

# **DRAFT Regulating Plan for the North Burnet/Gateway Zoning District Austin, Texas**



**DRAFT: September 3, 2008**  
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**BASED ON THE NORTH BURNET/GATEWAY MASTER PLAN:**  
***Adopted November 1, 2007***

**DRAFT REGULATING PLAN for the  
North Burnet/Gateway Zoning District**

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## BACKGROUND

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On November 1, 2007 the Austin City Council adopted the North Burnet/Gateway Master Plan as an amendment to the Austin Tomorrow Comprehensive Plan and created the North Burnet/Gateway Overlay District to implement the land use recommendations of the plan. The planning area comprises approximately 2,300 acres in north central Austin that will be well-served by transit and has the potential to include two regional Transit-Oriented Development (TOD) nodes; one along the Capital Metro commuter rail line which will begin service in late 2008 and another along the potential future Austin-San Antonio Intermunicipal Commuter Rail line which is in the planning stage.

Transit-oriented Development (TOD) is an increasingly popular tool for cities across the U.S. to create more livable communities and combat urban sprawl, which has a number of negative cultural, economic, environmental, and social consequences that are felt in both urban and suburban areas. Sprawl can threaten the quality of life in the central city and inner suburbs due to the risk of deteriorating infrastructure, poor schools, and a shortage of affordable, quality housing. In newer suburban areas, sprawl can cause increased traffic congestion and declining air quality, the absence of a sense of place, and the loss of open space. Since the mid-1990s, the City of Austin has taken steps to redirect Austin's explosive growth away from suburban areas back towards the central city and improve development patterns through a number of land use and planning initiatives.

The North Burnet/Gateway (NBG) Master Plan presents a long-term vision for the area to redevelop the existing low density, auto-oriented commercial, warehouse and industrial uses 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 within Austin's Urban Core. The intent is to allow a significant number of new residents to move into the area to accommodate some of the expected population growth in the region and to provide the associated community and neighborhood services, parks, and public space important to making a great neighborhood. These may include restaurants, small local businesses, retailers, and multi-story, mixed use buildings with direct pedestrian access to public transit. An important element of the plan is to enhance development design quality and create great places where people can live, work, shop, interact and recreate within a walking distance of one another.

The type of urban development envisioned in the NBG Master Plan requires modifications to the existing zoning and development regulations. This Document is intended to implement the Master Plan's land use and urban design recommendations by establishing a clear, user-friendly and legally enforceable ordinance that will result in improved development quality in the North Burnet/Gateway area. In conjunction with the adoption of this Document, properties formerly within the NBG Overlay District will be given North Burnet/Gateway base district zoning. This Document specifies the regulations for the NBG Zoning District (Figure 1-1). For properties within the North Burnet/Gateway Zoning District, this Document will supersede Subchapter E: Design Standards and Mixed Use (Subchapter E), which applies Citywide; however, the intent statements and standards within this Document are consistent with the development and design principles of Subchapter E.

This Document was adopted on \_\_\_\_\_, and will become effective on \_\_\_\_\_.

## HOW TO USE THIS DOCUMENT

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### **Applicability Is Based on NBG Subdistrict and Adjacent Roadway Type**

Because many of the standards in this Document are defined based on the North Burnet/Gateway (NBG) Subdistrict applicable to the property in question and the roadway type(s) adjacent to it, an important first step in the development process is to identify them. The size of the site and the type of development (residential, commercial, mixed use, etc.) also need to be considered, since different standards may apply. The applicability chart in Article 1 summarizes the applicability of all the standards in this Document, based on the NBG Subdistrict, type of adjacent roadways, and development activity.

### **NBG Subdistricts**

The boundaries of the NBG Subdistricts are shown in Figure 1-2. Permitted land uses and general development and urban design standards for a property are based upon the applicable NBG Subdistrict. The six Subdistricts in the North Burnet/Gateway Zoning District are:

**Transit-Oriented Development (TOD)** is the highest density subdistrict in the North Burnet/Gateway area with the greatest focus on providing active pedestrian oriented uses at the ground level of buildings. Density is enabled to the highest degree in the "TOD-Gateway area" closest to the rail station and to a lesser degree elsewhere.

Within the TOD Subdistrict certain areas are identified as active edges on the NBG Subdistrict Map. An active edge designation imposes additional specific land use and design requirements for development at visible intersections and along key streets that lead to the rail station.

**Commercial Mixed Use (CMU)** is a high density mixed-use subdistrict, appropriate for high rise residential, major employers, destination retail and large scale civic uses.

On the NBG Subdistricts Map the University of Texas "Western Tract" Property is identified as CMU-UT. The NBG Master Plan vision for this area is to allow land uses similar to the Neighborhood Mixed Use (NMU) Subdistrict, including residential, neighborhood-oriented retail, and smaller employers, but with the greater height and site development regulations allowed in the Commercial Mixed Use (CMU) Subdistrict. Because of the large amount of destination retail that already exists in the Gateway portion of the planning area, it is important to balance it with other uses in a neighborhood-center style of development.

**Neighborhood Mixed Use (NMU)** is intended to be primarily mid-rise residential with neighborhood-oriented retail and smaller employers.

**Neighborhood Residential (NR)** is used for primarily attached housing and neighborhood retail to transition to existing residential neighborhoods outside the NBG Zoning District. Local retail and supporting civic uses are also allowed.

**Warehouse Mixed-Use (WMU)** accommodates existing and new industrial warehouse uses and enables development of residential and local retail uses.

