezoning Request

Dear Ms. Truelove:

I represent Ledgestone Development Group, the prospective buyer and developer of the above referenced property in the rezoning of the property. The current rezoning is CH-CO-NP, and the request, as amended from my previous request of CH-V-PDA-NP, is LI-PDA-NP.

**Background:**

The subject site is currently developed with a restaurant (Denny’s). In 1995, the property (Tract 2) was rezoned to CH-CO, under case number C14-95-0113 (Ordinance # 951214-F).

**Remove the following conditions from Ordinance # 951214-F**

1. General Retail Services (convenience) – remove from CO
2. Cocktail lounge – remove from CO (will remain as a conditional use per code)
3. Residential development of the Property shall not exceed a density of 170 units per acre - remove from CO

**The proposed PDA standards for the subject property would be as follows**

- a. Except as provided below, all permitted and conditional uses under LI zoning are permitted and conditional uses for the subject property.
- b. The following uses are additional permitted uses:
  - Condominium residential
  - Group residential
  - Multifamily residential
  - Townhouse residential

**The following uses shall be prohibited on the Property**

(1)Agricultural Sales and Services, (2) Automotive Rentals, (3) Automotive Repair Services, (4) Automotive Sales, (5) Automotive Washing (All types) (6) Campground, ((7) Commercial Blood Plasma Center, (8) Pawn Shop, (9) Commercial Off-Street Parking, (10) Construction Sales and Services, (11) Convenience Storage, (12) Drop-Off Recycling Collection Facility, (13) Electronic Prototype Assembly, (14) Equipment Repair Services, (15) Equipment Sales, (6) Exterminating Services, (17) Funeral Services, (18) Communication Services, (19) Off-Site Accessory Parking, (20) Safety Services, , (21) Kennels, (22) Liquor Sales, (23) Laundry Services, (24) Monument Retail Sales, (25) Outdoor Entertainment, (conditional), (26) Transportation Terminal, (27) Vehicle Storage, (28) Limited Warehousing and Distribution, (29) Pet Services, (30) Restaurant (Drive-in, Fast Food) (32) Service Station, (33) Custom Manufacturing, (34) Hospital Services (general), (35) Local Utility Services, and (36) Maintenance and Service Facilities, (36) Basic Industry, (37) Recycling center, (38) Resource Extraction, (39) General warehousing and distribution, (40) Scrap and Salvage.

**The following site development standards shall apply to the property:**

1. The maximum floor-to-area ratio is 8 to1
2. The maximum height is 200 feet
3. The minimum front yard setback is 0-50 feet
4. The minimum street side yard setback is 0-50 feet
5. The minimum interior side yard setback is 0 feet
6. The minimum rear yard setback is 0 feet
7. The maximum building coverage is 95%
8. The maximum impervious cover is 95%

To assist in the review of the proposed rezoning and plan amendment, **ordinance number 951214-F** is attached for your information. Please let me know if you have any questions or need additional information.

Sincerely,

*Alice Glasco*

Alice Glasco, President  
AG Consulting

Cc: Cass Brewer, Ledgestone development Group  
Paul Shepherd, Ledgestone Development Group  
Joi Harden, Housing and Planning Department – Zoning Davison Manager  
Heather Chaffin, Zoning Planner



**ORDINANCE NO. 20221201-056**

**AN ORDINANCE AMENDING CHAPTER 25-2 OF THE CITY CODE TO CREATE AN OVERLAY DISTRICT ON PROPERTY THAT FRONT-FACES OR SIDE-FACES CERTAIN ROADWAYS; AMENDING SECTION 25-6-471 OF THE CITY CODE RELATING TO OFF-STREET PARKING FACILITIES; AND CREATING AN OFFENSE AND PENALTY.**

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF AUSTIN:**

**PART 1.** Subsection (F) of City Code Section 25-2-32 (*Zoning Districts and Map Codes*) is amended to add a new combining district to read as follows:

(F) Combining districts and map codes are as follows:

(21) corridor overlay ..... COR

**PART 2.** Division 6 of Subchapter A, Article 2 of City Code Chapter 25-2 is amended to add a new Section 25-2-181 to read as follows:

**§ 25-2-181 CORRIDOR OVERLAY (COR) DISTRICT PURPOSE AND BOUNDARIES.**

- (A) The purpose of the corridor overlay (COR) district is to increase housing capacity and support transit investments on certain roadways by relaxing compatibility regulations and reducing parking minimums.
- (B) The boundaries of the COR district are identified in Section 25-2-769.03 (*Corridor Roadways*).

**PART 3.** Article 3, Subchapter C of City Code Chapter 25-2 (*Zoning*) is amended to add a new Division 13 to read as follows:

**Division 13. Corridor Overlay**

**§ 25-2-769.01 APPLICABILITY AND CONFLICT.**

- (A) This division applies to a site within the zoning jurisdiction that can be developed with at least one residential use and front-faces or side-faces a roadway that qualifies as light rail line, medium corridor, or larger corridor.
- (B) This division governs over a conflicting provision of this title or other ordinance unless the conflicting provision is less restrictive.

**§ 25-2-769.02 DEFINITIONS.**

In this division, the following definitions apply:

- (1) CORRIDOR means a roadway that qualifies as a larger corridor, light rail line, or medium corridor.
- (2) CORRIDOR SITE means a site that is front-facing or side-facing a corridor.
- (3) LARGER CORRIDOR means a roadway described in Section 25-2-769.03(C).
- (4) LIGHT RAIL LINE means a roadway described in Section 25-2-769.03(A).
- (5) MEDIUM CORRIDOR means a roadway described in Section 25-2-769.03(B).
- (6) TRIGGERING PROPERTY means a property zoned SF-5 or more restrictive and contains only residential uses.

**§ 25-2-769.03 CORRIDOR ROADWAYS.**

- (A) A site is located along a light rail line when the site front-faces or side-faces one of the streets set out in Exhibit A to Ordinance No. 20221201-056.
- (B) A site is located along a medium corridor when the site front-faces or side-faces one of the streets set out in Exhibit B to Ordinance No. 20221201-056.
- (C) A site is located along a larger corridor when the site front-faces or side-faces one of the streets set out in Exhibit C to Ordinance No. 20221201-056.

