



## MEMORANDUM

TO: Mayor and Council

FROM: Greg Guernsey, Director  
Neighborhood Planning and Zoning Department

DATE: October 15, 2008

SUBJECT: Response to Council Member Morrison's Questions regarding the proposed North Burnet/Gateway Development Bonus (C14-2008-0182 – North Burnet/Gateway Rezoning and C20-2008-016 – North Burnet/Gateway Code Amendment)

This memo provides responses to a set of questions/discussion points submitted to staff by Council Member Morrison (see attachment) regarding the proposed North Burnet/Gateway (NBG) Development Bonus, an element of the NBG Regulating Plan, which will rezone many properties in the plan area in line with the vision of the North Burnet/Gateway Master Plan. City Council adopted the NBG Master Plan on Nov. 1, 2007. The proposed rezoning will be presented to Council on Oct. 16<sup>th</sup> 2008 at a staff briefing at 2:00pm and a public hearing at 4:00pm.

### **Issue: Density Bonus for Construction of New Collector Streets**

**Question:** “What economic analyses have been conducted to assure the city that we are getting a balanced trade for this increase in entitlement? What procedures or flexibility in procedures will exist to allow the city to grant density bonuses based on the significance of the right-of-way dedication and construction of the street segment?”

### **Background and Response**

As part of the North Burnet/Gateway master planning process, the City's consultants conducted a transportation analysis based on a 30-year plan build-out scenario. That transportation analysis assumed a much “finer-grained” roadway network to manage and disperse significant increases in the density of the area, and support reduction of trips due to multi-modal connectivity. The analysis specifically identified the need for a new network of continuous collector streets. Internal connectivity is one of the biggest challenges in the North Burnet/Gateway area, as the area was originally developed as an industrial and commercial center, with properties forming large blocks with long distances between roadway connections. New street connections are absolutely necessary to support the density proposed in the NBG Master Plan.

The NBG Regulating Plan attempts to address this connectivity challenge by:

- Creating a NBG Collector Street Plan which requires *dedication* of right-of-way for new collector streets as designated properties redevelop.
- Requiring larger sites (those greater than 5 acres in size) to break up their site into smaller blocks with streets, to create a finer-grained local street network.
- Providing incentives, in the form of a development bonus, for properties less than 5 acres in size that *build* collector streets in conformance with the NBG Collector Street Plan and cross-sections.

Approximately 25 properties, encompassing approximately 73 acres would be eligible for the collector street density bonus, out of the 591 properties and 1,463 acres proposed to be rezoned NBG. (See map of potentially eligible properties in attachment). Note that some of these smaller properties could potentially be assembled for purposes of redevelopment, and no longer be eligible for the collector street development bonus. For all other properties, a development project must provide affordable housing or pay a fee-in-lieu in order to receive a development bonus.

The development bonus offered to properties less than 5 acres in size that would otherwise not be required to build new streets is not just to incentivize the construction of the collector streets, but to also encourage redevelopment of these sites in general, so that the ROW and new network of collector streets may be achieved. Because there is existing development on these sites, the ability of the City to create these connections is limited. The priority on these select properties is to ensure the completion of the collector street network where few other options exist.

**Issue: NBG Fee-In-Lieu for Affordable Housing and Community Benefits as it relates to the recently adopted PUD Ordinance**

**Question:** Was the intention of the North Burnet Gateway regulating plan to tie the fee-in-lieu amount to the adjustable downtown fee or was there a particular reason to decide on a fixed rate?

**Background and Response**

The staff proposal in the NBG Regulating Plan (\$6 per square foot) is consistent with the recently-adopted fee-in-lieu level for a Planned Unit Development (PUD). Staff felt the North Burnet/Gateway area more closely resembled the areas where the PUD ordinance would be applied than Downtown Austin in terms of property values and the existing development market, and thus, the fee-in-lieu established in the PUD ordinance is appropriate for the NBG area.

The initial internal drafts of the NBG Regulating Plan were written in coordination with development of the draft PUD ordinance, but prior to final adoption of that ordinance, and were written as a fixed rate fee-in-lieu of \$6 per square foot. Staff would be

amenable to changing the language in the NBG Regulating Plan to reflect the final approved PUD ordinance fee-in-lieu language (60% of the downtown fee, instead of the fixed rate fee). If directed by Council, Section 6.2.1.F.3 of the NBG Regulating Plan could be revised as follows:

3. The current fee to be paid into the City funds for each square foot of bonus area is established as 60 percent of the fee established under Section 25-2-586(1) (affordable Housing Incentives in a Central Business District or Downtown Mixed Use Zoning District) or any successor fee established under the Austin Downtown Plan. ~~six dollars (\$6). This fee is adjusted annually in accordance with the Consumer Price Index All Urban Consumers, US City Average, All Items (1982-84 = 100), as published by the Bureau of Labor Statistics of the United States Department of Labor. The City Manager shall annually determine the new fee amounts for each fiscal year, beginning October 1, 2008, and report the new fee amounts to the City Council.~~

### **Issue: Fee-in-lieu for Collector Streets**

**Question:** Why is the fee-in-lieu proposed to avoid constructing collector streets? Is the fee based on any economic or market data? Will a fee-in-lieu of \$3/ square foot (half of the total fee for mixed-use and commercial properties) be substantial enough to allow the city to purchase and construct an alternative collector street?