**Commercial Industrial (CI)** accommodates existing and new industrial uses while enabling diversification.

## Roadway Types

The four NBG roadway types are shown on the NBG Roadway Type Map in Figure 1-3. Because roadways provide both access to a site and define the urban design framework of the City, roadway types have been used as an organizing tool to establish many of the sidewalk, streetscape and building placement standards in this Document. This approach is intended to provide a consistent regulatory approach between Subchapter E and this Document and to help ensure a cohesive development pattern along Austin's streets and remove some of the inconsistency that arises from having a variety of zoning districts and development standards fronting a single roadway.

Using Subchapter E as a model, the following four types of roadways are applicable to the North Burnet/Gateway Zoning District covered by this Document:

**NBG Core Transit Corridors** include roadways within the NBG Zoning District that have or will have a sufficient population density, mix of uses, and transit facilities to encourage and support transit use. They have a high level of visibility and offer some of the best locations for retail service activity. NBG Core Transit Corridors are the designated portions of the following roadways within the boundaries of the NBG Zoning District:

- Burnet Road
- Braker Lane
- Kramer Lane
- Stonelake Blvd.
- Capital of Texas Hwy

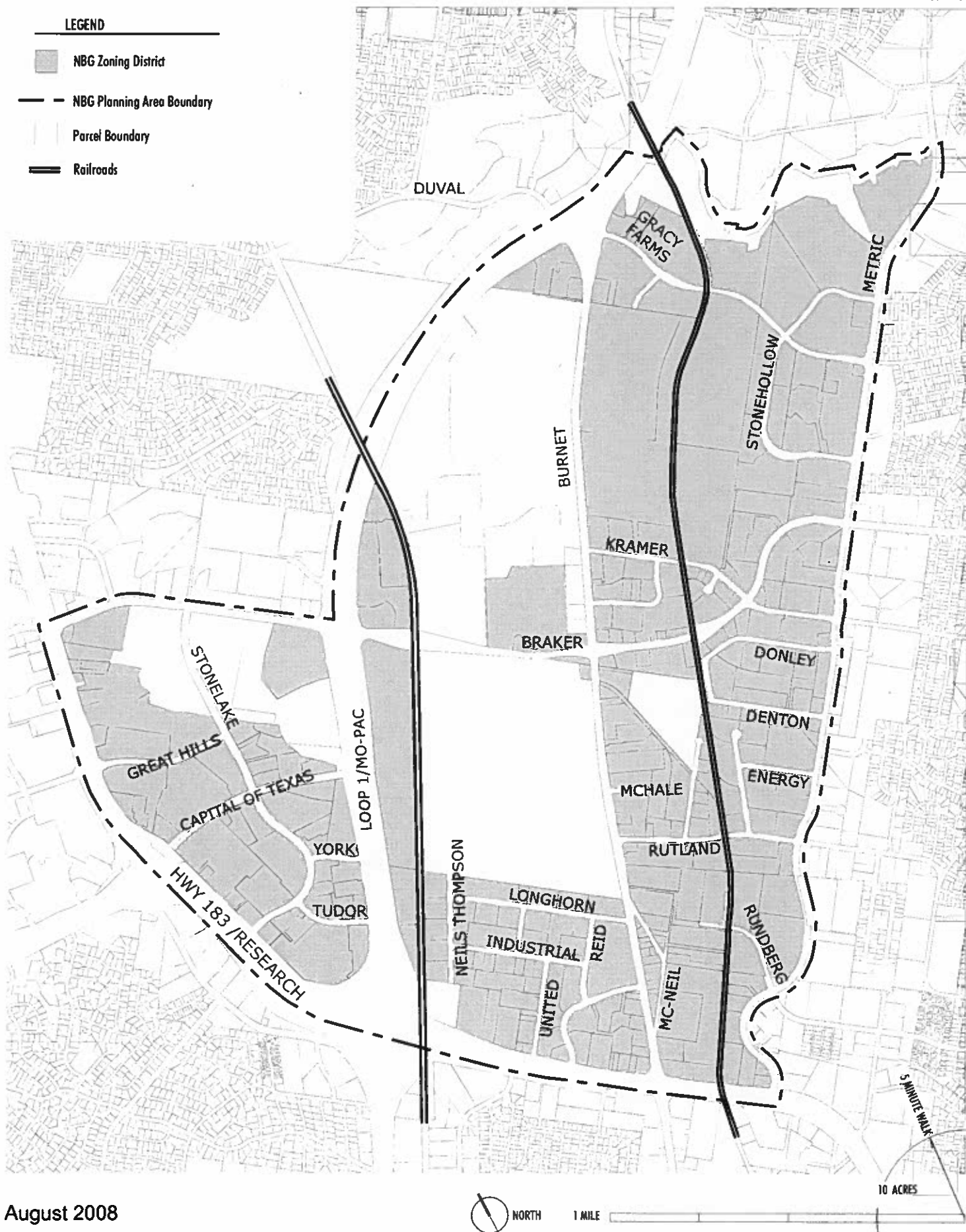
**NBG Pedestrian Priority Collectors** are existing and future collector streets that also serve as primary pedestrian routes within the NBG Zoning District. Article 3 of this Document identifies locations for new collector streets to form direct vehicular, bicycle and pedestrian connections between major roadways in the NBG Planning Area as the area redevelops (see Figure 3-12: NBG Collector Street Plan). All new streets built in accordance with the NBG Collector Street Plan will be designated as an NBG Pedestrian Priority Collector.