**§ 25-2-769.04 COMPATIBILITY AND SETBACK REQUIREMENTS.**

- (A) A corridor site is not subject to Section 25-2-1062 (*Height Limitations And Setbacks For Small Sites*) or Section 25-2-1063 (*Height Limitations And Setbacks For Large Sites*) except as provided in this division.
- (B) A corridor site is subject to Section 25-2-1062 (*Height Limitations And Setbacks For Small Sites*) when:
  - (1) the site is 20,000 square feet or less; and
  - (2) the site includes a street frontage that is 100 feet or less; and
  - (3) a triggering property is on the same side of the corridor as the site; and
  - (4) one of the following applies:



- (a) the site is located on a light rail line or larger corridor and includes a structure or a portion of a structure within 200 feet of a triggering property; or
  - (b) the site is located on a medium corridor and includes a structure or a portion of a structure within 300 feet of a triggering property; and
- (5) one of the following applies:
  - (a) the site includes a residential use developed in accordance with site development standards that apply to MF-1 or less restrictive zoning district; or
  - (b) the site includes 17 or more residential units; or
  - (c) the site includes non-residential uses; or
  - (d) the site includes a structure or a portion of a structure that will exceed 35 feet in height within 200 feet of a triggering property and is located on a light rail line or larger corridor; or
  - (e) the site includes a structure or a portion of a structure that will exceed 35 feet in height within 300 feet of a triggering property and is located on a medium corridor.
- (C) A corridor site is subject to Section 25-2-1063 (*Height Limitations And Setbacks For Large Sites*) when:
  - (1) one of the following applies:
    - (a) the site exceeds 20,000 square feet; or
    - (b) the site includes a street frontage that exceeds 100 feet; and
  - (2) a triggering property is on the same side of the corridor as the site; and
  - (3) one of the following applies:
    - (a) the site is located on a light rail line or larger corridor and includes a structure or a portion of a structure within 200 feet of a triggering property; or
    - (b) the site is located on a medium corridor and includes a structure or a portion of a structure within 300 feet of a triggering property; and
  - (4) one of the following applies:



- (a) the site includes a residential use developed in accordance with site development standards that apply to MF-1 or less restrictive zoning districts; or
  - (b) the site includes 17 or more residential units; or
  - (c) the site includes non-residential uses; or
  - (d) the site includes a structure or a portion of a structure that will exceed 35 feet in height within 200 feet of a triggering property and is located on a light rail line or larger corridor; or
  - (e) the site includes a structure or a portion of a structure that will exceed 35 feet in height within 300 feet of a triggering property and is located on a medium corridor.
- (D) In this division, height limitations in Section 25-2-1062 (*Height Limitations And Setbacks For Small Sites*) and Section 25-2-1063 (*Height Limitations And Setbacks For Large Sites*) only apply to the portion of a structure that is located:
  - (1) within 200 feet of the triggering property for a site located on a light rail line or larger corridor; or
  - (2) within 300 feet of the triggering property for a site located on a medium corridor.
- (E) For a corridor site with at least one residential use and 15 percent or less short-term rental (STR) uses, a setback required by Section 25-2-1062 (*Height Limitations And Setbacks For Small Sites*) and Section 25-2-1063 (*Height Limitations And Setbacks For Large Sites*) may include a structure if the structure complies with this subsection.
  - (1) The structure cannot exceed 35 feet in height.
  - (2) The structure cannot be used as a dwelling, multi-level parking facility, or for refuse collection.
  - (3) The structure cannot include enclosed walls or a roof except for screening and walls that are part of stormwater or other critical infrastructure.
  - (4) The structure cannot include industrial or larger commercial HVAC systems.
- (F) For a corridor site with at least one residential use and 15 percent or less short-term rental (STR) uses, the height limitation for a structure is:

- (1) 35 feet, if the structure is 50 feet or less from a triggering property; or
- (2) 45 feet, if the structure is more than 50 feet and not more than 100 feet from a triggering property; or
- (3) 45 feet plus one foot for each 10 feet of distance in excess of 100 feet from the triggering property, if the structure is more than 100 feet but not more than 200 feet from a triggering property and the site is located on a light rail line or larger corridor; or
- (4) 45 feet plus one foot for each 10 feet of distance in excess of 100 feet from the triggering property, if the structure is more than 100 feet but not more than 300 feet from a triggering property and the site is located on a medium corridor.

**§ 25-2-769.05 RESERVED.**

**§ 25-2-769.06 AFFORDABLE HOUSING BONUSES.**

- (A) A development is eligible for the bonuses in this section if the requirements in this section are satisfied.
- (B) In this section,
  - (1) DIRECTOR means the director of the Housing and Planning Department.
  - (2) MARKET RATE UNIT means a rental or ownership dwelling unit that is not an affordable unit.
  - (3) MFI means median family income for the Austin-Round Rock metropolitan statistical area.
- (C) 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 existing multi-family structure requires extensive repairs for which costs will exceed 50 percent of the market value, as determined by the building official;
  - (2) the proposed development will replace all existing units that were affordable to a household earning 80 percent MFI or below in the previous 12 months and have at least as many bedrooms as those units;
  - (3) 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. 4601, *et seq.*; and
- (4) the applicant grants current tenants the option to lease a unit of comparable affordability and size following completion of redevelopment.
- (D) Minimum Affordability Requirements.
  - (1) For a development with rental dwelling units, at least 10 percent of the rental dwelling units must serve households whose incomes are 60 percent MFI or below.
  - (2) For a development with owner-occupied dwelling units, at least 10 percent of the owner-occupied dwelling units must serve households whose incomes are 80 percent MFI or below.
  - (3) If the number of units required in this section includes less than a whole unit, the unit number is rounded up to the nearest whole unit.
  - (4) The minimum affordability period for rental dwelling units is 40 years following the last certificate of occupancy required for the development.
  - (5) The minimum affordability period for owner-occupied dwelling units is 99 years following the issuance of a certificate of occupancy for the owner-occupied dwelling unit.
  - (6) In a multi-phased development, the director may begin the minimum affordability period upon the issuance of the last certificate of occupancy for each phase.
  - (7) Unless otherwise approved by the director, the bedroom count for affordable units shall be comparable to the bedroom count for market rate units. At the discretion of the director, two-bedroom or three-bedroom affordable units may count as two or three, one-bedroom (efficiency) affordable units.
  - (8) Simultaneous Availability of Affordable Units.
    - (a) In a single-phase housing development, affordable units must be available for occupancy concurrently with the market rate units.

