

ZONING CHANGE REVIEW SHEET

CASE: C14-2023-0045 (2404 Rutland Drive)

DISTRICT: 7

ADDRESS: 2404 Rutland Drive

ZONING FROM: NBG-WMU-NP

TO: NBG-CMU (Gateway Zone)-NP

SITE AREA: 1.18 acres

PROPERTY OWNER: Denton Rutland LLC

AGENT: Drenner Group, PC (Amanda Swor)

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

STAFF RECOMMENDATION:

Staff recommends NBG-CMU-NP, North Burnet/Gateway-Commercial Mixed Use Subdistrict- Neighborhood Plan Combining District, zoning.

PLANNING COMMISSION ACTION / RECOMMENDATION:

August 22, 2023: Postponed to September 12, 2023 at the applicant's request by consent (10-0, G. Anderson and A. Haynes-absent); A. Azhar-1st, A. Woods-2nd.

September 12, 2023

CITY COUNCIL ACTION:

ORDINANCE NUMBER:

ISSUES: N/A

CASE MANAGER COMMENTS:

The property in question is a 1.18 acre lot that is developed with a single-story, 19,349 sq. ft. multi-tenant office building located at the northwest corner of Rutland Drive and Mc Kalla Place. It is one block east of the Rutland Drive and Burnet Road intersection and is within walking distance to the Austin FC Q2 Stadium. The property is within the North Burnet Gateway Neighborhood Planning area and is zoned NBG-WMU-NP, North Burnet Gateway-Warehouse Mixed Use-Neighborhood Plan Combining District. The lots to the north are currently developed with one story industrial warehouses and are also zoned NBG-WMU-NP. To the south, east and west of this site there are office/warehouse buildings with multiple tenants, zoned NBG-WMU-NP.

The applicant is requesting to rezone the property from NBG-NP (WMU Subdistrict) to NBG-NP (CMU-Gateway Zone Subdistrict) to redevelop the site with additional residential density (*please see Applicant's Request Letter-Exhibit C*). The CMU subdistrict allows an FAR of 3:1 and a maximum building height of up to 180 feet, with development bonuses. Whereas, as of last year the revised CMU-Gateway Zone subdistrict allows for an FAR of 12:1 and a maximum building height of up to 420 feet, with development bonuses (*please see the revised North Burnet Gateway - CMU subdistrict General Site Development Standards-Exhibit D*).

With the development of the Q2 stadium on the former McKalla tract to the north, there has been a transition in the zoning of the properties to the NBG-NP (CMU-Gateway Zone) subdistrict along Burnet Road (*please see the Area Case Histories table below for cases C14-2022-004 and C14-2021-0101*). Gateway zones are connected to the designated Transit Corridors and allow for greater height and density in close proximity to the existing rail stations, such as Kramer Metro Rail Station located at the southeast corner of Kramer Lane and Brockton Lane. Burnet Road, is classified as a NBG Core Transit Corridor. However, Rutland Drive is not.

Therefore, the staff is recommending North Burnet Gateway-Neighborhood Plan (CMU Subdistrict) zoning for this property because the proposed zoning is compatible and consistent with the surrounding densities and uses. The staff cannot support the NBG-NP (CMU-Gateway Zone) subdistrict at this location at this time because the City Council recently passed a resolution in May (*please see Resolution No. 20230504-020 - Exhibit F*). This resolution is a direction to the staff that City Council wants community benefits for the additional entitlements (i.e.- height and FAR) in the Gateway zones:

(9) Modify the development bonus provisions and fees for the North Burnet/Gateway Regulating Plan to allow maximum height and FAR to be achieved administratively with sufficient community benefit, and the maximums exceeded with council approval, similar to the Downtown Density Bonus Program, achieving greater community benefits such as housing and transit- and mobility-related improvements.

The Urban Design division is currently working on creating these Tier 2 conditions for North Burnet/Gateway Regulating Plan that will permit the additional height and FAR administratively, with the participation in the density bonus program. These changes/ amendments to the NBG will be presented to the City Council in March of 2024.

The NBG-NP (CMU) subdistrict zoning is appropriate at this location because Capital Metro is currently in the process of constructing a new regional rail station, new McKalla Station, adjacent to Q2 Stadium to the north, which will feature daily operations including special game day trips as well as a double track design, two passengers platforms and expanded walking and bike paths connecting to the stadium and surrounding neighborhood. Right now, the Kramer Station is located about one mile from the McKalla Station construction site. Once McKalla and CapMetro's upcoming Broadmoor Station opens, Kramer Station site will close. Therefore, the staff's recommendation will permit uses and site development standards at this location at the corner of a minor arterial and collector roadway that will allow for redevelopment to permit new residential uses. The new McKalla Station is slated to open in 2024. When the Urban Design staff presents new Tier 2 conditions for North Burnet/Gateway Regulating Plan in the spring of 2024, the applicant will be able to achieve additional height and FAR administratively, with the participation in the density bonus program as directed by the City Council.

The applicant does not agree with the staff's recommendation.

BASIS OF RECOMMENDATION:

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

North Burnet/Gateway district is the designation for an identified area of existing low density, auto oriented commercial, warehouse, and industrial uses that is the subject of an approved master plan for redevelopment of the area into a higher density urban mixed-use neighborhood that is more pedestrian friendly and takes advantage of the links to commuter rail transit and the area's key position in the urban core.

Commercial Mixed Use subdistrict is a high density mixed use sub district in the NBG Zoning District. It allows for development such as high density residential, high rise office, and entertainment complexes, destination retail and large scale civic uses.

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

- 2. The proposed zoning should promote consistency and orderly planning.*

The staff recommends the NBG-NP (CMU Zone) district because location of the site is appropriate for the proposed intensity of uses, with a transition away from the intersection at Burnet Road to the east allowing for a FAR of 3:1 and a maximum building height of up to 180 feet, with development bonuses, along Rutland Drive, a minor arterial roadway and designated Pedestrian Priority Collector. The subject

property is located within the boundaries of a “Regional Center” as designated on the Growth Concept Map in the Imagine Austin Comprehensive Plan.

4. *The proposed zoning should allow for a reasonable use of the property.*

The NBG-CMU-NP zoning district would allow for a fair and reasonable use of the site. The proposed CMU Zone subdistrict will allow for high-density residential uses, which will provide desirable housing opportunities for the people that work in the surrounding office, commercial and industrial areas. This site is located near major employment, commercial and residential developments such as The Domain, J.J. Pickle Research Campus, IBM-Broadmoor Campus, Charles Schwab complex, etc. and a large outdoor entertainment use (Q2 Stadium) and is within the vicinity (1/2 mile) of the existing Kramer Metro Rail Station located at the southeast corner of Kramer Lane and Brockton Lane.

EXISTING ZONING AND LAND USES:

	ZONING	LAND USES
<i>Site</i>	NBG-NP (North Burnet/Gateway-Warehouse -Mixed Use Subdistrict-Neighborhood Plan)	Multi-tenant Office Building (Epoch Building: Blue Cats, Sigma Sense, Insurance 360, former Enviroquip Inc, etc.)
<i>North</i>	NBG-NP (North Burnet/Gateway-Warehouse -Mixed Use Subdistrict-Neighborhood Plan)	Warehouse Structures
<i>South</i>	NBG-NP (North Burnet/Gateway-Warehouse -Mixed Use Subdistrict-Neighborhood Plan)	Multi-tenant Office/Warehouse (Rutland 9 Office Center: Spectrum Communications, Magestro Integrations, etc.)
<i>East</i>	NBG-NP (North Burnet/Gateway-Warehouse -Mixed Use Subdistrict-Neighborhood Plan)	Multi-tenant Office/Warehouse Building (Adelbert’s Brewery, etc.)
<i>West</i>	NBG-NP (North Burnet/Gateway-Warehouse -Mixed Use Subdistrict-Neighborhood Plan)	Warehouse (Capital Scientific Lab Supplies), Billboard

NEIGHBORHOOD PLANNING AREA: North Burnet/Gateway Neighborhood Plan Area

TIA: Not Required

WATERSHED: Little Walnut Creek

SCHOOLS: Austin I.S.D.