**NBG Urban Roadways** are all existing and future streets located within the NBG Zoning District not designated as NBG Core Transit Corridors, NBG Pedestrian Priority Collectors or NBG Highways, excluding smaller circulation routes like alleys. These streets form the finer grained network of streets that complement the transportation framework created by the other roadway types. Any new street in the NBG Zoning District that does not have NBG Core Transit Corridor, NBG Pedestrian Priority Collector or NBG Highway designation, nor is identified as a proposed new collector street on Figure 3-12: NBG Collector Street Plan, will be designated a NBG Urban Roadway for the purpose of applying the standards in this Document.

**NBG Highways** include MoPac (Loop 1) and Highway 183 (Research Blvd.) and their frontage roads in the NBG Zoning District boundaries.

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

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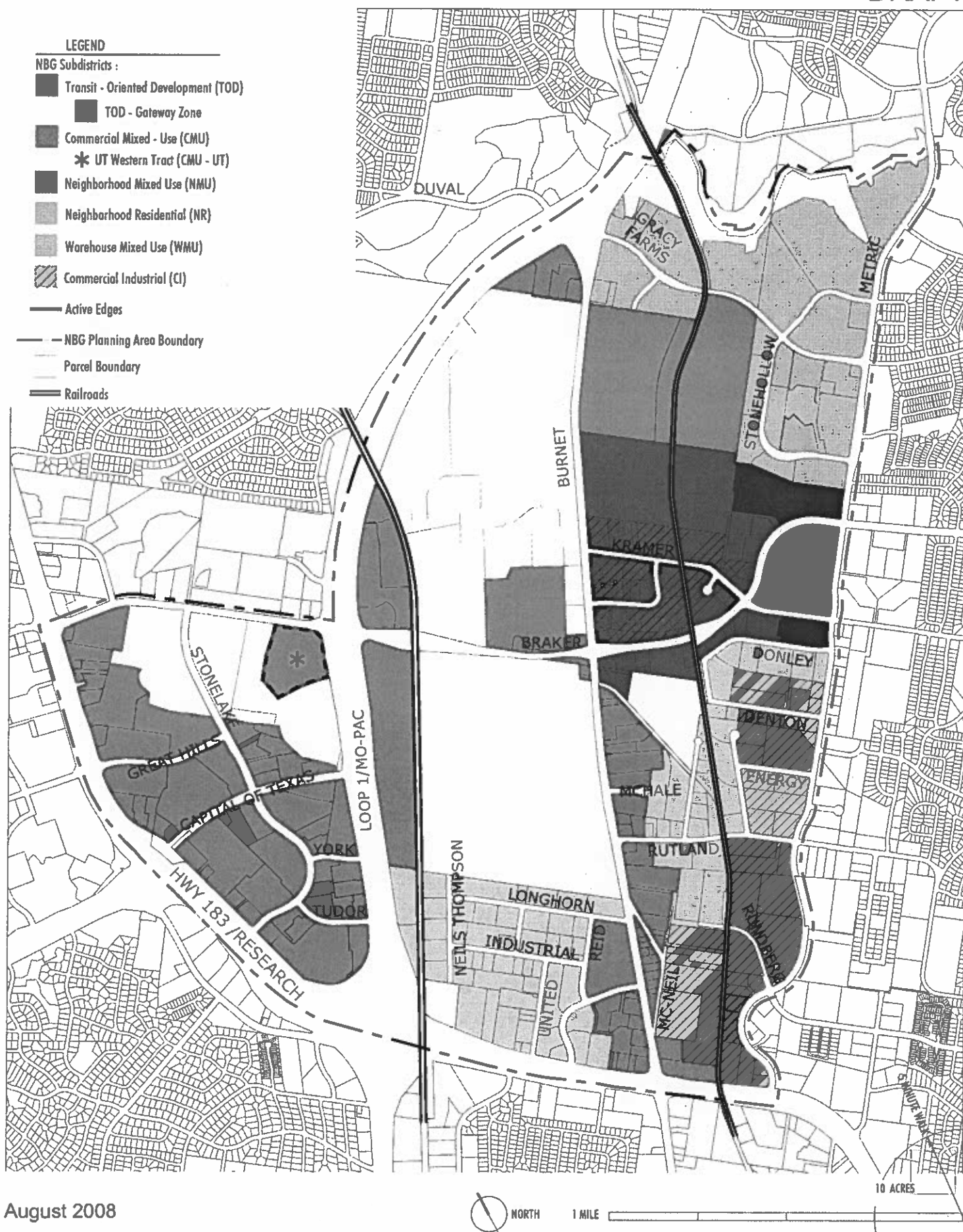