- (b) For a multi-phase housing development, an applicant must submit a development phasing plan that demonstrates how the market rate units and the affordable units will be made available concurrently. This plan must be included as an attachment to the agreement described in Subsection (E).
- (9) Affordable rental units may be rotated within the structure, provided that the total number of required affordable units remains in compliance with the affordability requirements for the affordability period.
- (10) An applicant shall prepare and follow an affirmative marketing and outreach plan for the duration the affordable period, in a form consistent with the U.S. Department of Housing and Urban Development regulations and approved by the director.
- (11) For a corridor site that is certified under Subsection (E), short-term rental (STR) use may not:
  - (a) occur in an affordable dwelling unit; or
  - (b) exceed 15% of the dwelling units.
- (E) Certification.
  - (1) The director is responsible for certifying whether a proposed development satisfies the exemption and bonus requirements.
  - (2) The applicant shall submit an application to the director demonstrating the proposed development satisfies the requirements of this section.
  - (3) If the director certifies that a proposed development satisfies the requirements of this section, the accountable official is authorized to process a development application consistent with this section.
  - (4) Before the director may certify the proposed development, the applicant shall execute:
    - (a) an agreement to preserve the requirements in this section; and
    - (b) a document for recording in the real property records providing notice of or preserves the requirements in this section.
  - (5) The form of the agreement and document described in Subsection (E)(4) must be approved by the city attorney.



- (6) The applicant shall pay all fees, provide documentation, and fulfill any pre-occupancy requirements prior to the issuance of a certificate of occupancy.
- (7) The agreement required in Subsection (E)(4) must, at a minimum:
  - (a) prohibit discrimination on the basis of an individual's source of income as defined in Section 5-1-13 (*Definitions*);
  - (b) require dispersion of affordable units throughout the residential units;
  - (c) require equal access and use of on-site amenities and common areas;
  - (d) require equal access to parking facilities if rent and parking facilities are bundled;
  - (e) require shared access routes for affordable units and market-rate units;
  - (f) require that affordable units include interior components that are functionally equivalent to market-rate units;
  - (g) require the applicant to incorporate lease provisions that are consistent with a tenant's right to organize under 24 C.F.R. 245.100, the lease addendum required as a condition to receive City of Austin Housing Finance Corporation funds, or City Code requirement; and
  - (h) address obligations related to redeveloping an existing multi-family structure.
- (F) Affordability Post-Construction Compliance and Penalty.
  - (1) For development with rental dwelling units, the owner 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.
  - (2) 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 affordability period.
  - (3) For an ownership affordable unit, each homebuyer at the time of purchase shall execute a resale restriction agreement in a form approved by the city attorney for recording in the real property records.
  - (4) A person commits an offense if the person fails to comply with the requirement in Subsection (F)(1). 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.

(G) Bonuses.

- (1) This subsection governs over a conflicting provision of this division.
- (2) For a site located on a light rail line or a larger corridor and except as provided in Subsection (G)(4), the requirements in Section 25-2-769.04 (*Compatibility and Setback Requirements*) apply only to a structure located within 100 feet of a triggering property.
- (3) For a site located on a medium corridor and except as provided in Subsection (G)(4), the maximum height for a structure is:
  - (a) 65 feet if the structure is located at least 150 feet from a triggering property; or
  - (b) 90 feet if the structure is located at least 250 feet from a triggering property.
- (4) The requirements in Section 25-2-769.04 (*Compatibility and Setback Requirements*) apply only to a structure located within 150 feet of a triggering property when the corridor site and triggering property share a portion of both the rear and side lot lines.

(H) Fee-In-Lieu.

- (1) An applicant may pay a fee-in-lieu of on-site affordable units if:
  - (a) the fee-in-lieu of on-site affordable units is sufficient to construct the number of dwelling units that would have been required on-site; and
  - (b) the director authorizes the applicant to pay a fee-in-lieu.
- (2) The director may authorize an applicant to pay a fee-in-lieu after the fee-in-lieu per dwelling unit is set by separate ordinance.
- (3) The director may adopt administrative rules in accordance with Chapter 1-2 (*Administrative Rules*) to implement this subsection.

- (I) Other Density Bonus Programs. If a Corridor Overlay (COR) District development is also eligible to utilize a separate density bonus program that grants density bonuses for the provision of on-site affordable dwelling units or for the



payment of a fee-in-lieu of affordable housing, then the Corridor Overlay (COR) district development may comply with the least restrictive site development requirements if the development meets the higher affordability requirement among the two programs.

**PART 4.** City Code Section 25-6-471 (*Off-Street Parking Facility Required*) is amended to amend Subsection (I) to add a new definition for “Corridor Development”; and to add new Subsections (K) and (L) to read as follows:

(I) In this section,

- (1) ACCESSIBLE SPACE means a parking space for an individual with a disability that complies with the Americans with Disabilities Act (ADA) and Fair Housing Act Amendments (FHAA), as appropriate;
- (2) CORRIDOR DEVELOPMENT means a development that includes 15 percent or less short-term rental (STR) uses and is subject to Division 13 (*Corridor Overlay*) of Chapter 25-2, Subchapter C; and
- (3) [~~2~~] QUALIFYING DEVELOPMENT means a development certified under Section 25-1-724 (*Certification*) and participating in the Affordability Unlocked Bonus Program.

(K) This subsection applies to a corridor development that includes at least one residential use and is located more than 300 feet from a private or public primary or secondary educational facility.

- (1) A term defined by Section 25-2-769.02 (*Definitions*) has the same meaning in this subsection.
- (2) A corridor development must provide accessible spaces as set forth in Subsection (J).
- (3) The required off-street parking for a corridor development that is located on a larger corridor is 25 percent of the parking required for the use under Appendix A (*Tables of Off-Street Parking and Loading Requirements*).
- (4) The required off-street parking for a corridor development that is located on a medium corridor is 50 percent of the parking required for the use under Appendix A (*Tables of Off-Street Parking and Loading Requirements*).
- (5) Except as provided in Subsection (L), the required off-street parking for a corridor development that is located on a light rail line is 25 percent of the parking required for the use under Appendix A (*Tables of Off-Street Parking and Loading Requirements*).

(L) This subsection applies to a corridor development that is located on a light rail line and consists of at least 75 percent residential uses.