Pillow Elementary School

Burnet Middle School

Anderson High School

NEIGHBORHOOD ORGANIZATIONS:

Austin Independent School District

Austin Lost and Found Pets

Austin Neighborhoods Council

Friends of Austin Neighborhoods

Homeless Neighborhood Association

Neighborhood Empowerment Foundation

North Burnet/Gateway Neighborhood Plan Staff Liaison

North Growth Corridor Alliance

SELTexas

Shoal Creek Conservancy

Sierra Club, Austin Regional Group

AREA CASE HISTORIES:

NUMBER	REQUEST	COMMISSION	CITY COUNCIL
C14-2023-0040 (10317 - 10423 McKalla Place)	NBG-WMU-NP to NBG-TOD (Gateway Zone)- NP	Pending - TIA	
C14-2022-0045 (10321 and 10401 Burnet Road)	NBG-CMU-NP to NBG-CMU (Gateway Zone)- NP	5/10/22: Approved staff's recommendation of NBG-CMU (Gateway Zone)-NP zoning by consent (13-0); A. Azhar-1st, J. Mushtaler-2nd.	6/09/22: Approved NBG-CMU (Gateway Zone)-NP zoning by consent on all 3 readings (11-0); N. Harper-Madison-1st, P. Renteria-2nd.
C14-2021-0101 (Verde Square: 10401 1/2, 10431, 10435, 10505, and 10509 Burnet Road)	NBG-CMU-NP to NBG-CMU (Gateway Zone)- NP	8/24/21: Approved staff's recommendation for NBG- CMU(Gateway)-NP zoning by consent (11-0); C. Hempel-1st, R. Schneider - 2nd.	9/30/21: The public hearing was conducted and a motion to close the public hearing and approve NBG-CMU-Gateway Zone-NP district zoning (was approved on Council Member Renteria's motion, Council Member Ellis' second on an 11-0 vote.
C14-2020-0128 (NBG Austin Energy Substation	NBG-TOD-NP to P	1/26/21: Approved staff's recommendation of P district zoning (12-0, A. Azhar-1 st , P. Seeger-2 nd .	February 4, 2021: The public hearing was conducted and a motion to close the public hearing and approve

Rezoning: 2412 Kramer Lane)			Ordinance No. 20210204-058 for public (P) district zoning was approved on Council Member Pool's motion, Council Member Tovo's second on an 11-0 vote.
C14-2019-0055 (Austin FC: 10414 McKalla Place and 10617 ½ Burnet Road)	LI-NP, NBG-NP to LI-PDA-NP	5/14/19: To approve the staff's recommendation of LI-PDA zoning, with added condition to approve the Transportation Impact Analysis (TIA) with the site plan process, if practical (Vote: 11-2, K. McGraw and P. Seeger-No); G. Anderson-1 st , C. Kenny- 2 nd .	6/06/19: The public hearing was conducted and a motion to close the public hearing and approve Ordinance 20190606-097 for limited industrial services-planned development area-neighborhood plan (LI-PDA-NP) combining district zoning was approved on Council Member Pool's motion, Council Member Flannigan's second on a 10-0 vote. Council Member Harper-Madison was absent.
C14-2016-0074 (Element Hotel: 10728 Burnet Road)	MI-PDA to MI-PDA	8/09/16: Approved staff's recommendation of MI-PDA zoning on consent (8-0, K. McGraw, S. Oliver, P. Seeger, J. Thompson, T. White-absent); N. Zaragoza-1 st , J. Shieh-2 nd .	9/22/16: The public hearing was conducted and a motion to close the public hearing and approve Ordinance No. 20160922-071 for MI-PDA zoning, to change a condition of zoning was approved on consent on Council Member Houston's motion, Council Member Casar's second on a 10-0 vote. Council Member Troxclair was absent.
C14-2014-0062 (The Kenzie: 3201 Esperanza Crossing)	MI-PDA to MI-PDA	5/27/14: Approved staff's recommendation for MI-PDA zoning by consent (8-0, J. Nortey-absent); R. Hattfield-1 st , N. Zaragoza-2 nd .	6/26/14: Approved MI-PDA zoning, to change a condition of zoning, on consent on all 3 readings (6-0, M. Martinez- off the dais); B. Spelman-1 st , S. Cole-2 nd .
C14-2013-0130 (Domain Entertainment District: 11824 Burnet Road)	MI-PDA to MI-PDA	11/12/13: Approved staff's recommendation for MI-PDA zoning, with conditions for a limitation of 90,000 square feet of Cocktail Lounge use as permitted with no one user exceeding 13,000 sq. ft. within the designated 43.267acre area (outlined in Exhibit A) located within the Property., by consent (7-0-2, D. Chimenti and A. Hernandez-absent); J. Nortey-1 st , B. Roark-2 nd .	12/12/13: Approved MI-PDA zoning on consent on all 3 readings (7-0); B. Spelman-1 st , S. Cole-2 nd .

C14-2012-0002 (The Domain: 10728-11306 and 11500-11900 Burnet Road; 3300 West Braker Lane; 11105 and 11401-11925 Domain Drive, and 2900-3210 Esperanza Crossing)	MI-PDA to MI-PDA: To amend the PDA 1) To allow for a Cocktail Lounge use as a permitted use on a 2,198 sq. ft. parcel and 2) To relocate 1-acre of designated zero impervious area within a nine acre park to a new location within the same park.	5/08/12: Approved MI-PDA zoning by consent (9-0); D. Anderson-1 st , S. Kirk-2 nd .	6/28/12: Approved MI-PDA zoning to change a condition of zoning on all 3 readings (7-0); C. Riley-1 st , S. Cole-2 nd .
C14-2010-0087 (The Domain Rezoning-Simon: 11701, 11733 North Mopac Expressway; 11400, 11500 Domain Drive; 3311 Rogers Road; 3409 Esperanza Crossing; 11600 Century Oaks Terrace)	MI-PDA to MI-PDA: To amend the Domain zoning ordinance to request a change to the PDA overlay to allow 83% impervious cover for the overall site.	8/24/10: Approved staff's recommendation of MI-PDA zoning with the condition that the applicant agree to a public restrictive covenant to limit one acre of land on the Endeavor-Domain site to zero percent impervious cover to offset the increase in impervious cover on the Simon-Domain property (8-1, Chimenti-No), with the following additional conditions: 1) Require the applicant to provide bicycle access for a portion Bicycle Route Segment #905.04 (Please see Public Works Department Memorandum – "Attachment B") to allow for continuity for bicycle traffic to and through the Domain development. 2) Require a public restrictive covenant that will limit one acre of land on the Endeavor-Domain site to zero percent impervious cover to be signed and recorded before the 3 rd	8/26/10: The public hearing will remain open and the first reading of the case was approved for MI-PDA zoning (7-0); Morrison-1 st , Spelman-2 nd , with the following additional conditions: 1) The applicant is to provide bicycle access for a portion of Bicycle Route Segment #905.04 to allow for continuity for bicycle traffic to and through the Domain development. 2) A public restrictive covenant that will limit one acre of land on the Endeavor- Domain site to zero percent impervious cover will be signed and recorded before the third reading of this zoning case. 10/14/10: Approved MI-PDA zoning on 2 nd /3 rd readings (7-0); Spelman-1 st , Leffingwell-2 nd , with the following amendments: 1) Part 3, C, 1 of the ordinance should read: "A pedestrian/bicycle entrance

		reading of this zoning case at City Council.	shall be provided between the existing pedestrian/bicycle trail under Mopac Expressway and the Simon Project internal drive as shown on the attached Exhibit B. A minimum 12-foot wide paved path shall be constructed with an associated curb cut connecting to the internal drive prior to issuance of a certificate of occupancy for a building on Lot 5A, Block A, the Domain Shopping Center Section 3 Subdivision.”; 2) Add a new paragraph to Part 3, Section D to read: “The two trees on the property numbered 5068 and 5081 as shown on Exhibit D may not be removed, unless the City Arborist approved otherwise based on the health of the individual trees.”; 3) The approved otherwise based on fourth WHEREAS of the restrictive covenant should read: “WHEREAS, the requirements of the Land Development Code for both the Endeavor Tract and the Simon Tract allow for a combined maximum of eighty percent (80%) net site area impervious cover resulting in a total allowable impervious cover area of 135.36 acres for the Endeavor Tract and 40.54 for the Simon Tract; and”.
C14-2010-0015 (The Domain Rezoning- Endeavor: 10712, 10728, 10800, 11000, 11500, 11600 Burnet Road; 11601 Domain Drive; 2900, 3001, 3101 Esperanza Crossing)	To rezone the property from MI-PDA to MI-PDA to amend the Domain zoning ordinance to modify the following conditions: 1)To provide updated bike lanes for the development by routing sharrows and hike and bike	8/24/10: Approved staff’s recommendation for MI-PDA zoning (8-1, Tovo-No), with an amendment to the Public Works Department Memorandum – “Attachment A” to change the wording in the first line of item #2 from should to <u>shall</u> . The Commission also included findings for the justification for the approval of the proposed variance to the “Big Box” ordinance, LDC Sec. 25-2-813:	10/14/10: Approved MI-PDA zoning on all 3 readings on consent (7-0); Spelman-1 st , Cole-2 nd , with the following conditions: 1) Part 3, C, 1 of the ordinance should read: “The Domain-Endeavor Project shall provide internal bicycle routes for access and continuity to existing or planned bicycle routes as well as multi-use hike and bike trails as more particularly detailed in the attached Exhibit C.”; 2) Part 3,