August 2008



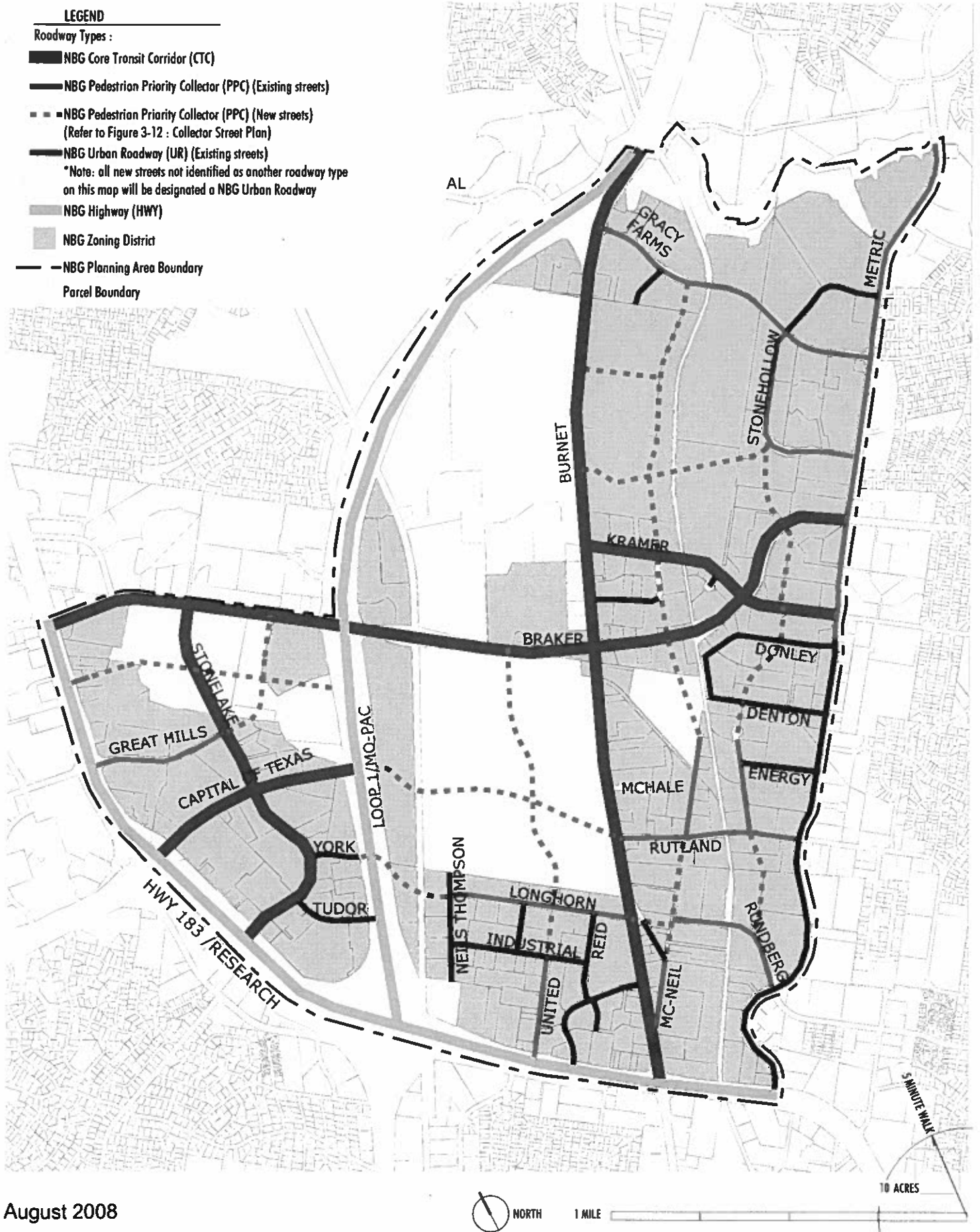
Figure 1 - 2 : North Burnet / Gateway (NBG) Zoning District  
Subdistrict Map

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

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## How This Document is Organized

This Document is divided into seven Articles.

**Article 1** includes **General Provisions** that should be reviewed for all properties in the NBG Zoning District. Article 1 also includes a chart that summarizes the applicability of the various standards based on NBG Subdistricts (Figure 1-2), NBG Roadway Types (Figure 1-3) and development types.

This Article also encourages creativity and innovative design by allowing an applicant to propose an alternative approach to meeting the standards of the Document through the “alternative equivalent compliance” provision.

**Article 2** includes **Land Use** requirements for each NBG Subdistrict. Standards in this Article address the following:

- Permitted, conditional, and prohibited uses

**Article 3** includes **Circulation, Connectivity, and Streetscape** requirements. Standards in this Article are based on roadway type and address the following:

- Sidewalks;
- On-street parking; and
- On-site circulation and off-site connectivity

**Article 4** includes **Site Development Standards** intended to ensure that buildings relate appropriately to surrounding developments and streets, promote efficient on-site pedestrian and vehicle circulation, and provide adequate parking in safe and appropriate locations. Most of these standards are based on NBG Subdistricts or are applicable to all development in the NBG Zoning District. The Relationship of buildings to streets and walkways however is based on roadway type. Standards in this Article address the following:

- General development standards;
- Relationship of buildings to streets and walkways (based on roadway type);
- Off-street parking;
- Drive-through facility standards;
- Exterior lighting and screening of equipment and utilities;
- Sign regulations;
- Private common open space and pedestrian amenities; and
- Public open space and trails; and
- Stormwater management.

**Article 5** includes **Building Design Standards** intended to address the physical appearance of all buildings subject to this Document. Included are standards to:

- Building entrances
- Window glazing;
- Shading;
- Building façade treatment;

- Green building standards; and
- Ground floor treatment of active edge mixed use buildings.

**Article 6** includes **Development Bonus Standards** which provide development incentives for projects to contribute to the provision of “public benefits” by providing new collector streets, affordable housing on-site, or by providing a fee-in-lieu of payment to be allocated by the City to serve one or more of the following purposes:

- Affordable housing;
- Vehicular, bicycle or pedestrian connectivity;
- Stormwater management;
- Parks and open space;
- Civic facilities;
- Green buildings and sustainability; and/or
- Future transit facilities.

**Article 7** includes **Definitions** for terms used in this Document.

**Appendix A** includes **NBG Street Cross-Section Standards** for new streets built within the North Burnet/Gateway Zoning District.