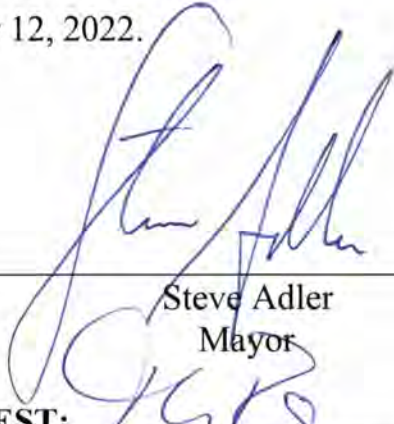
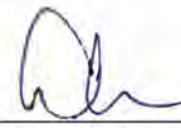

- (1) A term defined by Section 25-2-769.02 (Definitions) has the same meaning in this subsection.
- (2) A corridor development subject to this subsection must provide accessible spaces as set forth in Subsection (J).
- (3) A corridor development subject to this subsection is not required to provide required off-street parking.

**PART 5.** The City Manager is directed to identify strategies for affordable housing programs to mitigate displacement risks due to disparities in income levels across the city in areas at risk of gentrification in which the local MFI is lower than the Travis County-wide MFI.

**PART 6.** The City Manager is directed to do a city-wide analysis of the impact of current compatibility standards and potential changes to those standards, especially in high opportunity areas and to help meet strategic housing blueprint goals. The City Manager is also directed to provide these findings no later than May 1, 2023 and shall provide an update to Council regarding the approach and methodology being used to perform the analysis at least 90 days before presenting the findings to Council.

**PART 7.** This ordinance takes effect on December 12, 2022.

**PASSED AND APPROVED**

<p>December 1, 2022</p>	<p>§ § §</p>	<p> Steve Adler Mayor</p>
<p><b>APPROVED:</b>  Anne L. Morgan City Attorney</p>	<p><b>ATTEST:</b>  Myrna Rios City Clerk</p>	



STREET NAME	SEGMENT	CORRIDOR TYPE
Center Ridge Drive	Between North I.H.-35 Frontage Road and Center Line Pass	Light Rail
North Lamar Boulevard	Between West Guadalupe Street and the south curb of West Howard Lane	Light Rail
West Guadalupe Street	Between Guadalupe Street and North Lamar Boulevard	Light Rail
Guadalupe Street	Between 45th Street and West Cesar Chavez Street	Light Rail
West Riverside Drive	Between South 1st Street and South Congress Avenue	Light Rail
South Congress Avenue	Between Riverside Drive and Slaughter Lane	Light Rail
East State Highway 71 Frontage Roads	Between Spirit of Texas Drive and South U.S. Highway 183	Light Rail
Riverside Drive	Between South U.S. Highway 183 and South Congress Avenue	Light Rail
Trinity Street	Between its terminus south of Cesar Chavez and East 4th Street	Light Rail
4th Street	Between Trinity Street and Guadalupe Street	Light Rail

## STREET NAME

## SEGMENT

## CORRIDOR TYPE

E 11th ST	Between Branch ST & Navasota ST	Medium Corridor
E 12th ST	Between N IH 35 SVRD NB & Poquito ST	Medium Corridor
W 35th ST	Between N Mopac EXPY NB & W 38th ST	Medium Corridor
W 38th ST	Between W 35th ST & Guadalupe ST	Medium Corridor
North Loop BLVD	Between N Lamar BLVD & Avenue F	Medium Corridor
E 53rd ST	Between Avenue F & Bruning AVE	Medium Corridor
Bruning AVE	Between E 53RD ST & Airport BLVD	Medium Corridor
E 51st ST	Between Airport BLVD & Berkman DR	Medium Corridor
Airport BLVD	Between N Lamar BLVD & E Highland Mall BLVD	Medium Corridor
Airport BLVD	Between E 45th ST & Manor RD	Medium Corridor

STREET NAME	SEGMENT	CORRIDOR TYPE
Airport BLVD	Between Oak Springs Dr & Levander Loop	Medium Corridor
Lake Austin BLVD	Between Exposition BLVD & Mopac EXPY	Medium Corridor
W 6th ST	Between Mopac EXPY & N Lamar BLVD	Medium Corridor
W 5th ST	Between Mopac EXPY & N Lamar BLVD	Medium Corridor
W 5th ST	Between Guadalupe ST & Lavaca ST	Medium Corridor
W Anderson LN	Between N Mopac EXPY & N Lamar BLVD	Medium Corridor
Braker LN	Between Jollyville RD & Dawes PL	Medium Corridor
Medical PKWY	Between W 45th ST & Marathon BLVD	Medium Corridor
Dessau RD	Between E Howard LN & E Rundberg LN	Medium Corridor
Cameron RD	Between E Rundberg LN & E 51st ST	Medium Corridor

## STREET NAME

## SEGMENT

## CORRIDOR TYPE

E 7th ST	Between N IH 35 & Levander Loop	Medium Corridor
E Cesar Chavez	Between N IH 35 & Levander Loop	Medium Corridor
Harris Branch PKWY	Between E Howard LN & E US 290	Medium Corridor
Howard LN	Between Wells Branch PKWY & N SH 130	Medium Corridor
Jollyville RD	Between Barrington Way & Great Hills TRL	Medium Corridor
Arboretum BLVD	Between Great Hills TRL & N Capital of Texas HWY	Medium Corridor
Loyola LN	Between Manor RD & Crystalbrook DR	Medium Corridor
Decker Lake RD	Between Decker LN & City Limits	Medium Corridor
Manor RD	Between N IH 35 & E Dean Keeton ST	Medium Corridor
Manor RD	Between Berkman DR & E 51st ST	Medium Corridor



## STREET NAME

## SEGMENT

## CORRIDOR TYPE

Springdale RD	Between Pecan Brooks DR & City Limits	Medium Corridor
E Martin Luther King JR BLVD	Between N Lamar BLVD & City Limits	Medium Corridor
Parmer LN	Between Lakeline BLVD & E US 290	Medium Corridor
S Pleasant Valley RD	Between E William Cannon DR & Onion Creek DR	Medium Corridor
S Pleasant Valley RD	Between E Oltorf ST & current terminus south of Oltorf ST	Medium Corridor
Old Lockhart RD / Bradshaw RD	Between FM 1327 & E Slaughter LN	Medium Corridor
Riverside DR	Between S Lamar BLVD & S 1st ST	Medium Corridor
Riverside DR	Between S Congress AVE & Blue Line	Medium Corridor
Rundberg LN	Between current terminus west of Burnet RD & Cameron RD	Medium Corridor
Ferguson LN	Between Cameron RD & City Limits	Medium Corridor