	<p>paths throughout the site 2) To request a variance through the PDA to LDC Sec. 25-2-813 to allow an administrative approval of one large retail user exceeding 100,000 square feet to be constructed on the portion of the Domain property that is located north of Esperanza Crossing. Thereby, removing the requirement to secure approval of a Conditional Use Permit for this sole large retail user at this location.</p>	<ol style="list-style-type: none"> 1) This request is a special circumstance because the property is located with a PDA overlay district. 2) This approval is in accordance with the North Burnett/Gateway Neighborhood Plan. 3) The approval for this case allows for the inclusion of the recommendations of the City of Austin Bicycle Program for the property. 	<p>C, 4 of the ordinance should read: "The sharrows shall be installed within one year of the effective date of this ordinance for existing roadways and at the time of construction for future roadways."</p>
C14-06-0121	MI-PDA to MI-PDA	<p>2/13/10: Approved staff's rec. for MI-PDA zoning with additional conditions of:</p> <ul style="list-style-type: none"> • 2 star Green Building rating • natural landscaping of all water quality ponds (existing and future); • be in compliance with TIA conditions; • the applicant's requested parkland dedication proposal; • height base of 140-ft; plus an additional 12-stories based on electing to provide some of the public benefits as listed in the North Burnett/Gateway Neighborhood Plan. • Maximum height of 308 feet. <p>Vote: (9-0); J.Reddy-1st, G. Stegeman-2nd.</p>	<p>3/01/07: Approved MI-PDA zoning with the addition of low albedo roofing materials, one star construction for the total site and two star construction for 50% of the office and residential construction (7-0); McCracken-1st, Dunkerley-2nd.</p>

C14-06-0154	MI-PDA to MI-PDA	8/08/06: Approved staff rec. of MI-PDA by consent (8-0)	09/28/06: Approved MI-PDA (7-0); 1 st reading 10/05/06: Approved MI-PDA changes as a condition of zoning (6-0); 2 nd /3 rd readings
C14-04-0151	MI-PDA to MI-PDA	11/23/04: Approved staff recommendation of MI-PDA, with Environmental Board conditions (9-0).	12/16/04: Approved MI-PDA (7-0); all 3 readings
C14-04-0146	P to CH	11/9/04: Approved staff's recommendation of CH zoning with conditions (9-0)	12/2/04: Approved CH zoning (7-0); all 3 readings
C14-03-0017	MI-PDA to MI-PDA	6/11/03: Approved staff's recommendation of MI-PDA zoning, with inclusion of original PDA conditions (as read into the record) from Ordinance #000608-67 (8-0, R. Pratt-off dais)	7/31/03: Granted MI-PDA on all 3 readings (7-0)
C14-03-0016	MI to MI-PDA	6/11/03: Approved staff's recommendation of MI-PDA zoning (8-0, R. Pratt-off dais)	7/31/03: Granted MI-PDA on all 3 readings (7-0)
C14-03-0015	MI to CS	6/11/03: Approved staff's recommendation of CS-CO zoning (8-0, R. Pratt-off dais)	7/31/03: Granted CS-CO on all 3 readings
C14-02-0062	LI to CS-1	6/12/02: Approved CS-1 by consent (8-0)	7/11/02: Approved PC rec. of CS-1 (7-0); all 3 readings
C14H-00-2177	LI-PDA to LI-PDA	10/24/00: Approved staff rec. of LI-PDA (TR1), LI-PDA-H (TR2) by consent (9-0)	11/30/00: Approved LI-PDA (TR1) and LI-PDA-H (TR2); (7-0); all 3 readings
C14-00-2065	MI to MI-PDA	5/9/00: Approved staff rec. of MI-PDA by consent (8-0); with the following conditions: 1) That minimum lot size be 1 acre provided for any lots that directly abut Braker Lane and Burnet Road (but not both) and which are less than 3 acres in size. 2) The total number of additional curb cuts on Braker Lane & Burnet Road providing access to such lots shall not exceed 50 % of the total number of such lots.	6/8/00: Approved MI-PDA, with changes agreed to with neighborhood association (7-0); all 3 readings

		3) The foregoing limitation shall not apply to any lot of more than 3 acres, which abut Braker Lane and Burnet Road.	
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RELATED CASES:

C14-2018-0182 (North Burnet/Gateway NP Rezonings)

C14-2007-0157 (Previous Zoning Case)

C8S-67-081 (Subdivision Case)

OTHER STAFF COMMENTS:

Comprehensive Planning

The North Burnet Gateway Regulating Plan was adopted in 2009 to help implement a long-term vision for the area to redevelop the low density, auto-oriented commercial, warehouse and industrial uses into a higher density urban mixed-use neighborhood that supports active transportation and centers around major transit stations. The NBG Zoning Subdistricts, illustrated in *Figure 1-2* of the Plan, reflect the principles of transit-oriented development by allowing the highest density use around the commuter rail station and lowest density, most restrictive use along the eastern edge where the NBG area meets residential uses.

Wherein many significant changes have occurred in and around the NBG area since 2009, the most consequential to the purpose of the NBG Plan is the planned decommission of Kramer Station and addition of McKalla Station and Broadmoor Station. McKalla Station is expected to be operational by the beginning of 2024.

The property located at 2404 Rutland Drive currently Warehouse Mixed Use (WMU). This property is within a half mile of the McKalla Station. In Austin, the walkshed for transit-oriented development ranges from a quarter mile to a half mile radius.

The applicant is requesting Commercial Mixed Use (CMU) Gateway subdistrict zoning. According to the Plan:

Commercial Mixed Use (CMU) Subdistrict is a high density mixed use subdistrict in the NBG Zoning District. It allows for development such as high density residential, high rise office and entertainment complexes, destination retail and large scale civic uses.

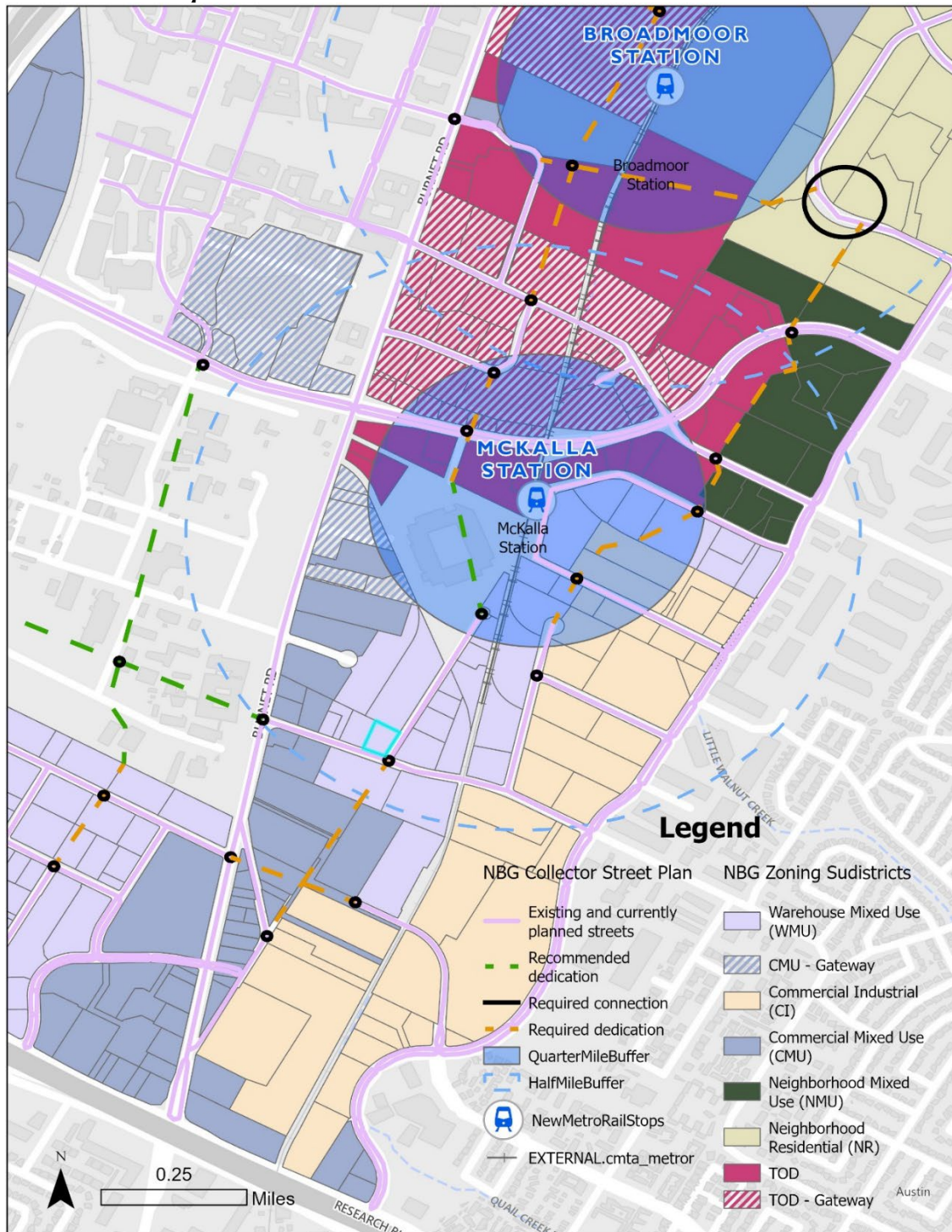
CMU is the second densest, least restrictive zoning subdistrict within NBG, next to TOD. CMU offers a maximum FAR of 3:1 and maximum height of 180 feet when using a development bonus. CMU Gateway offers a maximum FAR of 12:1 and maximum height of 420 feet when using a development bonus. CMU Gateway is intended to buffer the TOD and CMU subdistricts.