**Appendix B** includes the **2035 Conceptual Master Plan illustration** from the NBG Master Plan, adopted November 1, 2007. This illustration includes conceptual locations for distributed parks and open space.

**Appendix C** includes photos and illustrations of **Innovative Water Quality Controls (voluntary)** as described in the City of Austin Environmental Criteria Manual Section 1.6. Development projects and new streets within the NBG Planning Area are encouraged to incorporate these innovative water quality controls into the project design.

**Appendix D** provides **illustrations of impervious cover and drainage pattern assumptions for regional stormwater detention ponds near MoPac (Z-K, PSP 1, PSP 2, and MoPac ponds).** Properties included on these illustrations, if developed in accordance with the assumptions, may be able to utilize the regional ponds to fulfill stormwater management requirements instead of building individual detention ponds on site.

## **ARTICLE 1: GENERAL PROVISIONS**

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### **1.1. GENERAL INTENT**

This Document addresses the physical relationship between development and adjacent properties, streets, neighborhoods, and the natural environment in order to implement the North Burnet/Gateway Master Plan vision of creating a high-density mixed-use neighborhood that is pedestrian and transit-friendly. The general purposes of this Document are:

- 1.1.1.** To promote the Vision for the North Burnet/Gateway Master Plan;
- 1.1.2.** To provide appropriate standards to ensure a high quality appearance for development and redevelopment within the NBG Zoning District and promote pedestrian-friendly design while also allowing for individuality, creativity, and artistic expression;
- 1.1.3.** To improve the area's access to high quality transit services and create an environment that promotes walking and cycling;
- 1.1.4.** To promote TOD principles around the transit stations in order to successfully integrate land use and transit by providing greater density than the community average, a mix of uses, and a quality pedestrian environment around a defined center;
- 1.1.5.** To encourage development and redevelopment that relates to and connects with adjoining streets, transit, bikeways, pathways, open spaces, and neighborhoods;
- 1.1.6.** To allow for and encourage significant higher density residential uses to accommodate some of the region's expected population growth;
- 1.1.7.** To encourage development that serves people of all incomes and ages and provides a safe and welcoming environment for all types of households; and
- 1.1.8.** To provide standards to ensure quality usable open space for new residential development, employees, and visitors as redevelopment occurs.
- 1.1.9.** To promote sustainable stormwater management and watershed protection practices, and provide standards that can be administered in a comprehensive manner in the NBG Zoning District.
- 1.1.10.** To provide a set of standards that are clear and consistent throughout the NBG Zoning District to facilitate development, redevelopment, and property assembly, in addition to being flexible and responsive to market conditions and fluctuations.

### **1.2. APPLICABILITY**

#### **1.2.1. General Applicability**

This Document applies to all development within the NBG Zoning District as shown in Figure 1-1. This Document sets forth the regulations for the North Burnet/Gateway Zoning District. The relevance of the regulations in Articles 2 through 7 will vary based upon the NBG Subdistrict that applies to a specific piece of property and the type of roadway(s) that is adjacent to it as well as the size of the site and type of development. Figures 1-4 and 1-5 summarize the applicability of each Article and section of this Document.

**Figure 1-4: Applicability Summary Table – Land Use, General Development Standards, and Development Bonus** (applicable to all development in the NBG Zoning District)

Section:	Standard:	Application:
<b>Article 2 Land Use Standards:</b>		
<b>2.3: NBG Subdistricts</b>	All standards	All properties in the NBG Zoning District
<b>Article 4 Site Development Standards</b>		
<b>4.2: General Development Standards</b>	All standards	All properties in the NBG Zoning District
<b>4.8: Sign Regulations</b>	All standards	All properties in the NBG Zoning District
<b>4.10: Public Open Space and Trails</b>	4.10.3 Parkland Dedication	All development subject to the Parkland Dedication Ordinance (LDC Article 14 Section 25-1-601)
<b>Article 6 Development Bonus:</b>		
<b>6.2: Interim Development Bonus Standards</b>	All standards	All properties or portions of properties in the NBG Zoning District are eligible for a development bonus.

**Figure 1-5: Applicability Summary Table – NBG Design Standards**

(see Subsection 1.2.3 for general applicability of NBG Design Standards)

Section:	Standard:	Applies if the NBG Subdistrict Is:	Applies if the Principal or Adjacent Street Is:	Applies to the Following:
<b>Article 3 Circulation, Connectivity, and Streetscape:</b>				
<b>3.3: Sidewalk Standards</b>	3.3.2. Sidewalk Standards for All Roadway Types	All subdistricts	All roadway types	-All development. -Requirement must be met on all adjacent roadway types
	3.3.3. Alternative Requirements for Shallow Lots on NBG Core Transit Corridors	All subdistricts	NBG Core Transit Corridors	All development
	3.3.4. Sidewalk Exemption for Edge Streets	All subdistricts	All roadway types	All development
<b>3.4: On-Street Parking</b>	All standards	All subdistricts	NBG Core Transit Corridors NBG Ped. Priority Collectors NBG Urban Roadways	Optional for all development
<b>3.5: Connectivity and Circulation</b>	3.5.1. Project Circulation Plan	All subdistricts	All roadway types	All development
	3.5.2 Dedication Of NBG Collector Streets	All subdistricts	NBG Ped. Priority Collectors	Parcels shown with "Required new collector street right-of-way (ROW) dedication" lines on Figure 3-2 NBG Collector Street Plan
	3.5.3 Standards for New Streets	All subdistricts	Not Applicable.	Any new street built in the NBG Zoning District
	3.5.4. Block Standards	All subdistricts	All roadway types	A site five acres or larger, or any block face exceeding 500 feet in length.
	3.5.5. Curb-cut Spacing Standards	All subdistricts	All roadway types	All development