STREET NAME	SEGMENT	CORRIDOR TYPE
Slaughter LN	Between Goodnight Ranch BLVD & Brodie LN	Medium Corridor
S Congress AVE	Between E Riverside DR & the Colorado River	Medium Corridor
S 1st ST	Between W Riverside DR & E FM 1626 RD	Medium Corridor
Springdale RD	Between Manor RD & E Cesar Chavez ST	Medium Corridor
E Stassney LN	Between S Pleasant Valley RD & West Gate BLVD	Medium Corridor
Tuscany Way	Ferguson LN & Springdale RD	Medium Corridor
Wells Branch PKWY	Between N Mopac EXPY & Killingsworth LN	Medium Corridor
William Cannon DR	Between S Mopac EXPY & S Pleasant Valley RD	Medium Corridor
William Cannon DR	Between Mc Kinney Falls PKWY & City Limits	Medium Corridor
N Lamar BLVD	Between W Guadalupe ST & 45th ST	Medium Corridor

## STREET NAME

## SEGMENT

## CORRIDOR TYPE

N Lamar BLVD	Between 5th ST & Cesar Chavez ST	Medium Corridor
Burnet RD	Between Gracy Farms LN & Palm Way	Medium Corridor
W 24th ST	Between N lamar BLVD & Guadalupe ST	Medium Corridor
Nueces ST	Between Guadalupe St & 24th St	Medium Corridor
Slaughter LN	Between FM 1826 RD & Brodie LN	Medium Corridor
William Cannon DR	Between Southwest PKWY & Mopac EXPY	Medium Corridor

STREET NAME	SEGMENT	CORRIDOR TYPE
Center Line Pass	Between Center Ridge Dr and Howard Ln	Larger Corridor
West Howard	Between Center Line Pass and N Lamar BLVD	Larger Corridor
Cullen LN	Between Slaughter and Turk Ln	Larger Corridor
Riverside Drive	Between South U.S. Highway 183 and South Congress Avenue	Larger Corridor
IH-35	Between City Limit & City Limit	Larger Corridor
MOPAC EXPRESSWAY (LOOP 1)	Between SH 45 N & SH 45 S	Larger Corridor
US 183/183 A (RESEARCH BLVD/ANDERSON LN/ED BLUESTEIN BLVD)	Between City Limit & City Limit	Larger Corridor
W US 290	Between City Limit & CAPITAL OF TEXAS HIGHWAY (LOOP 360)	Larger Corridor
W SH 71	Between City Limit & W US 290	Larger Corridor
BEN WHITE BLVD (US 290/SH 71)	Between CAPITAL OF TEXAS HIGHWAY (LOOP 360) & US 183	Larger Corridor
E US 290	Between AIRPORT BLVD & City Limit	Larger Corridor



STREET NAME	SEGMENT	CORRIDOR TYPE
E SH 71	Between US 183 & City Limit	Larger Corridor
SH 45 N	Between US 183 & City Limit	Larger Corridor
SH 45 S	Between MOPAC EXPRESSWAY (LOOP 1) & FM 1626	Larger Corridor
SH 130	Between City Limit & City Limit	Larger Corridor
CAPITAL OF TEXAS HIGHWAY (LOOP 360)	Between US 183 & BEN WHITE BLVD (US 290/SH 71)	Larger Corridor
RM 620	Between City Limit & US 183	Larger Corridor
Menchaca RD	Between W Slaughter LN & W Ben White BLVD	Larger Corridor
S Lamar BLVD	Between W Ben White BLVD & W Cesar Chavez ST	Larger Corridor
W 6TH ST	Between Lavaca ST & N Lamar BLVD	Larger Corridor
W 5th ST	Between N Lamar BLVD & Guadalupe ST	Larger Corridor
N Lamar BLVD	Between W 5th ST W 45th ST	Larger Corridor
W 45th ST	Between N Lamar BLVD & Burnet RD	Larger Corridor

STREET NAME	SEGMENT	CORRIDOR TYPE
Burnet RD	Between W 45th ST & Palm Way	Larger Corridor
San Antonio ST	Between W 4th St & W 3rd ST	Larger Corridor
W 3rd ST	Between San Antonio ST & Nueces ST	Larger Corridor
Nueces ST	Between 3rd ST & 4th ST	Larger Corridor
4th ST	Between Nueces ST & Trinity ST	Larger Corridor
Trinity ST	Between E 4th ST & San Jacinto Blvd	Larger Corridor
San Jacinto BLVD	Between Trinity ST & E Dean Keeton ST	Larger Corridor
E Dean Keeton ST	Between San Jacinto BLVD & Manor RD	Larger Corridor
Manor RD	Between E Dean Keeton ST & Berkman DR	Larger Corridor
Berkman DR	Between Manor RD & E 51st ST	Larger Corridor
E 51st ST	Between Berkman DR & Manor RD	Larger Corridor
Manor RD	Between E 51st ST & Ed Bluestein BLVD	Larger Corridor

STREET NAME	SEGMENT	CORRIDOR TYPE
Springdale RD	Between Ed Bluestein BLVD & Pecan Brook Dr	Larger Corridor
Pecan Brook DR	Between Springdale RD & Crystalbrook DR	Larger Corridor
Crystalbrook DR	Between Pecan Brook DR & Loyola LN	Larger Corridor
Loyola LN	Between Crystalbrook DR & Decker LN	Larger Corridor
Decker LN	Between Loyola LN & Colony Loop DR	Larger Corridor
Red River ST	Between Dean Keeton ST & E 41ST	Larger Corridor
E 41st ST	Between Red River ST & IH-35	Larger Corridor
Clarkson AVE	Between I-35 and E 46th ST	Larger Corridor
Airport BLVD	Between E 46th ST & E Highland Mall BLVD	Larger Corridor
Airport BLVD	Between Manor RD & Oak Springs DR	Larger Corridor
Oak Springs DR	Between Airport BLVD & Webberville RD	Larger Corridor

STREET NAME	SEGMENT	CORRIDOR TYPE
Webberville RD	Between Oak Springs DR & N Pleasant Valley RD	Larger Corridor
Pleasant Valley RD	Between Webberville RD & E Oltorf ST	Larger Corridor
E Oltorf ST	Between S Pleasant Valley RD & Burleson RD	Larger Corridor
Burleson RD	Between E Oltorf ST & E Ben White BLVD	Larger Corridor
Todd LN	Between E Ben White BLVD & E St Elmo RD	Larger Corridor
S Pleasant Valley RD	Between E St Elmo RD & E William Cannon DR	Larger Corridor
E William Cannon DR	Between S Pleasant Valley RD & Mc Kinney Falls PKWY	Larger Corridor
McKinney Falls PKWY	Between E William Cannon DR & Thaxton RD	Larger Corridor
Thaxton RD	Between McKinney Falls PKWY & E Slaughter LN	Larger Corridor
E Slaughter LN	Between Thaxton RD & Goodnight Ranch BLVD	Larger Corridor