This request follows the logic of the NBG Regulating Plan considering today's knowledge of and precise location of the existing and upcoming rail stations in this area. However, current land uses and scale may not be compatible with residential uses or the potential 12:1 FAR and 420-foot height permitted by CMU Gateway when using a development bonus. Additional considerations include:

- **Required connection.** According to Figure 3-12, there is a required connection at McKalla Place and Rutland Drive. McKalla Place currently ends at Rutland Drive but is a Proposed Pedestrian Priority Collector continuing south in the Regulating Plan.
- **Mid-block pathway.** Section 3.5.4 Block Standards calls for a block face exceeding 500 feet in length to provide a pedestrian pathway as a mid-block route to connect to

- public streets and/or other existing or planned pedestrian routes through the site or adjacent to the site.
- **Existing Active Transportation connections.** There is limited sidewalk connectivity on the north curb of Rutland Drive. There is limited bicycle network connectivity around this property.
 - **Include Urban Design in site plan review.** In order to help embed the principles of the NBG Regulating Plan into a site plan that is working outside of the comprehensively planned subdistricts, street plan, and associated development requirements, include the urban design team during site plan review.

The map below illustrates the existing NBG subdistricts and street plan with the new rail station locations. The quarter mile and half mile radii are illustrated to show walkability to the McKalla Station. The 2404 Rutland Drive property is outlined in bright blue.

Map A: 2404 Rutland Drive in relation to new rail stations

2404 Rutland Drive			
	Current	Proposed	Street Type
Zoning	Warehouse Mixed Use (WMU)	Commercial Mixed-Use (CMU) Gateway	Rutland Drive is an NBG Pedestrian Priority Collector (PPC) street (Figure 1-3). McKalla Place is a PPC. There is a required collector street connection at McKalla Place and Rutland Drive, with McKalla Place proposed to extend south to ultimately connect to McNeil Road; it's shown as a Proposed PPC.
Land Use	Office/industrial	Mixed-use	
Lot Size	1.18 acres		
Base Height & FAR	60 feet 1:1 (Figure 4-2: Maximum FAR by Right and Figure 4-4: Maximum Height by Right)	60 feet 1:1 (Figure 4-2: Maximum FAR by Right and Figure 4-4: Maximum Height by Right)	
Max Height & Max FAR	120 feet 3:1	420 feet 12:1	
Dev. Bonus	Eligible	Eligible	
Active Edge	No (Figure 1-2)	No (Figure 1-2)	
Setbacks	No ground-level setback requirements, however, if the street right-of-way is less than 60 feet in width, the minimum front yard and street side yard setbacks for buildings three or more stories in height shall be 30 feet from the center line of the street to ensure fire access. The building facade at the 6th story and above must be stepped back 30 feet from the ground-level building facade line.		
Maximum Impervious Cover	80% (Figure 4-6)	80% (Figure 4-6)	
Compatibility Standards	Do not apply	Do not apply	

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

There are several properties with Aboveground Hazardous Materials Permits within close proximity to this site. AFD needs to do a risk assessment for this site to determine if there is any risk of evacuation or exposure to future residents of multifamily housing. The assessment will take 21 days and a copy will be emailed to the case manager and applicant.

Comment cleared (*please see the Aboveground Hazardous Materials Risk and Consequence Assessment Report – Exhibit G*).

Parks and Recreation

Parkland dedication will be required for the new applicable uses proposed by this development, multifamily with NBG-CMU-NP (gateway) 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, as well as the North Burnet Gateway Regulating Plan. 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. 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 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.

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

Transportation

The Austin Strategic Mobility Plan (ASMP) calls for 116 feet of right-of-way for Rutland Drive. It is recommended that 58 feet of right-of-way from the centerline should be dedicated according to the Transportation Plan with the first subdivision or site plan application. [LDC 25-6-51 and 25-6-55].

The Austin Strategic Mobility Plan (ASMP) calls for 84 feet of right-of-way for McKalla Place. It is recommended that 42 feet of right-of-way from the centerline should be dedicated according to the Transportation Plan with the first subdivision or site plan application. [LDC 25-6-51 and 25-6-55].

EXISTING STREET CHARACTERISTICS:

The adjacent street characteristics table is provided below:

Name	ASMP classification	ASMP Required ROW	Existing Row	Existing Pavement	Sidewalks	Bicycle Route	Cap Metro (within ¼ mile)
Rutland Drive	Level 3/ Minor Arterial	116 feet	~80 feet	54 feet	On one-side of road	none	Yes
McKalla Place	Level 2/ Collector	84 feet	~70 feet	49 feet	none	none	Yes

Water Utility

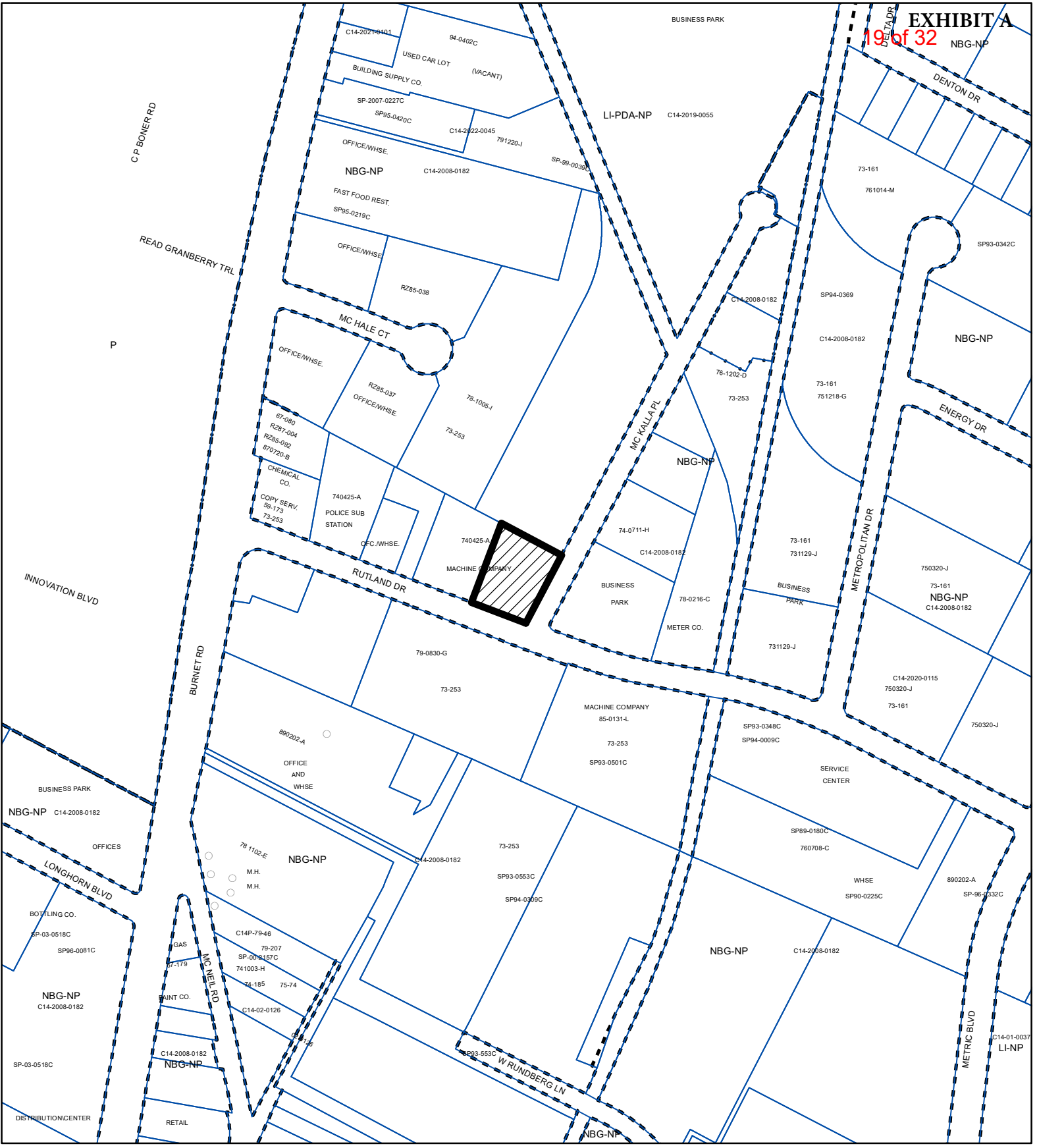
No comments on zoning change.




FYI: The landowner intends to serve the site with existing City of Austin water utilities.

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. For more information pertaining to the Service Extension Request process and submittal requirements contact the Austin Water SER team at ser@austintexas.gov.

