



Neighborhood Housing and Community Development Department

TO: Mayor and Council Members
FROM: Betsy Spencer, Director 
DATE: October 29, 2014
RE: S.M.A.R.T. Housing Ordinance Transit Amendment Status Update

This memorandum is in response to Resolution No. 20140410-026, which initiates a code amendment to the transit criteria of the S.M.A.R.T. Housing Ordinance as well as directs staff to bring forward additional recommendations on strengthening the S.M.A.R.T. Housing Program.

Council Resolution

City Council Resolution No. 20140410-026 adopted in April of 2014 directs City Manager to:

- Initiate a code amendment to the transit criteria of the S.M.A.R.T. Housing Ordinance;
- Gather input from stakeholders including the Community Development Commission, affordable housing advocates, and housing developers on the benefits and costs to developers of building under S.M.A.R.T. Housing and on the effects of amending the “Transit” criteria;
- Present all stakeholder feedback, and alternative recommendations on strengthening the S.M.A.R.T. Housing Program and the transit requirement;
- Consider alignment of the City’s capital improvement funding, as well as how to improve coordination with Capital Metro related to affordable housing projects and transit stop, with this updated policy.

Staff Recommendations

The staff recommendation is informed by data analysis, feedback from stakeholders and City department, and the professional experience of the individuals who administer the S.M.A.R.T. Housing policy and program. The Community Development Commission unanimously recommended the staff recommendations and the full Planning Commission approved staff recommendation on consent. Staff strives to ensure that any revisions to the S.M.A.R.T. Housing policy and program are fully informed by data analysis of the existing program, stakeholder feedback, as well as a review of national best practices. Neighborhood Housing and Community Development (NHCD) recommends that the City Code Chapter 25-1, Article 15 be amended to include the following language:

PART 2. Section 25-1-701 (Definitions) is amended to add the following new definition and to renumber the remaining definitions accordingly:

- (2) HIGH OPPORTUNITY AREA means an area that provides certain conditions that places individuals in a position to be more likely to succeed or excel. This area must include one or more of the following conditions:
 - (1) racial and economic integration;
 - (2) access to employment;
 - (3) high performing schools;
 - (4) access to fresh and healthy foods; and
 - (5) low levels of poverty

- (6) low crime rate
- (7) access to parks
- (8) minimal environmental hazards
- (9) Is identified in the Imagine Austin Plan as a center.

Section 25-1-702 (*Administration*) is amended to read:

- (B) The director of the Neighborhood Housing and Community Development Department will notify the directors of the Public Works Department and Austin Transportation Department of proposed S.M.A.R.T. Housing projects within a half mile of an existing or planned transit route or stop.

Section 25-1-703 (*Program Requirements*) is amended to read:

§ 25-1-703 PROGRAM REQUIREMENTS

- (B) S.M.A.R.T. Housing must:
 - (4) except as provided in Subsection (E), be located within one-half mile walking distance of a local public transit route at time of application;
- (E) The Director may waive the transit-oriented requirement in Section 25-703 (B)(4) for developments if they meet the following criteria:
 - (1) the project will be located in a high opportunity area as identified by the Director and established in the program guidelines; or
 - (2) the application includes a letter from Capital Metropolitan Transportation Authority confirming that a future route is documented in agency plans; or
 - (3) developer applies for State or Federal Government funds, including the Low Income Housing Tax Credit Program, related to this project; or
 - (4) project affirmatively furthers fair housing as determined by the Director and in consideration of the City's Analysis of Impediments.

Response to Stakeholder Input:

NHCD has received additional input from stakeholders as the staff recommended code amendments have moved through the boards and commissions process.