**ORDINANCE NO. 20220609-080****AN ORDINANCE AMENDING CITY CODE CHAPTER 25-2, SUBCHAPTER E RELATING TO VERTICAL MIXED USE BUILDINGS.****BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF AUSTIN:**

**PART 1.** Section 4.3.2 of City Code Chapter 25-2, Subchapter E is amended to add a new Subsection 4.3.2.D. and a new Subsection 4.3.2.E. to read as follows:

**4.3.2. Where Allowed.**

- D. In this article, VMU building includes VMU1 building and VMU2 building except as otherwise defined.
- E. In this article, light rail line means the light rail depicted on Exhibit A attached to Resolution No. 20200807-003 (*Project Connect Contract with the Voters*). A site is located along a light rail line when the site is located on one of the following streets:
  - 1. Center Ridge Drive between North I.H.-35 Frontage Road and Center Line Pass;
  - 2. North Lamar Boulevard between West Guadalupe Street and the south curb of West Howard Lane;
  - 3. West Guadalupe Street between Guadalupe Street and North Lamar Boulevard;
  - 4. Guadalupe Street between 45<sup>th</sup> Street and West Cesar Chavez Street;
  - 5. West Riverside Drive between South 1<sup>st</sup> Street and South Congress Avenue;
  - 6. South Congress Avenue between Riverside Drive and Ralph Ablanedo Drive;
  - 7. East State Highway 71 Frontage Roads between Spirit of Texas Drive and South U.S. Highway 183;
  - 8. Riverside Drive between South U.S. Highway 183 and South Congress Avenue;

9. Trinity Street between its terminus south of Cesar Chavez and East 4<sup>th</sup> Street; and

10. 4<sup>th</sup> Street between Trinity Street and Guadalupe Street.

**PART 2.** Section 4.3.3.D. of City Code Chapter 25-2, Subchapter E is amended to read as follows:

D. **Compatibility and Neighborhood Standards.** Except as provided in this section, all [A] VMU buildings are subject to the compatibility standards of Chapter 25-2, Article 10 if applicable.

~~[In case of conflict between the compatibility standards and this Subchapter, the compatibility standards shall control.]~~

1. The height limitations imposed by Sections 25-2-1062 (*Height Limitations And Setbacks For Small Sites*) and 25-2-1063 (*Height Limitations And Setbacks For Large Sites*) apply only to a VMU building or portion of a VMU building that is located:

- a. within 100 feet from a property zoned urban family residence (SF-5) or more restrictive; or
- b. within 100 feet from a property that contains a use permitted in a SF-5 or more restrictive zoning district is located; and
- c. on a site that is located along a light rail line.

2[+]. A VMU building that is located on a site that is adjacent to an urban family residence (SF-5) or more restrictive zoning district, or is adjacent to a property which contains a use permitted in an SF-5 or more restrictive zoning district, other than a dwelling permitted by Section 25-2-894 (*Accessory Uses for a Principal Commercial Use*) must comply with the following Table D (*Neighborhood Design Standards*).

**PART 3.** Section 4.3.3.E. of City Code Chapter 25-2, Subchapter E is amended to read as follows:

E. **Height, Dimensional and Parking Requirements.**

1. VMU building[s] height[are subject to the height restrictions as provided in other sections of this Code].



- a. A VMU1 building is subject to the height restrictions as provided in other sections of this Code.
  - b. A VMU2 building may exceed the maximum building height in the base zoning district by a maximum of 30 feet, subject to the compatibility standards of Section 4.3.3.D.
2. Except as provided in Section 4.3.5., a VMU building that meets the affordability requirements in subsection F below is not subject to certain dimensional standards applicable in the base zoning district. These standards include the following:
  - a. Minimum site area requirements (if applicable);
  - b. Maximum floor area ratio;
  - c. Maximum building coverage;
  - d. Minimum street side yard setback and interior yard setback; and
  - e. Minimum front yard setback; provided, however, that if the right-of-way is less than 60 feet in width, the minimum front yard setback for buildings three or more stories in height shall be 30 feet from the centerline of the street to ensure adequate Fire Department access.
3. Parking.
  - a. Except as provided in Section 4.3.3.E.3.b., for [Før] all uses in a VMU building, the minimum off-street parking requirement shall be 60 percent of that prescribed by Appendix A (*Tables of Off-Street Parking and Loading Requirements*). This reduction may not be used in combination with any other parking reduction. Only the parking requirements for commercial uses are subject to modification through the opt-in/opt-out process in Section 4.3.5.

- b. For all uses in a VMU building, the minimum off-street parking requirement shall be 25 percent of that prescribed by Appendix A (Tables of Off-Street Parking and Loading Requirements) and may be used in combination with other parking reductions if the VMU building is located on a site that is located along a light rail line.

**PART 4.** Section 4.3.3.F. of City Code Chapter 25-2, Subchapter E is amended to read as follows:

F. **[Affordability Requirements] Exemption and Bonus Requirements.** To be eligible for the dimensional or parking standards exemptions, or building height bonus if applicable, in Subsection E of this section, the residential units in a VMU building shall meet the following [affordability] requirements, which shall run with the land. This ordinance does not amend or repeal graphics or pictures that are used to illustrate various code requirements in the published version of Chapter 25-2, Subchapter E (Design Standards and Mixed Use).

1. Affordability Requirements for Owner-Occupied Units.

- a. A building qualifies as a VMU1 building when a minimum of 10 percent of the residential units within the building are reserved as affordable, for at least 99 years from the date of initial sale, for ownership and occupancy by households earning 80 percent or less of the current Austin-Round Rock Metropolitan Statistical Area Medium Family Income as determined by the Director of the Housing and Planning Department. ~~[Five percent of the residential units in the VMU building shall be reserved as affordable, for not less than 99 years from the date a certificate of occupancy is issued, for ownership and occupancy by households earning no more than 80 percent of the current Annual Median Family Income for the City of Austin Metropolitan Statistical Area as determined by the Director of Neighborhood Housing and Community Development Department.]~~
- b. A building qualifies as a VMU2 building when a minimum of 12 percent of the residential units within the building are reserved as affordable, for at least 99 years from the date of initial sale, for ownership and occupancy by households earning 80 percent or less of the current Austin-Round Rock Metropolitan Statistical Area Medium Family Income as



determined by the Director of the Housing and Planning Department. ~~[In addition, five percent of the residential units in the VMU building shall be reserved, for not less than 99 years from the date a certificate of occupancy is issued, for ownership and occupancy by households earning no more than 100 percent of the Annual Median Family Income.]~~

- c. The city in its sole discretion may elect to subsidize ~~[an]~~ additional ~~[ten percent of the]~~ for-sale residential units in the building, at an affordability level consistent with criteria and procedures established by the Director of the Housing and Planning Department.