INDEX OF EXHIBITS TO FOLLOW

- A: Zoning Map
- B. Aerial Map
- C. Applicant's Request Letter
- D. North Burnet Gateway - CMU Subdistrict General Site Development Standards
- E. Additional Exhibits from the North Burnet Gateway Regulating Plan
- F. City Council Resolution No. 20230504-020
- G. Aboveground Hazardous Materials Risk and Consequence Assessment Report



-  SUBJECT TRACT
-  PENDING CASE
-  ZONING BOUNDARY

ZONING

ZONING CASE#: C14-2023-0045

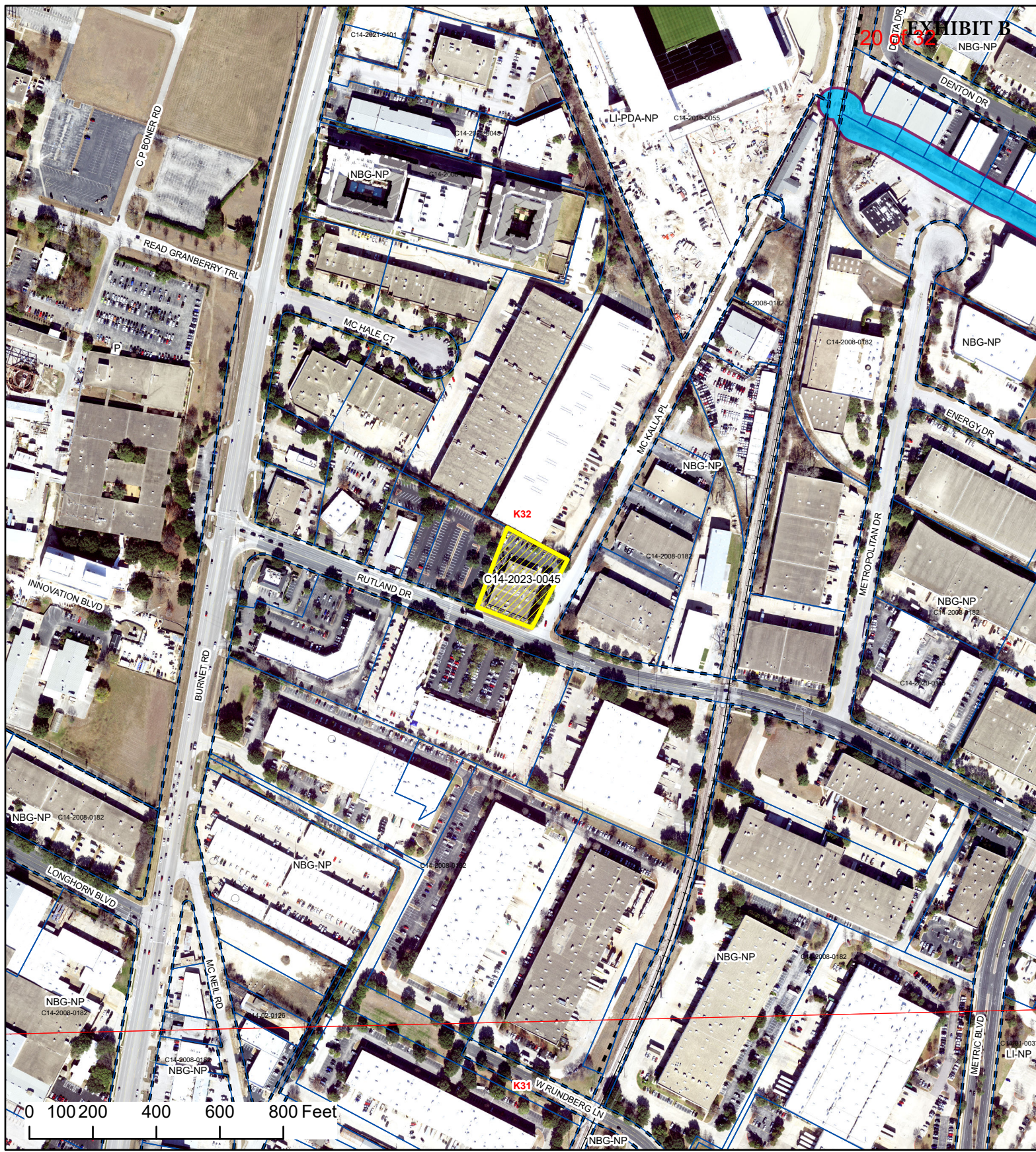
1" = 400'





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: 4/7/2023



-  SUBJECT TRACT
-  ZONING BOUNDARY
-  PENDING CASE
-  CREEK BUFFER

2404 Rutland Drive

ZONING CASE#:	C14-2023-0045
LOCATION:	2404 Rutland Drive
SUBJECT AREA:	1.18 Acres
GRID:	K32
MANAGER:	Sherri Sirwaitis



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 completeness.

Created: 5/24/2023

DRENNER GROUP

Amanda Swor
aswor@drennergroupp.com
(512) 807-2904

February 24, 2023

Ms. Rosie Truelove
Housing and Planning Department, City of Austin
1000 East 11th Street, Suite 200
Austin, Texas 78702

Via Electronic Delivery

Re: 2404 Rutland Drive – Rezoning application for the approximately 1.18-acre piece of property located at 2404 Rutland Drive in the City of Austin, Travis County, Texas (the “Property”)

Dear Ms. Truelove:

As representatives of the owner of the Property, we respectfully submit the enclosed rezoning application package. The project is titled 2404 Rutland Drive and is approximately 1.18 acres of land, located on the north side of Rutland Drive between Burnet Road and McKalla Place. The Property is in the full purpose jurisdiction of the City of Austin and located within the North Burnet/Gateway Regulating Plan.

The Property is currently zoned NBG-WMU-NP (North Burnet Gateway – Warehouse Mixed-Use Subdistrict – Neighborhood Plan). The requested rezoning is from NBG-WMU-NP to NBG-CMU Gateway Zone-NP (North Burnet Gateway – Corridor Mixed-Use Subdistrict – Gateway Zone – Neighborhood Plan). The Property is currently developed with research and warehouse uses. The purpose of the rezoning is to supply additional residential density in the North Burnet/Gateway area. This request is consistent with proposed uses in the area. The proposed development will comply with site development and design standards established in the North Burnet/Gateway Regulating Plan.

The Property is within the North Burnet/Gateway Neighborhood Planning Area. The Neighborhood Plan was adopted November 1, 2007 and designates the Property as High Density Mixed Use in the Future Land Use Map (FLUM). This rezoning application will not trigger a prerequisite amendment to the FLUM designation of High Density Mixed Use. Attached is a memorandum issued by Maureen Meredith dated January 12, 2023 confirming that a Neighborhood Plan Amendment is not required.

The Traffic Impact Analysis (TIA) is not required, per the attached TIA Determination Form dated January 20, 2023, and executed by Joan Minyard. However, mitigation may be requested per Land Development Code § 25-6-101.

Please let me know if you or your team members require additional information or have any questions. Thank you for your time and attention to this project.

Very Truly Yours,

A handwritten signature in blue ink that reads "Amanda Swor". The signature is fluid and cursive, with the first name "Amanda" and last name "Swor" clearly distinguishable.

Amanda Swor

cc: Joi Harden, Housing and Planning Department (via electronic delivery)
Sherri Sirwaitis, Housing and Planning Department (via electronic delivery)

FIGURE 4 - 1 CMU : NBG ZONING DISTRICT GENERAL SITE DEVELOPMENT STANDARDS

COMMERCIAL MIXED USE (CMU) SUBDISTRICT

LOT SIZE	
Minimum Lot Size	2,500 SF
Minimum Lot Width	20 Feet

MINIMUM SETBACKS	
Front Yard and Street Side Yard*:	
No ground-level front yard or street side yard setbacks are required. Instead, development must meet the building placement standards in Section 4.3.	
Front and Street Side Upper-Story Building Facade Stepbacks:	
The building facade at the 6th story and above must be stepped back 30 feet from the ground-level building facade line.	
Interior Side Yard:	0 Feet
Rear Yard:	0 Feet
* If the street 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 center line of the street to ensure fire access.	

MAXIMUM IMPERVIOUS COVER	
If located in an urban watershed (Shoal or Little Walnut Creek) :	
Established on Figure 4-6 (Based on the maximum impervious cover allowed by the property's zoning prior to adoption of the this Document.)	
If located in a suburban watershed (Walnut Creek)*: 80%	
* This requirement supersedes impervious cover requirements of Section 25-8-394(C) of the LDC.	

PLATTING REQUIREMENTS	
If located in the CMU Gateway Zone:	
Section 24-4-171(<i>Access to Lots</i>) of the City Code is modified to permit a lot to abut a dedicated public street or a Major Internal Drive.	

FLOOR TO AREA RATIO	
Maximum Floor-to-Area Ratio (FAR) by Right:	
Established on Figure 4-2 (Based on the maximum FAR allowed by the property's zoning prior to adoption of this Document)	
Maximum Floor-to-Area Ratio (FAR) with Development Bonus:	
CMU Zone	3:1
CMU Gateway Zone	12:1
This FAR may be granted in exchange for the provision of public benefits. The development bonus criteria and standards are detailed in Article 6.	