Section:	Standard:	Applies if the NBG Subdistrict Is:	Applies if the Principal or Adjacent Street Is:	Applies to the Following:
<b>3.5: Connectivity and Circulation (cont')</b>	3.5.6. Curb-cut Dimensional Standards	All subdistricts	All roadway types	All development
	3.5.7. Commercial and Residential Alleys	All subdistricts	All roadway types	Optional for all development
	3.5.8. Pedestrian, Bicycle, and Vehicular Connectivity	All subdistricts	All roadway types	All development
<b>Article 4 Site Development Standards:</b>				
<b>4.3: Relationship of Buildings to Streets and Walkways</b>	4.3.3 Building Placement	All subdistricts	NBG Core Transit Corridors NBG Ped. Priority Collectors NBG Urban Roadways	- All development - Required along the principal street - Corner site provisions - Active Edge standards - Industrial use provisions
	4.3.4 Supplemental Zones	All subdistricts	NBG Core Transit Corridors NBG Ped. Priority Collectors NBG Urban Roadways	Optional for all development
<b>4.4: Off-Street Vehicular and Bicycle Parking</b>	All standards	All subdistricts	All roadway types	- All development - Active Edge standards
<b>4.5: Drive-Through Facility Standards</b>	All standards	CMU, NMU, WMU, and CI subdistricts	All roadway types	- Drive-through facilities
<b>4.6: Exterior Lighting</b>	All standards	All subdistricts	All roadway types	All development except Duplex, Single Family Attached, Townhouse, and Two Family Residential Uses
<b>4.7: Screening of Equipment and Utilities</b>	All standards	All subdistricts	All roadway types	- All development - Exceptions are: local utility services, electric service, transformers within the ROW and telecommunication towers.
<b>4.9: Private Common Open Space &amp; Amenities</b>	All standards	All subdistricts	All roadway types	- All development sites two acres in size or larger
<b>4.10: Stormwater Management</b>	All standards	All subdistricts	All roadway types	All development
<b>Article 5: Building Design Standards:</b>				
<b>5.3: Building Entrances</b>	Section 5.3.1 Building Entrance Standards for Pedestrians	All subdistricts	NBG Core Transit Corridors NBG Ped. Priority Collectors NBG Urban Roadways	- All development - Corner site provisions - Active Edge standards
	Section 5.3.2 Building Entrance and Exit Standards for Vehicles	All subdistricts	NBG Core Transit Corridors NBG Ped. Priority Collectors NBG Urban Roadways	- All development except Duplex, Single-Family Attached, Townhouse, and Two-Family Residential uses - Corner site provisions
<b>5.4: Window Glazing</b>	All standards	All subdistricts	NBG Core Transit Corridors NBG Ped. Priority Collectors NBG Urban Roadways	- All development except Duplex, Single-Family Attached, Townhouse, and Two-Family Residential uses - Corner site provisions

Section:	Standard:	Applies if the NBG Subdistrict Is:	Applies if the Principal or Adjacent Street Is:	Applies to the Following:
<b>5.5: Shade and Shelter</b>	All standards	All subdistricts	All roadway types	- All mixed use and non-residential development - Development along an active edge - Corner site provisions
<b>5.6: Building Façade Articulation</b>	All standards	All subdistricts	All roadway types	Building facades greater than 40 feet in length
<b>5.7: Green Building Standards</b>	All standards	All subdistricts	All roadway types	All development
<b>5.8: Active Edge Standards</b>	All standards	TOD subdistrict	NBG Core Transit Corridors NBG Ped. Priority Collectors	Development along all active edge designations, except Emergency Service Providers -Off street parking provided as part of a building or parking structure adjacent to any roadway type.

### 1.2.2. Land Use and General Development Standards

A. All properties in the NBG Zoning District are subject to the following Articles and Sections of this Document (see Figure 1-4):

1. Article 2, Land Use Standards;
2. Section 4.2, General Development Standards;
3. Section 4.8, Sign Regulations;
4. Section 4.10, Public Open Space and Trails;
5. Section 4.11, Stormwater Management; and
6. Article 6, Development Bonus

### 1.2.3. NBG Design Standards

A. For purposes of applying the design standards in this Document, NBG Design Standards are (see Figure 1-5):

1. Article 3, Circulation, Connectivity, and Streetscape;
2. Article 4, Site Development Standards (except Section 4.2 General Standards, Section 4.8 Sign Regulations, Section 4.10 Public Open Space and Trails, and Section 4.11 Stormwater Management);
3. Article 5, Building Design Standards.



**B. General Exemptions from the NBG Design Standards**

The following types of development are exempt from the NBG Design Standards of this Document:

1. Development that does not require a site plan under LDC Sections 25-5-2(B), (C), (E), (F), (G), (H), (I), or (J);
2. Development for which public access is prohibited due to health, safety and welfare reasons; and
3. Interior remodeling of a building.

**C. New Construction, Redevelopment, and Major Rehabilitation**

Except as provided in Subsections B or D, if a particular standard of this Document is applicable to development on a particular site, then that standard shall be applicable to the following activity:

1. New construction on previously undeveloped land; and
2. New construction where all existing buildings have or will be completely demolished or rendered unusable as determined by the Director.

**D. Partial Compliance**

The requirements of this section apply to any project that is not subject to Subsections B or C above.