2. Affordability Requirements for Rental Units.

- a. A building qualifies as a VMU1 building when a minimum of 10 percent of the residential units within the building are reserved as affordable, for at least 40 years from the date of issuance of the certificate of occupancy, for lease and occupancy by households earning 60 percent or less of the current Austin-Round Rock Metropolitan Statistical Area Medium Family Income as determined by the Director of the Housing and Planning Department. ~~[Ten percent of the residential units in the VMU building shall be reserved as affordable, for a minimum of 40 years following the issuance of the certificate of occupancy, for rental by households earning no more than 80 percent of the Annual Median Family Income.]~~
- b. For a site located along a light rail line, a building qualifies as a VMU2 building:
  - (i) When a minimum of 15 percent of the residential units within the building are reserved as affordable, for at least 40 years from the date of issuance of the certificate of occupancy, for lease and occupancy by households earning 60 percent or less of the current Austin-Round Rock Metropolitan Statistical Area Medium Family Income as determined by the Director of the Housing and Planning Department; or

- (ii) When a minimum of 12 percent of the residential units within a VMU building are reserved as affordable, for at least 40 years from the date of issuance of the certificate of occupancy, for lease and occupancy by households earning 50 percent or less of the current Austin-Round Rock Metropolitan Statistical Area Medium Family Income as determined by the Director of the Housing and Planning Department.
  - c[~~b~~]. For a site that is not located along a light rail line, a building qualifies as a VMU2 building:
    - (i) When a minimum of 12 percent of the residential units within the building are reserved as affordable, for at least 40 years from the date of issuance of the certificate of occupancy, for lease and occupancy by households earning 60 percent or less of the current Austin-Round Rock Metropolitan Statistical Area Medium Family Income as determined by the Director of the Housing and Planning Department; or
    - (ii) When a minimum of 10 percent of the residential units within a VMU building are reserved as affordable, for at least 40 years from the date of issuance of the certificate of occupancy, for lease and occupancy by households earning 50 percent or less of the current Austin-Round Rock Metropolitan Statistical Area Medium Family Income as determined by the Director of the Housing and Planning Department.
  - d. As part of the one-time opt-in/opt-out process described in Section 4.3.5., an applicable neighborhood association or neighborhood planning team may request that the affordable rental units be available for renters earning a lower percentage of the annual median family income, to as low as 60 percent of the median family income. VMU projects that file zoning or site plan applications after the effective date of the first interim VMU ordinance and prior to September 1, 2006, will not be subject to this neighborhood affordability customization; and instead shall set aside affordable rental units as required by subsection 2.a. above or provide for affordable units as otherwise agreed to by an applicable neighborhood prior to



September 1, 2006, provided that VMU projects are allowed on the applicable site following the completion of the opt-in/opt-out process.

e[e]. The city may elect to subsidize ~~[an]~~ additional ~~[ten percent of the]~~ residential units in the building for rental purposes for residents at any level of affordability pursuant to criteria and procedures established by the Director of the Housing and Planning Department.

3. Affordability Definition. ~~[For purposes of this subsection, a unit is affordable for purchase or rental if the household is required to spend no more than 30 percent of its gross monthly income on utilities and mortgage or rental payments for the unit as determined by the City's Neighborhood Housing and Community Development Department, based on the current Annual Median Family Income for the Austin Metropolitan Statistical Area.]~~

a. For purposes of this subsection, a unit is affordable for purchase when the unit is sold to an income-eligible household for an amount not to exceed the corresponding sales prices published annually by the Director of the Housing and Planning Department; and

b. When determining the maximum affordable sales price, the Director of Housing and Planning Department may include an assumption that a homeowner will be required to pay an ownership association fee.

c. For purposes of this subsection, a unit is affordable when the unit is leased to an income-eligible household for an amount not to exceed the corresponding rental prices published annually by the Director of the Housing and Planning Department.

4. Certification

a. In this section, director means the director of the Housing and Planning Department.

b. The director is responsible for certifying whether a proposed development meets the exemption and bonus requirements.

- c. The applicant shall submit an application to the director demonstrating the proposed development meets the exemption and bonus requirements.
- d. Before the director may certify the proposed development, the applicant shall execute:
  - (i) an agreement to preserve the minimum exemption and bonus requirements for the VMU building; and
  - (ii) a document for recording in the real property records providing notice of or preserves the exemption and bonus requirements for the VMU building.
- e. The form of the document described in Section 4.3.3.F.4.d. must be approved by the city attorney.
- f. If the director certifies a proposed development under this section, the accountable official is authorized to process a development application for a VMU building.
- g. The applicant for a housing development shall pay all fees, provide documentation, and fulfill any pre-occupancy requirements prior to the issuance of a certificate of occupancy for the VMU building.

5. General Provisions.

- a. In this section, the director means the Director of the Housing and Planning Department.
- b. The agreement required in Section 4.3.3.F.4.d. must, at a minimum:
  - (i) Prohibit discrimination on the basis of an individual's source of income as defined in Section 5-1-13 (*Definitions*);
  - (ii) Require dispersion of affordable units throughout the residential units;
  - (iii) Require equal access and use of on-site amenities, common areas, and parking facilities;



- (iv) Require shared access routes for affordable units and market-rate units;
  - (v) Require that affordable units include interior components that are functionally equivalent to market-rate units; and
  - (vi) Require the applicant to incorporate lease provisions related to a tenant's right to organize that are consistent with 24 C.F.R. 245.100, the lease addendum required as a condition to receive city of Austin Housing Finance Corporation funds, or City Code requirement.
- c. Unless otherwise approved by the director, the bedroom count for affordable units shall be comparable to the bedroom count for market rate units. At the discretion of the director, two-bedroom or three-bedroom affordable units may count as two or three, one-bedroom (efficiency) affordable units. 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.
- d. Affordable rental units locations may be rotated within the building, provided that the total number of required affordable units remains in compliance with the affordability requirements for the affordability period.
- e. Simultaneous Availability of Affordable Units.
  - (i) In a single-phase housing development, affordable units must be available for occupancy concurrently with the market-rate units.
  - (ii) For a multi-phase housing development, an applicant must submit a development phasing plan that demonstrates how the market rate units and the affordable units will be made available concurrently. This plan must be included as an attachment to the agreement described in Section 4.3.3.F.4.d.
- f. An applicant for a VMU building shall prepare and follow an affirmative marketing and outreach plan for the duration the affordable period, in a form consistent with the U.S. Department of Housing and Urban Development regulations and approved by the Director of the Housing and Planning Department.

g. An affordable unit may not be used as a Type 2 or Type 3 short-term rental (STR).