### **Background and Response**

The intention of the fee-in-lieu was to make available an alternative to providing affordable housing on-site. We understand this may be confusing. As currently drafted in the NBG Regulating Plan the select properties eligible for the collector street development bonus are also eligible for the affordable housing development bonus (or fee-in-lieu).

To clarify the intent of this provision, if directed by Council, Section 6.2.1.F could be brought under the description of the Affordable Housing Option (6.2.1.E Provision of Affordable Housing) as number 5, with the corresponding renumbering/re-lettering of that section.

- ~~5.-F.~~ Fee-in-lieu Payments for Affordable Housing and Community Benefits  
Subject to the approval of the Director of the NHCD, a developer may pay a fee-in-lieu payment instead of providing affordable housing as described above. ~~complying with Subsections D or E above.~~
- a. ~~4.~~ For a residential use, the developer shall pay...

Another option is for Council to direct that the affordable housing and fee-in-lieu development bonus options not be available for the smaller properties eligible for the collector street development bonus to ensure that a development bonus will result in the creation of the collector street.

**Issue: Discretion of the Director of NHCD to approve or deny a request for fee-in-lieu.**

**Question:** What criteria will be set in place to determine when a fee-in-lieu is appropriate? What circumstances must be in place to uphold the original desires for on-site affordability and/or collector streets? Will the Director of NHCD be the person determining whether or not a fee-in-lieu should be allowed for a collector street? Will the determination of such fee-in-lieu be under the purview of any oversight body such as the Community Development Commission, Planning Commission, Urban Transportation Commission, or the City Council?

**Background and Response**

As noted above, the intention is for the fee-in-lieu to be associated with the affordable housing density bonus option, not the collector street density bonus option, thus NHCD is the appropriate department to approve a fee-in-lieu.

A fee-in-lieu is proposed as an option available for all developments utilizing a development bonus under the affordable housing option. Requirements for Board, Commission, staff review or the achievement of specific criteria are not recommended.

**Allocation of City Funds**

NHCD allocation of money from the Housing Assistance Fund:

Qualified projects seeking use of these funds will submit applications to two existing AHFC programs, the Rental Housing Assistance Development (RHDA) program and the Acquisition and Development (A&D) program. Applications are reviewed by staff and must achieve a minimum score in order to be eligible for funding. Recommended projects will be presented to the Board of Directors of the Austin Housing Finance Corporation for approval, consistent with the current review process for RHDA and A&D projects.

NPZD allocation of money from the Community Benefits Fund:

The Director of NPZD is responsible for allocation of funds collected from the NBG Development Bonus for the Community Benefits Fund. The North Burnet/Gateway Master Plan establishes specific “public benefits” important to achieve as the NBG area grows and becomes more urbanized. These priorities were established during extensive public involvement during the neighborhood planning process and public review of the Master Plan (adopted Nov. 1, 2007). The Master Plan, as a long-range plan with a 20-30 year projected build-out horizon, recognizes that public benefit needs may vary by location and time as the area redevelops and thus recommends the development bonus program should allow flexibility to reassess the public benefit need by place and time, in addition to opportunities that may be present at a particular time.

The proposed NBG Regulating Plan reflects the recommendations of the Master Plan by giving the Director of NPZD to flexibility to allocate money from the Community Benefits Fund to serve the public benefits as outlined in the Master Plan:

- Vehicular, bicycle and/or pedestrian connectivity
- Stormwater management
- Parks and open space
- Civic facilities
- Green building/Sustainability
- Transit

The priorities for funds will vary based on the gradual fulfillment of these needs over time. Priority for initial use of the Community Benefits Fund would be for vehicular, bicycle and/or pedestrian connectivity – specifically completion of the collector street network. As discussed previously in this memo, the collector streets will form the backbone of a multi-modal transportation network necessary for accommodating the denser development envisioned in the NBG Master Plan. Other use of funds shall be determined as opportunities arise to achieve the identified public benefits needs, and within the context of fulfilling the NBG Master Plan implementation plan.

If you have additional questions please contact the North Burnet/Gateway project manager, Molly Scarbrough at 974-3515.