1. A project that adds 1,000 square feet or more of gross floor area to an existing building or site and does not meet the requirements for a site plan exemption under Section 25-5-2(D) (Site Plan Exemptions) must comply with the following requirements of this Document:
  - a. Section 3.3, Sidewalk Standards;
  - b. Section 3.4, On-Street Parking;
  - c. Section 4.3, Relationship of Buildings to Streets and Walkways;
  - d. Section 4.4, Off-Street Vehicular and Bicycle Parking;
  - e. Section 4.5, Drive-through Facility Standards;
  - f. Section 4.6, Exterior Lighting; and
  - g. Section 4.7, Screening of Equipment and Utilities.
2. A project that adds 15,000 square feet or more of gross floor area to an existing building or site must comply with the requirements in Subsection 1 above and the following additional requirements of this Document:
  - a. Section 3.5, Connectivity and Circulation
  - b. Section 4.9, Private Common Open Space and Pedestrian Amenities
3. Any new building or addition to an existing building must comply with the requirements of Article 5.
4. Any remodeled building façade must comply with the requirements of Article 5.

**1.2.4. Exemption from Subchapter E of the Land Development Code**

For the area within the NBG Zoning District (Figure 1-1), this Document supersedes all standards and regulations in Chapter 25-2 Subchapter E: Design Standards and Mixed Use.

**1.2.5. Conflicting Provisions**

If the provisions of this Document are inconsistent with provisions found in other adopted codes, ordinances, or regulations of the City of Austin, this Document shall control unless otherwise expressly provided.

**1.2.6. Accessibility**

Accessibility, integration and inclusion of people with disabilities are fundamental components of our vision for the future of the City of Austin. This Document shall not supersede any applicable state or federal accessibility statutes and regulations. Administration and enforcement of this Document shall comply with all such statutes and regulations.

**1.2.7. State and Federal Facilities**

Compliance with the standards of this Document at all state and federal facilities is strongly encouraged so that the Master Plan Vision for the North Burnet/Gateway planning area is supported and reinforced.

## **1.3. REVIEW PROCESS**

### **1.3.1. Standards Applicable During Subdivision Plan Review**

The standards contained in the following sections of this Document shall be applied in the normal review process for subdivision plans as set forth in Chapter 25-4 of the Austin Code:

- A.** Article 2, Land Use Standards;
- B.** Section 3.5, Connectivity and Circulation;
- C.** Section 4.2, General Development Standards;
- D.** Section 4.9, Private Common Open Space and Pedestrian Amenities; and
- E.** Section 4.10, Public Open Space and Trails;

In addition to meeting the review criteria specified in Chapter 25-4 of the LDC, each subdivision plan application shall evidence compliance with the standards listed above.

### **1.3.2. Standards Applicable During Site Plan Review**

The standards contained in the following sections of this Document shall be applied in the normal review process for site plans as set forth in Chapter 25-5 of the LDC:

- A.** Article 2, Land Use Standards;
- B.** Article 3, Circulation, Connectivity, and Streetscape;
- C.** Article 4, Site Development Standards;
- D.** Section 5.3, Building Entrances;
- E.** Section 5.5, Shade and Shelter; and
- F.** Article 6, Development Bonus

In addition to meeting the review criteria specified in Chapter 25-5, each site plan application shall evidence compliance with the standards listed above.

### **1.3.3. Standards Applicable During Building Permit Review**

The standards contained in the following sections of this Document shall be applied in the normal review process for building permits as set forth in Chapter 25-11 of the Austin Code:

- A.** Section 4.6, Exterior Lighting (for fixtures affixed to buildings);
- B.** Section 4.7, Screening of Equipment and Utilities (for fixtures affixed to buildings);

C. Section 4.8, Sign Regulations

D. Article 5, Building Design Standards.

In addition to meeting the review criteria specified in Chapter 25-11, each building permit application shall evidence compliance with the standards listed above.

## **1.4. ALTERNATIVE EQUIVALENT COMPLIANCE**

### **1.4.1. Purpose and Scope**

To encourage creative and original design, and to accommodate projects where the particular site conditions or the proposed use prevent strict compliance with this Document, alternative equivalent compliance allows development to occur in a manner that meets the intent of this Document, yet through an alternative design that does not strictly adhere to the Document's standards. The procedure is intended to be used for relief from a specific design standard or standards, and it is not a general waiver of regulations.

### **1.4.2. Applicability**

The alternative equivalent compliance procedure shall be available only for the following sections of this Document:

- A. Section 3.3 - Sidewalk Standards;
- B. Section 3.5 Connectivity and Circulation;
- C. Section 4.3 - Relationship of Buildings to Streets and Walkways;
- D. Subsection 4.4.4 - Parking Design Standards
- E. Section 4.5 – Drive-through Facility Standards
- F. Section 4.6 - Exterior Lighting;
- G. Section 4.7 - Screening of Equipment and Utilities;
- H. Section 4.9 - Private Common Open Space and Pedestrian Amenities; and
- I. Article 5 - Building Design Standards.

### **1.4.3. Procedure**

The applicant may select at his or her discretion whether to seek an informal recommendation or a formal approval on a proposal for alternative compliance.