6. Affordability Post-Construction Compliance and Penalty.

a. In this section, director means the Director of the Housing and Planning Department.

b. For a rental development, the owner of a VMU building with affordable for lease units 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.

c. If, for any reason, the director is unable to confirm the VMU building affordability requirements were met during any 12-month period, the preceding 12 months may not be used to satisfy the VMU building affordability period.

d. For an ownership affordable unit, each homebuyer at the time of purchase shall execute a resale restriction agreement in a form approved by the city attorney for recording in the real property records.

e. A person commits an offense if the person fails to comply with the requirement in subsection (b). 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.

7 [4]. Fee for Upper-Level Nonresidential Space. The developers of VMU buildings that contain nonresidential uses above the ground-floor shall pay a fee as set by the City Council for all climate-controlled nonresidential space above the ground floor. At the same time that it sets the amount of the fee, the City Council shall also identify a means by which fees paid pursuant to this section shall be reserved only for expenditure within the area of the City from which they were collected.

8 [5]. Monitoring and Enforcement. The City shall develop procedures to monitor and enforce this Section.



**PART 5.** The City Manager is directed to analyze the following direction and report to Council on the feasibility of the following approach by November 3, 2022.

The affordability level of affordable units required by VMU2 should be tied to 60% of the Travis County MFI OR 80% of the MFI for the census block group (or census tract if block group data is not available) that the parcel in question is on, whichever is lower. This defines affordability based on what is affordable to the neighborhood and takes into account equity issues. This will achieve the following:

- a) When VMU2 is used in an area in which the MFI is lower than the Travis County-wide MFI, any affordable housing included will be affordable to the existing residents in the neighborhood. This will mitigate impacts of displacement and ensure some existing, long-time residents can continue to afford their neighborhood.
- b) Affordable housing will be included in higher-income neighborhoods at a rate that is more affordable than current units available in that neighborhood.
- c) When units are built in a neighborhood that are "affordable" based on Travis County but not local affordability, these units contribute to gentrification and displacement in the neighborhood. This will mitigate that impact.

**PART 6.** This ordinance takes effect on June 20, 2022.

**PASSED AND APPROVED**

\_\_\_\_\_, June 9, 2022

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§

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Steve Adler  
Mayor

**APPROVED:**

\_\_\_\_\_  
Anne L. Morgan  
City Attorney

**ATTEST:**

\_\_\_\_\_  
Myrna Rios  
City Clerk

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**§ 25-2-582 COMMERCIAL HIGHWAY (CH) DISTRICT REGULATIONS.**

- (A) This section applies in a commercial highway (CH) district.
- (B) Except as provided in Subsection (C), the maximum height permitted for a building is:
- (1) 60 feet, if the impervious cover on the site is more than 80 percent and not more than 85 percent;
  - (2) 80 feet, if the impervious cover on the site is more than 75 percent and not more than 80 percent;
  - (3) 100 feet, if the impervious cover on the site is more than 70 percent and not more than 75 percent;
  - (4) 110 feet, if the impervious cover on the site is more than 65 percent and not more than 70 percent; and
  - (5) 120 feet, if the impervious cover on the site is not more than 65 percent.
- (C) The requirements of this subsection apply in a zoning district that combines a CH base district with a PDA combining district. If there is a conflict between the requirements of this subsection and the zoning ordinance establishing the CH-PDA district, the more restrictive requirement governs.
- (1) The minimum lot size is 10 acres.
  - (2) The maximum floor to area ratio is 4 to 1.
  - (3) The maximum height is 200 feet.
  - (4) The minimum front yard setback is 50 feet.
  - (5) The minimum street side yard setback is 50 feet.
  - (6) The minimum interior side yard setback is 25 feet.
  - (7) The maximum building cover is 55 percent of the lot area.
  - (8) The maximum impervious cover is 55 percent of the lot area.

Source: Section 13-2-663; Ord. 990225-70; Ord. 031211-11.



## Site Development Standards

### Commercial Zoning

	NO	LO	GO	CR	LR	GR	L	CBD	DMU	W/LO	CS	CS-1	CH	IP	MI	LI	R&D	DR	AV	AG	P
Minimum Lot Size (Square Feet)	5,750	5,750	5,750	20,000	5,750	5,750	5,750	--	--	43,560	5,750	5,750	20,000	43,560	50 acres	5,750	**	10 acres	**	10 acres	**
Minimum Lot Width	50	50	50	100	50	50	50	--	--	100	50	50	100	100	250	50	100	100	**	--	**
Maximum Height	35 or 2 stories	40 or 3 stories	60	40	40 or 3	60	200	**	120	25 or 1 story	60	60	**	60	120	60	45	35	**	60	**
<u>Minimum Setbacks</u>																					
Front Yard	25	25	15	50	25	10	10	--	--	25	10	10	50	25	--	--	75	25	**	100	**
Street Side Yard	15	15	15	50	15	10	10	--	--	25	10	10	50	25	--	--	**	25	**	100	**
Interior Side Yard	5	5	5	20	--	--	--	--	--	5	--	--	25	**	**	**	**	10	**	100	**
Rear Yard	5	5	5	20	--	--	--	--	--	25	--	--	25	**	**	**	**	10	**	100	**
Maximum Building Coverage	35%	50%	60%	25%	50%	75%	50%	100%	100%	--	95%	95%	85%	50%	75%	75%	40%	12,000	**	--	**
Maximum Impervious Cover	60%	70%	80%	60%	80%	90%	50%	100%	100%	70%	95%	95%	85%	80%	80%	80%	**	15,000	**	--	**
Maximum Floor Area Ratio	0.35:1	0.7:1	1:1	0.25:1	0.5:1	1:1	8:1	8:1	5:1	0.25:1	2:1	2:1	3:1	1:1	1:1	1:1	**	--	**	--	**

\*\* See Austin City Code Volume III (Land Development Code)