Typical examples of buildings in the Commercial Mixed Use Subdistrict.

BUILDING HEIGHT	
Minimum Building Height:	
Not applicable	
Maximum Building Height by Right:	
Established on Figure 4-4 (Based on the maximum height allowed by the property's zoning prior to adoption of this Document.)	
Maximum Building Height with Development Bonus*:	
CMU Zone	180 Feet
CMU Gateway Zone	420 Feet
This building height may be granted in exchange for the provision of public benefits. The development bonus criteria and standards are detailed in Article 6.	
*Exception: If adjacent to or across the street from NR Subdistrict the maximum height is 120 feet.	

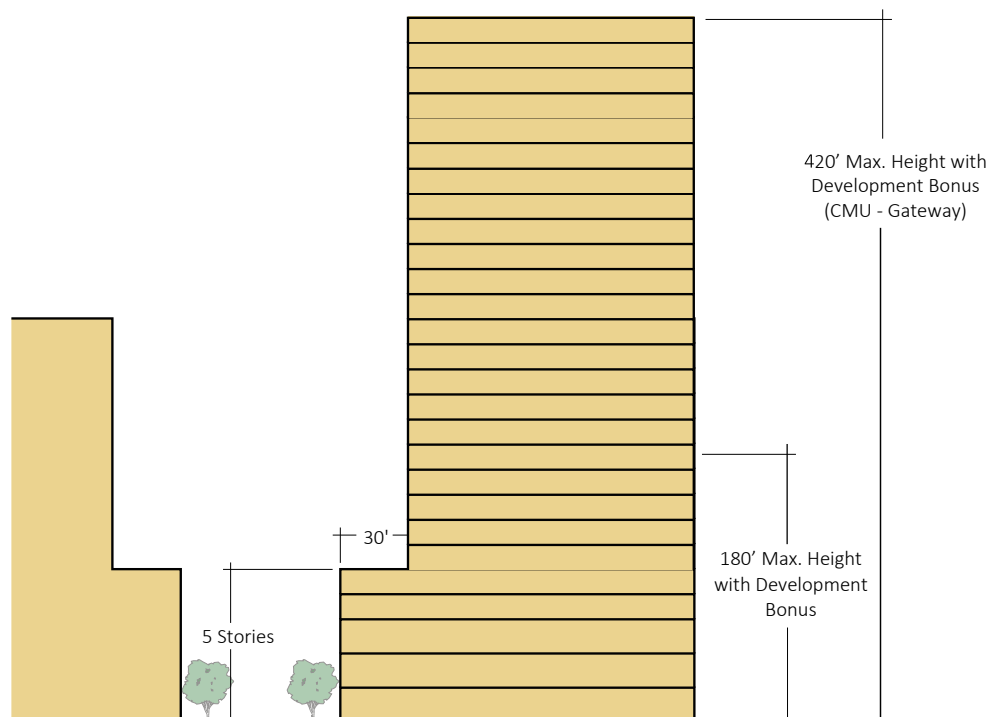


Figure 1 - 2 : North Burnet / Gateway (NBG) Zoning District Subdistrict Map

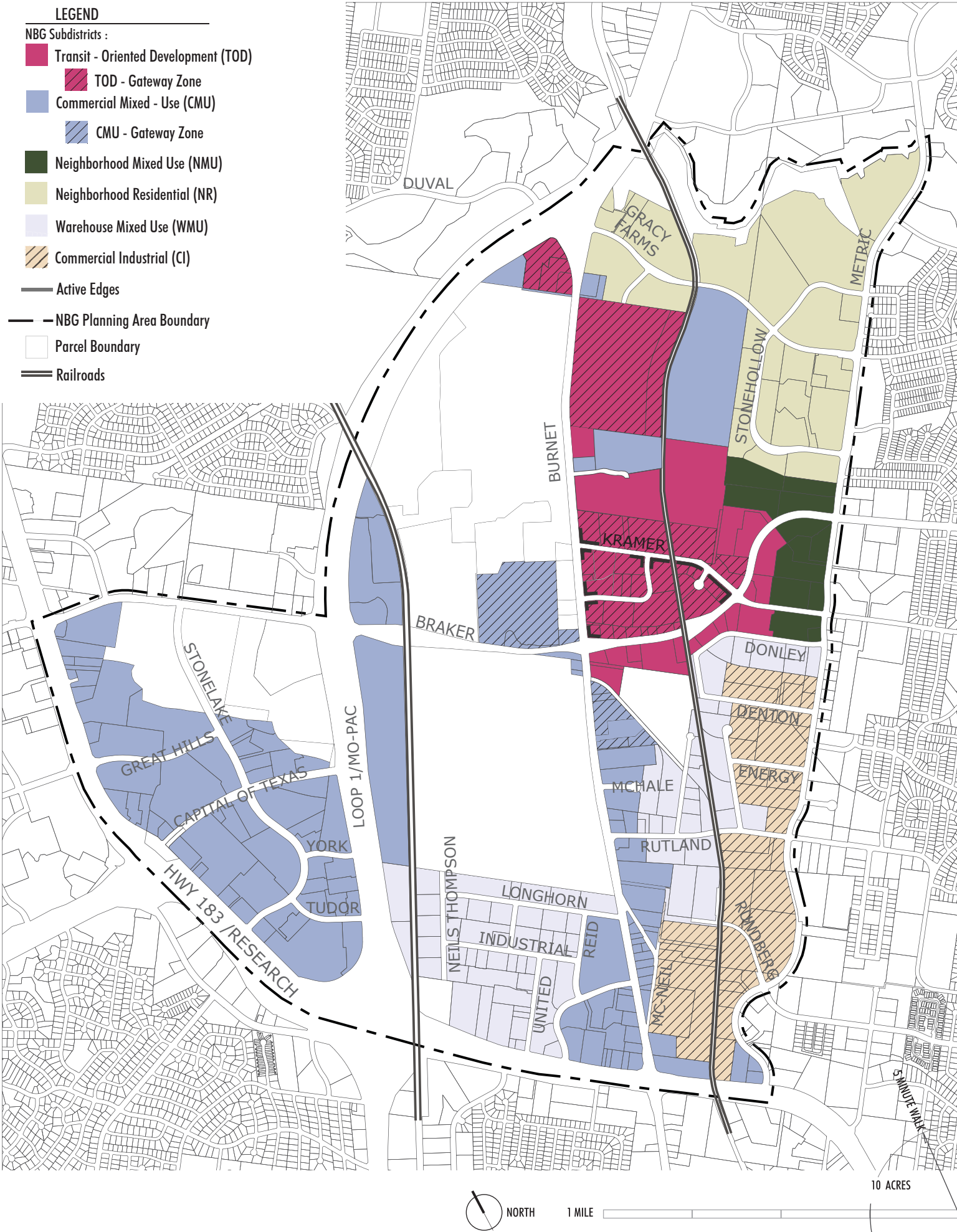


Figure 1-3 : North Burnet / Gateway (NBG) Zoning District
Roadway Types Map

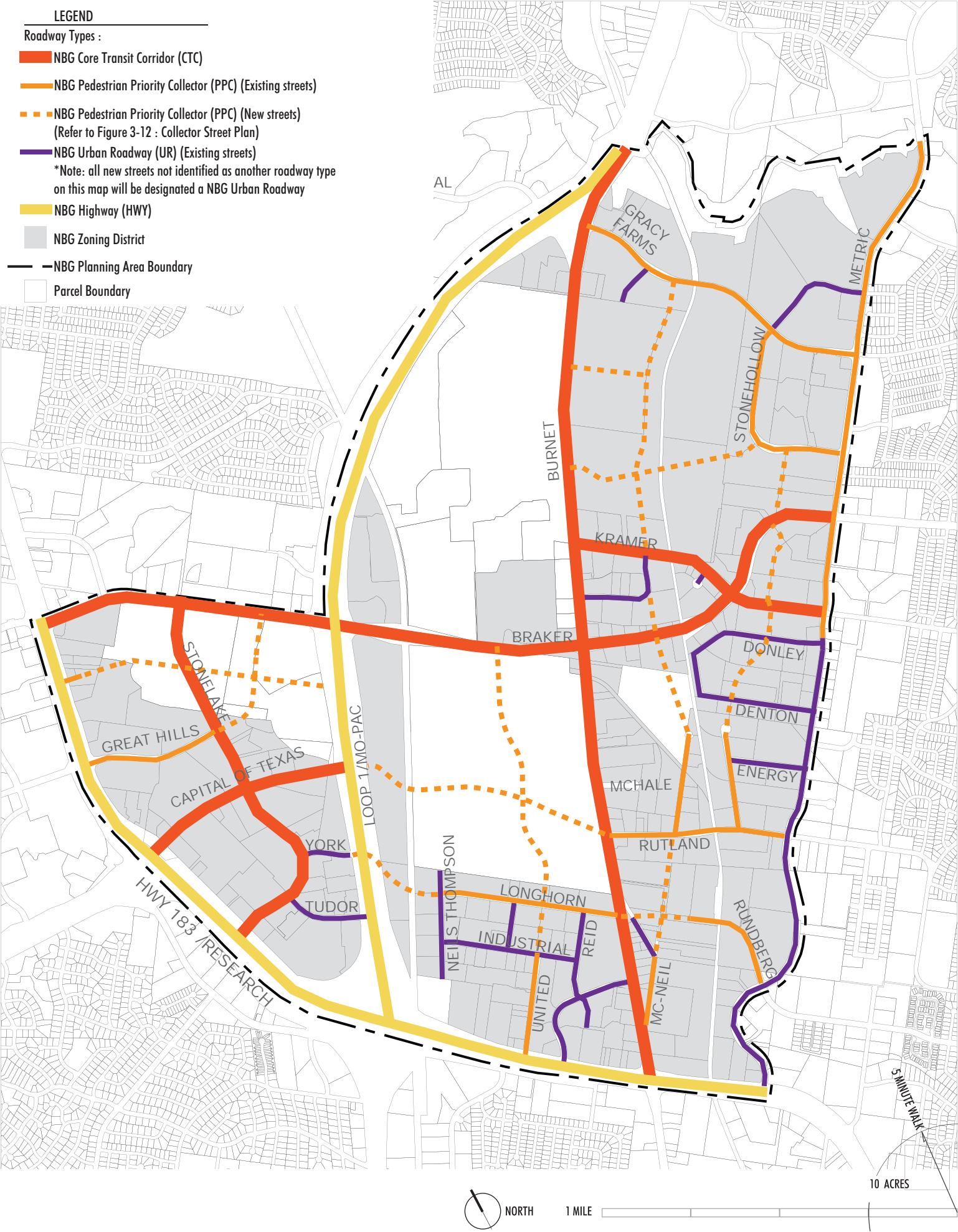


FIGURE 4 - 1 WMU : NBG ZONING DISTRICT GENERAL SITE DEVELOPMENT STANDARDS

WAREHOUSE MIXED USE (WMU) SUBDISTRICT

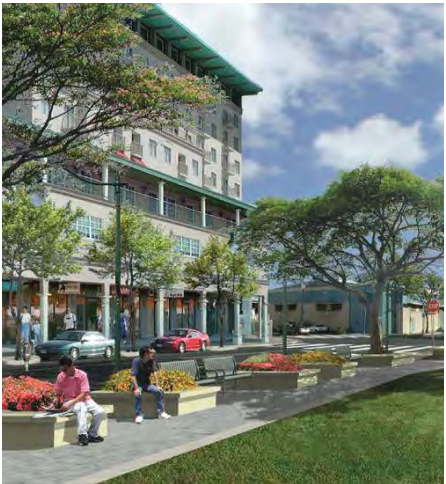
LOT SIZE	
Minimum Lot Size	2,500 SF
Minimum Lot Width	20 Feet

MINIMUM SETBACKS	
Front Yard and Street Side Yard*:	
No ground-level front yard or street side yard setbacks are required. Instead, development must meet the building placement standards in Section 4.3.	
Front and Street Side Upper-Story Building Facade Stepbacks:	
The building facade at the 6th story and above must be stepped back 30 feet from the ground-level building facade line.	
Interior Side Yard:	0 Feet
Rear Yard:	0 Feet
* If the street 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 center line of the street to ensure fire access.	

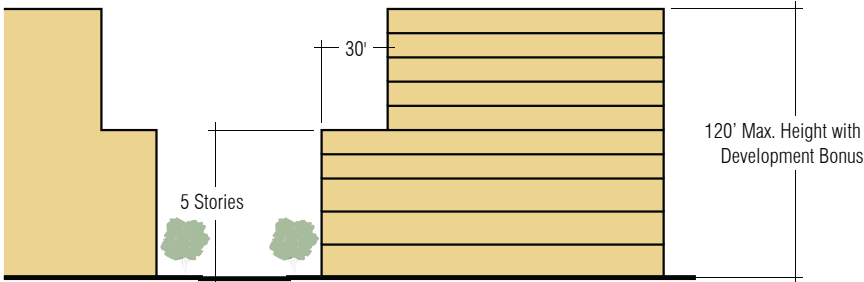
MAXIMUM IMPERVIOUS COVER	
If located in an urban watershed (Shoal or Little Walnut Creek) :	
Established on Figure 4-6 (Based on the maximum impervious cover allowed by the property’s zoning prior to adoption of the this Document.)	
If located in a suburban watershed (Walnut Creek):	
Not applicable	

FLOOR TO AREA RATIO	
Maximum Floor-to-Area Ratio (FAR) by Right:	