#### **A. Option One: Informal Recommendation**

##### **1. Pre-Application Conference Required**

If an applicant desires only an informal response and recommendation as to a proposal for alternative compliance, he or she shall request and attend a pre-

application conference prior to submitting the site plan and/or building permit application for the development. At the conference, the applicant shall provide a written summary of the project and the proposed alternative compliance, and the Director, in coordination with the Urban Design Division of the Neighborhood Planning and Zoning Department, shall offer an informal, non-binding response and recommendation regarding the appropriateness of the proposed alternative. Based on that response, the applicant may prepare a site plan and/or building permit application that proposes alternative compliance, and such application shall include sufficient explanation and justification, in both written and graphic form, for the alternative compliance requested.

**2. Decision-Making Responsibility**

Final approval of any alternative compliance proposed under this section shall be the responsibility of the decision-making body responsible for deciding upon the application. The final decision-making body for site plans is either the Director or the appropriate Land Use Commission, as specified in Chapter 25-5, and the building official for building permits.

**B. Option Two: Formal Decision**

**1. Pre-Application Conference**

If an applicant desires formal approval of a proposal for alternative compliance, he or she shall request and attend a pre-application conference prior to submitting the site plan and/or building permit application for the development.

**2. Alternative Compliance Concept Plan Required**

At least ten days prior to the pre-application conference, the applicant shall submit an alternative compliance concept plan application to the Director, which shall include:

- a. A written description of and justification for the proposed alternative method of compliance, specifically addressing the criteria in Subsection 1.4.4; and
- b. A concept plan that describes and illustrates, in written and graphic format, the intended locations and quantities of proposed buildings on the site, the layout of proposed vehicle and pedestrian access and circulation systems, and areas designated to meet requirements for open space, parking, on-site amenities, utilities, and landscape. The concept plan shall describe the site's topography and shall provide a general description of environmental characteristics to assist in determining compliance with this Document. If alternative compliance is requested from the standards of Article 5 Building Design Standards, the concept plan also shall include descriptions and illustrations of the proposed building design elements that would not comply with the standards of this Document.

**3. Decision by Director**

The Director, in coordination with the Urban Design Division in the Neighborhood Planning and Zoning Department, shall review the concept plan for compliance

with the criteria in Subsection 1.4.4 and shall approve, approve with conditions, or deny the concept plan in writing.

**4. Expiration of Alternative Compliance Concept Plans**

- a. An approved alternative compliance concept plan shall expire if three years pass following its approval and no building permit that implements the concept plan has been issued.
- b. One, one-year extension may be issued by the Director provided that a written request has been received prior to the expiration of the concept plan, and the Director has determined that no major changes in the City's development standards, or changes in the development pattern of the surrounding properties, have occurred.

**5. Effect of Approval**

Written approval of an alternative compliance concept plan does not authorize any development activity, but rather authorizes the applicant to prepare a site plan and/or building permit application that incorporates the approved alternative compliance, and authorizes the decision-making body (either the Land Use Commission or the Director for site plans, and the building official for building permits) to review the site plan and/or building permit application for compliance with the alternative compliance concept plan, in addition to all other applicable requirements. The site plan and/or building permit application shall include a copy of the approved alternative compliance concept plan.

**6. Amendments to Alternative Compliance Concept Plans**

- a. Minor amendments to any approved alternative compliance concept plan may be approved, approved with conditions, or denied administratively by the Director. For purposes of this provision, minor amendments are those that do not result in:
  - (i) An increase of 10 percent or more in the amount of square footage of a land use or structure;
  - (ii) A change in the types of uses in the project;
  - (iii) An increase or decrease of 20 percent or more in the number of dwelling units in the project; or
  - (iv) A change that would bring the project out of compliance with any requirement or regulation set forth in the City Code outside this Document unless a variance to or waiver from such requirement or regulation is obtained.
- b. Amendments that are not determined by the Director to be minor amendments under Subsection B.6.a. above shall be deemed major amendments. The applicant may seek approval of a major amendment by re-submitting the original approved plan along with the proposed amendment to the Director for review in the same manner prescribed in Subsection B.2. above.
- c. If any site plan and/or building permit application includes a major amendment from the terms of the approved concept plan that has not been

approved by the Director, the concept plan shall be void and the application shall be reviewed for compliance with the standards of this Document and all other applicable requirements.

#### **1.4.4. Criteria**

Alternative equivalent compliance may be approved only if the applicant demonstrates that the following criteria have been met:

- A.** The proposed alternative will perform as well or better than the standard or standards being modified and achieves the intent of the subject Article of this Document from which the alternative is sought; or
- B.** The proposed alternative achieves the intent of the subject Article of this Document from which the alternative is sought to the maximum extent practicable and is necessary because:
  - 1.** Physical characteristics unique to the subject site (such as, but not limited to, slopes, size, shape, and vegetation) make strict compliance with the subject standard impracticable or unreasonable; or
  - 2.** Physical design characteristics unique to the proposed use or type of use make strict compliance with the subject standard impracticable or unreasonable.
- C.** In the case of multiple alternative equivalent compliance or variance requests, the Director shall consider the cumulative affect they would have on meeting the intent statements in Sections 1.1, 2.2, 3.1, 4.1, 5.1 or 6.1.

#### **1.4.5. Effect of Approval**

Alternative compliance shall apply only to the specific site for which it is requested and shall not establish a precedent for approval of other requests.

### **1.5. WAIVER**

#### **1.5.1. Purpose and Scope**

To authorize waiver of specific requirements in this Document where compliance is impossible or infeasible. A waiver may not be granted for projects requiring full compliance with the requirements of this Document under Section 1.2.3.C or projects for alternative equivalent compliance under Section 1.4 would be sufficient to allow development.

#### **1.5.2. Applicability**

Subject to the requirements of this Section, a waiver may be granted for any requirement of this Document.