Greg Guernsey, Director  
Neighborhood Planning and Zoning Department

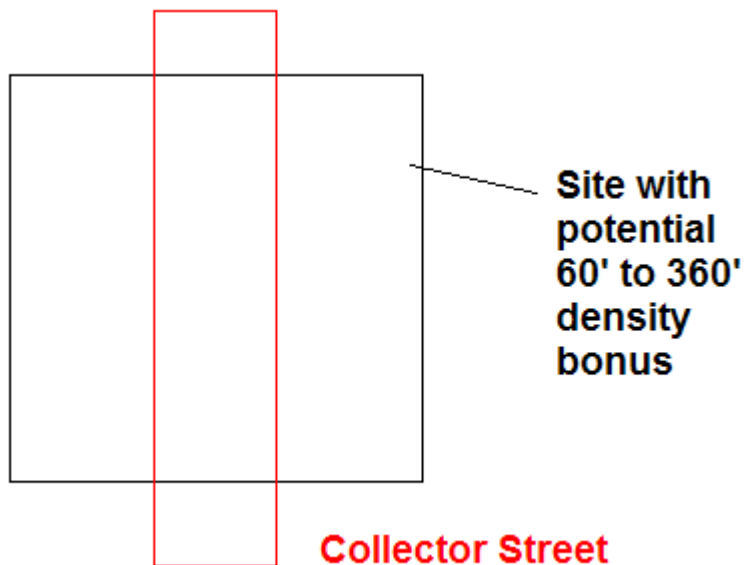
cc: Marc A. Ott, City Manager  
Sue Edwards, Assistant City Manager

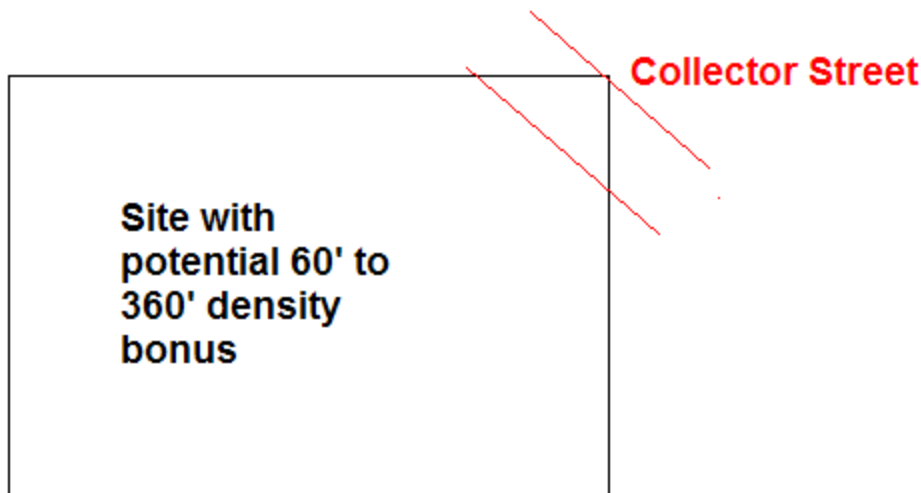
## **ATTACHMENT 1: Discussion Points/Questions from Council Member Morrison**

### **Section 6.2.1.D (Construction of New Collector Streets)**

This section details the way one may achieve a density bonus by dedicating right-of-way and constructing a collector street. The first question that arises here is that there aren't any specific criteria for balancing the costs of dedicating right-of-way and constructing the street versus providing on-site affordable housing. Sites develop differently over time, and there is no way to predict how certain properties will group together or subdivide.

This bonus seems to make the most sense when the collector street fully divides a property or encompasses a large portion of a property. However, there may be instances where only a small portion of a property is affected. A property may elect to build a relatively small portion of a collector street, and in exchange, receive a substantive height bonus from 60' to 360'.





**Questions:** What economic analyses have been conducted to assure the city that we are getting a balanced trade for this increase in entitlement? What procedures or flexibility in procedures will exist to allow the city to grant density bonuses based on the significance of the right-of-way dedication and construction of the street segment?

#### **Section 6.2.1.F (Fee-In-Lieu for Affordable Housing and Community Benefits)**

In the new PUD ordinance, council made the fee-in-lieu contingent upon the amount decided for the Downtown fee-in-lieu per the upcoming downtown plan. Additionally, instead of it reading as a nominal fee, it read that the fee would be 60% of the downtown fee (instead of \$6 / square foot).

**Questions:** Was the intention of the North Burnet Gateway regulating plan to tie the fee-in-lieu amount to the adjustable downtown fee or was there a particular reason to decide on a fixed rate?

This section provides a fee-in-lieu for the collector streets.

**Questions:** Why is the fee-in-lieu proposed to avoid constructing collector streets? Is the fee based on any economic or market data? Will a fee-in-lieu of \$3/ square foot (half of the total fee for mixed-use and commercial properties) be substantial enough to allow the city to purchase and construct an alternative collector street?

This section also gives discretion to the Director of NHCD to approve or deny a request for a fee-in-lieu.

**Questions:** What criteria will be set in place to determine when a fee-in-lieu is appropriate? What circumstances must be in place to uphold the original desires for on-site affordability and/or collector streets? Will the Director of NHCD be

the person determining whether or not a fee-in-lieu should be allowed for a collector street? Will the determination of such fee-in-lieu be under the purview of any oversight body such as the Community Development Commission, Planning Commission, Urban Transportation Commission, or the City Council?

#### **Section 6.2.1.G (Allocation of City Funds)**

This section provides the Directors of NHCD and NPZD the authority to allocate funds for affordable housing and several other purposes.

**Questions:** How will priority for allocating funds be determined? Will the directors generate any allocation plans for public review? Will there be any oversight board or commission to help make recommendations or appropriate such funds within the North Burnet Gateway area?



Figure 3-12 : North Burnet / Gateway (NBG) Zoning District  
Collector Street Plan

DRAFT