Established on Figure 4-2 (Based on the maximum FAR allowed by the property’s zoning prior to adoption of this Document)	
Maximum Floor-to-Area Ratio (FAR) with Development Bonus: 3:1	
This FAR may be granted in exchange for the provision of public benefits. The development bonus criteria and standards are detailed in Article 6.	

BUILDING HEIGHT	
Minimum Building Height:	
Not applicable	
Maximum Building Height by Right:	
Established on Figure 4-4 (Based on the maximum height allowed by the property’s zoning prior to adoption of this Document.)	
Maximum Building Height with Development Bonus: 120 Feet	
This building height may be granted in exchange for the provision of public benefits. The development bonus criteria and standards are detailed in Article 6.	



Typical examples of buildings in the Warehouse Mixed Use Subdistrict.



COMMERCIAL MIXED USE (CMU) SUBDISTRICT

LOT SIZE	
Minimum Lot Size	2,500 SF
Minimum Lot Width	20 Feet

MINIMUM SETBACKS	
Front Yard and Street Side Yard*:	
No ground-level front yard or street side yard setbacks are required. Instead, development must meet the building placement standards in Section 4.3.	
Front and Street Side Upper-Story Building Facade Stepbacks:	
The building facade at the 6th story and above must be stepped back 30 feet from the ground-level building facade line.	
Interior Side Yard:	0 Feet
Rear Yard:	0 Feet
* If the street 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 center line of the street to ensure fire access.	

MAXIMUM IMPERVIOUS COVER	
If located in an urban watershed (Shoal or Little Walnut Creek) :	
Established on Figure 4-6 (Based on the maximum impervious cover allowed by the property's zoning prior to adoption of the this Document.)	
If located in a suburban watershed (Walnut Creek)*:	
80%	
* This requirement supersedes impervious cover requirements of Section 25-8-394(C) of the LDC.	

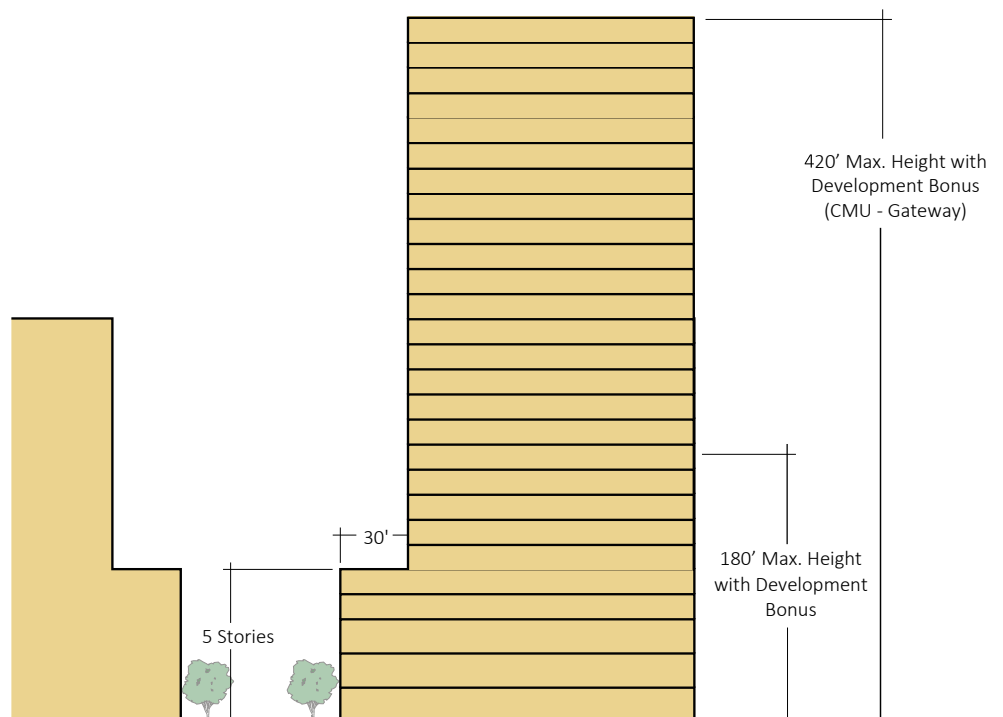
PLATTING REQUIREMENTS	
If located in the CMU Gateway Zone:	
Section 24-4-171(<i>Access to Lots</i>) of the City Code is modified to permit a lot to abut a dedicated public street or a Major Internal Drive.	

FLOOR TO AREA RATIO	
Maximum Floor-to-Area Ratio (FAR) by Right:	
Established on Figure 4-2 (Based on the maximum FAR allowed by the property's zoning prior to adoption of this Document)	
Maximum Floor-to-Area Ratio (FAR) with Development Bonus:	
CMU Zone	3:1
CMU Gateway Zone	12:1
This FAR may be granted in exchange for the provision of public benefits. The development bonus criteria and standards are detailed in Article 6.	



Typical examples of buildings in the Commercial Mixed Use Subdistrict.

BUILDING HEIGHT	
Minimum Building Height:	
Not applicable	
Maximum Building Height by Right:	
Established on Figure 4-4 (Based on the maximum height allowed by the property's zoning prior to adoption of this Document.)	
Maximum Building Height with Development Bonus*:	
CMU Zone	180 Feet
CMU Gateway Zone	420 Feet
This building height may be granted in exchange for the provision of public benefits. The development bonus criteria and standards are detailed in Article 6.	
*Exception: If adjacent to or across the street from NR Subdistrict the maximum height is 120 feet.	



RESOLUTION NO. 20230504-020

WHEREAS, Austin is experiencing tremendous growth in the North Burnet/Gateway and Domain area, an Imagine Austin Regional Center identified as Austin’s “second downtown”; and

WHEREAS, Council adopted the North Burnet/Gateway Vision Plan in 2006, and followed with adoption of the North Burnet/Gateway Regulating Plan in 2009; and

WHEREAS, Council has since adopted multiple amendments to the North Burnet/Gateway Regulating Plan, identified as Ordinance No. 20120322-088, Ordinance No. 20130425-104, Ordinance No. 20140828-159, Ordinance No. 20180412-051, Ordinance No. 20180628-088, Ordinance No. 20190620-112, Ordinance No. 20190808-101, Ordinance No. 20221027-044, Ordinance No. 20230209-046; and

WHEREAS, these amendments facilitated the redevelopment of the area’s older industrial, office, and warehouse structures in favor of mixed use development with housing density, office spaces, and vibrant store fronts for small retail business; and

WHEREAS, Council supports a comprehensive update to meet the City’s short- and long-term priorities for housing, employment, small business development, and transportation as outlined in Resolution 20220616-049; and

WHEREAS, the North Burnet/Gateway area needs to be positioned to help meet Austin’s Strategic Housing Blueprint goals of locating 75% of new housing units within ½ mile of Imagine Austin’s Centers & Corridors and of providing 25% of income-restricted affordable housing units in high opportunity areas; and

WHEREAS, the construction of two new Red Line commuter rail stations, one at the Uptown ATX campus and the other at McKalla to serve the Q2 Stadium,

will spur even more interest and development in the North Burnet/Gateway area; and

WHEREAS, the North Burnet/Gateway area is also well-served by Burnet Road as a major MetroRapid transit corridor intersecting with multiple Capital Metro high-frequency bus routes; and

WHEREAS, comprehensive amendments to the North Burnet/Gateway Regulating Plan will provide cohesive alignment with the original Vision Plan, Imagine Austin, and Austin's Strategic Housing Blueprint. **NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF AUSTIN:**

The City Council initiates the following amendments to the North Burnet/Gateway Regulating Plan:


- (1) Keep the base entitlements the same and increase the allowable maximum height and FAR in all subdistricts through a development bonus; and
- (2) Apply a wider variety of subdistricts to parcels in the North Burnet/Gateway Regulating Plan west of Mopac; and
- (3) Amend sign regulations in the North Burnet/Gateway Regulating Plan to align with City Code Chapter 25-10 (Sign Regulations), including common area signage, directional signage, free standing and wall signage on buildings, wayfinding signage, park signage, and Capital Metro signage, and any other signage regulations; and
- (4) Adjust the Land Use Standards for General Retail Sales (Figure 2-1) to remove square footage limitations in cases where a single project or property owner may provide retail space to multiple small businesses that will enhance the pedestrian experience; and
- (5) Eliminate the current requirement for a 30-foot step-back for building facades at the 6th story and above, which limits potential housing developments, retail choices, or office development; and

- (6) Eliminate the 120-foot height limit in the Transit-Oriented Development (TOD), Corridor Mixed Use (CMU), and CMU-Gateway subdistricts when adjacent to and across the street from Neighborhood Residential (NR) subdistrict; and
- (7) Amend Section 4.2.4 Compatibility Standards so that City Code Chapter 2, Article 10, Division 2 shall not apply within the North Burnet/Gateway Regulating Plan boundaries and eliminate Subsections 4.2.4.A. and 4.2.4.B.; and
- (8) Align parking requirements with applicable Council actions associated with citywide parking requirement changes; and
- (9) Modify the development bonus provisions and fees for the North Burnet/Gateway Regulating Plan to allow maximum height and FAR to be achieved administratively with sufficient community benefit, and the maximums exceeded with council approval, similar to the Downtown Density Bonus Program, achieving greater community benefits such as housing and transit- and mobility-related improvements.

BE IT FURTHER RESOLVED:

The City Manager is directed to process amendments necessary to accomplish the purposes set forth in this resolution and return with a draft ordinance for City Council consideration by October 19, 2023.

ADOPTED: May 4, 2023 **ATTEST:** Stephanie Hall for
Myrna Rios
City Clerk

	ABOVEGROUND HAZARDOUS MATERIALS RISK AND CONSEQUENCE ASSESSMENT REPORT	
	Address: 2404 Rutland Dr	Case Number: C14-2023-0045
	Project Name: 2404 Rutland Dr	Report Date: May 25, 2023
	Prepared By: Yvonne Espinoza, Consulting Engineer Contact Information: 512-974-0185, yvonne.espinoza@austintexas.gov	

Project Information

Current Zoning	NBG – WMU - NP
Proposed Zoning	NBG – CMU - NP

Adjacent Zoning/Property Information




Address Ranges within 1000 Ft.

Address Range(s)	Street	Address Range(s)	Street
9705 - 10305	Burnet Rd	2500 - 2601	Mc Hale Ct
10109 - 10414	Mc Kalla Place	2209 - 2522	Rutland Dr
10101 - 10300	Metropolitan Ave	9609 - 9611	Mc Neil Rd

HMP Sites within 1000 Ft.

Business	Address	Zoning	HMP Type	Last Insp.	Concern?
Clearshift, LLC	9705 Burnet Rd	NGB - NP	B	5/2015	N
J&J Mechanical	9705 Burnet Rd	NGB - NP	B	8/2015	N
Jack In the Box	9825 Burnet Rd	NGB - NP	B	7/2018	N
O-K Paper Center	9715 Burnet Rd	NGB - NP	B	5/2004	N

	ABOVEGROUND HAZARDOUS MATERIALS RISK AND CONSEQUENCE ASSESSMENT REPORT	
	Address: 2404 Rutland Dr	Case Number: C14-2023-0045
	Project Name: 2404 Rutland Dr	Report Date: May 25, 2023
	Prepared By: Yvonne Espinoza, Consulting Engineer Contact Information: 512-974-0185, yvonne.espinoza@austintexas.gov	

Stratasys Inc	9715 Burnet Rd	NGB - NP	A	3/2018	N
Robert Madden Industries	2500 Mc Hale Ct	NGB - NP	B	4/2017	N
Austin FC Soccer Stadium	10414 Mc Kalla Pl	NGB - NP	B	3/2021	N
Graham Barns Distilling	10109 Mc Kalla Pl	NGB - NP	A	9/2015	N
Pro-Air Engineering	10317 Mc Kalla Pl	NGB - NP	C	12/2019	N
Resale Resource Corporation	10200 Mc Kalla Pl	NGB - NP	C	10/2020	N
Capitol Scientific, Inc	2500 Rutland Dr	NGB - NP	A	10/2020	N
Charter Communications	2433 Rutland Dr	NGB - NP	C	9/2016	N
Durango Doors HQ	2300 Rutland Dr	NGB - NP	A	9/2014	N
Esmer Tile, LLC	2315 Rutland Dr	NGB - NP	B	10/2016	N
Harway Supply Inc	2209 Rutland Dr	NGB - NP	B	10/2013	N
Mohawk Industries Inc	2209 Rutland Dr	NGB - NP	B	6/2006	N
Trane	2209 Rutland Dr	NGB - NP	B	12/2019	N
United Refrigeration Inc	2214 Rutland Dr	NGB - NP	B	12/2019	N

HMP Sites with Hazards of Concern

Business	Hazardous Material of Concern	Approximate Distance to Property (feet)	AFD Required Distance (feet)	ERG Required Distance (feet)	Meeting Distance Requirement?

Recommend to Allow Zoning Change?	Yes	No
--	------------	-----------

Supporting Information for Zoning Decision

AFD will recommend to Housing and Planning that they approve the zoning change. There are presently no businesses with Aboveground Hazardous Materials Permits with 1000 ft that pose a potential evacuation or exposure hazard based on current inventories being reported. However, AFD remains opposed to the development of multifamily adjacent to industrial zoning or in this case completely surrounded by industry. There remains the potential for future industrial tenants to create an evacuation or exposure hazard.