- *What does it mean to Affirmatively Further Fair Housing?* Affirmatively Furthers Fair Housing generally means that a project supports the City in overcoming issues/challenges to fair housing choice as identified in the federally required Analysis of Impediments that the City conducts about every five years. The proposed waivers will ensure that the S.M.A.R.T. housing program supports the development of reasonably-priced housing in transit rich areas as well as areas with high performing schools, job centers, with rich access to open space and fresh foods, and safe from human and environmental dangers.
- *How will the City define and identify high opportunity areas?* NHCD will use the Kirwan Institute Opportunity Map Tool for the evaluation of "High Opportunity Areas". Currently, the Kirwan Institute analysis is the most robust tool available (please see Appendix A for a summary of indicators incorporated in the Kirwan methodology). The Kirwan Institute Opportunity Mapping Tool is vetted through a community process led by Green Doors that NHCD and many of our community partners have been an ongoing participant in. NHCD uses the Action Plan and Consolidated Plan to inform the public of the various tools our department uses, such as the Kirwan tool, to reach our departmental goals. We do recognize however, tools change and it would be important to maintain the flexibility to identify more appropriate tools as they become available. We imagine that the tool would be set every three years through the program guidelines. Our goal is to have an open and transparent evaluation process that is well informed by the most current and innovative data available.
- *Can the City commit to providing accessible routes for S.M.A.R.T. Housing?* A recommendation was put forward during the Planning Commission public hearing on the S.M.A.R.T. Housing ordinance that

should include a clause stating that the City of Austin will provide sidewalks in order to create an accessible route from S.M.A.R.T. Housing certified developments. This would apply to both new construction and rehabilitation. The stakeholder recommendation is that the City would commit to the completion of the accessible route by the time the development is issued the final certificate of occupancy. NHCD staff is working with the Law Department and Public Works to explore the feasibility of this recommendation.

Please see Appendix B for a detailed comparison of the current code language, language articulated in Resolution No. 20140410-026, and the staff recommended language.

Stakeholder engagement and data analysis

Since May, NHCD staff has engaged the expertise of stakeholders in order to access institutionalized knowledge of the S.M.A.R.T. Housing program and gather feedback on the initiated amendment to the transit-oriented criteria. Stakeholder engagement was primarily targeted towards the following groups:

- Developers who have participated in the S.M.A.R.T. Housing program
- Members of the CHDO Roundtable
- Accessibility advocates
- Housing advocates
- Real estate and development professional organizations

Appendix C provides a full list of participants as well as a summary of major themes from the stakeholder engagement.

In addition to accessing the institutional knowledge of S.M.A.R.T. Housing participants and supporters, NHCD staff also conducted GIS analysis to explore the feasibility as well as the potential opportunities and challenges of implementing revisions to the S.M.A.R.T. Housing code as articulated in City Council Resolution No. 20140410-026. The analysis resulted in the following conclusions:

- The sidewalk network within the City of Austin Limits is greatly lacking in connectivity.
- The public transit network is generally concentrated in the central core and along major arterials of the city with limited access to some of the highest opportunity census tracts.
- S.M.A.R.T. Housing certified developments under the current transit-oriented criteria are primarily located in areas with good access to public transit.

Data analysis maps can be found in Appendix D.

Staff approach

Through our stakeholder engagement and data analysis, NHCD staff identified three major challenges to implementing the code amendments as put forward in the Council Resolution;

- Inflexible transit-oriented requirements undermine the City's commitment to Affirmatively Further Fair Housing.
- The existing sidewalk network has many significant gaps in connectivity throughout the city and therefore the accessible route requirement could become a barrier to the development of affordable housing.
- Capital Metro transit stops are not permanent fixtures. Capital Metro reserves the right to add and remove transit stops as they determine is best for the overall transit network.

Appendix E provides a more detailed discussion of the three challenges listed above.

The Following table outline how NHCD staff is addressing each element of Resolution No. 20140410-026 that speaks to the Council initiated amendments to the S.M.A.R.T. Housing transit-oriented criteria:

NHCD Interpreted Resolution objective	Resolution Language	NHCD Staff Approach
Increased access to public transportation	Project to be within 1/2 mile of a transit stop, measured by the actual travel distance and requiring the route from the project to the transit stop to be accessible for pedestrians and people with disabilities.	<ul style="list-style-type: none"> • NHCD staff will work with Capital Metro to ensure that additional transit stops are added when possible and appropriate. • Work with Capital Metro to create a system for transit-oriented evaluation that considers holistic access to transit. • Public Works has committed to integrating S.M.A.R.T. Housing into the City’s Absent Sidewalk Priority Matrix and establish coordinated systems between NHCD and the Public Works department to ensure sidewalks for S.M.A.R.T. Housing are prioritized.
Codify method for calculating distance to transit	Project to be within 1/2 mile of a transit stop, measured by the actual travel distance	<ul style="list-style-type: none"> • Development located within ½ mile walking distance of a transit route at time of application. • Recommending specific waiver criteria within City Code to be further implemented through program guidelines. • NHCD staff will work with Capital Metro to ensure that additional transit stops are added when possible and appropriate.
Ensure the City has the opportunity to leverage non-local funds	Consider exemptions for 9% Tax Credit projects and other exemptions	<ul style="list-style-type: none"> • Provide waiver eligibility for projects that leverage State and Federal funds • Provide waiver for projects that affirmatively further fair housing • Provide waiver for projects that receive a letter from Capital Metro confirming that a future route is documented in agency plans • Provide waiver for projects located in high opportunity areas
Ensure that the City is meeting its commitment to Affirmatively Further Fair Housing	The City is also currently developing the Analysis of Impediments to Fair Housing, which will analyze Austin’s impediments to fair housing choice, such as access to transportation and walkability	<ul style="list-style-type: none"> • Looked at relationship between the Capital Metro service network and high opportunity areas as identified by the Kirwan Institute Opportunity Index • Provide waiver for projects that affirmatively further fair housing

Coordination and collaboration are the key ingredients to successfully accomplishing our community goals related to an affordable, accessible, and connected Austin. NHCD staff will continue to work with Capital Metro, Public Works, Austin Transportation Department, and the Capital Planning Department, as well as identify City of Austin advisory boards and councils whose mission includes addressing issues of pedestrian and public transportation access.

NHCD has initiated a five-prong approach to improving the accessibility of public transit for residents of S.M.A.R.T. Housing certified developments:

1. Work with Capital Metro and development partners to ensure that the bus stops meet ridership demand.
2. Existing SMART Housing units included in the 2014 Capital Planning Strategic Investment Area Overlay Analysis.
3. Interdepartmental SMART Housing Team.
4. Capital Metro review of all SMART applications.
5. Add SMART Housing to the City's Absent Sidewalk Priority Matrix

Additional Recommendations and next steps

NHCD hopes the mayor and City Council will consider the staff recommended code amendments that are scheduled for public hearing at the November 6, 2014 City Council meeting. In addition to the recommended code amendments, NHCD believes that the following activities will strengthen the transit orientation of S.M.A.R.T. Housing developments:

- Staff will form an interdepartmental S.M.A.R.T. team that will support the ongoing implementation and evaluation of the S.M.A.R.T. Housing policy and program.
- Continue to collaborate with Capital Metro to identify opportunities for future bus stops near S.M.A.R.T. Housing developments.
- Work with Capital Metro to create a system for transit-oriented evaluation that considers holistic access to transit.
- Integrate S.M.A.R.T. into the City's Absent Sidewalk Priority Matrix and establish coordinated systems between NHCD and the Public Works department.
- Explore opportunities to identify additional funding for the development of sidewalks in areas where existing and anticipated S.M.A.R.T. Housing is located.
- Develop tiered system that aligns increased developer incentives with increased transit orientation.
- Explore strategies to increase opportunities in the city's most transit connected census tracts.
- Identify more robust developer incentives to support transit-oriented community benefits

The proposed code amendment will be on the November 6 Austin City Council Agenda. At that time, we will be asking Council to approve staff recommendations for all three readings. In the interim, should you have any questions regarding this information, please contact Gina Copic, Real Estate and Development Manager at 512.974.3180 or email at regina.copic@austintexas.gov.

Cc: Marc A. Ott, City Manager
Bert Lumbreras, Assistant City Manager

Appendix A

Kirwan Institute Central Texas Opportunity Maps 2010 Indicators



Central Texas Opportunity Maps

2012 Opportunity Indicators

Education

- Adult Educational Attainment
- Student Poverty
- Student/Teacher Ratio
- School Reading Proficiency Rate
- School Math Proficiency Rate
- High School Graduation Rate
- Enrollment Rate

Economics & Mobility

- Unemployment Rate
- Jobs Within 5 Miles
- Mean Commute Time
- Transit Access
- Median Household Income

Housing & Environment Conditions

- Neighborhood Poverty Rate
- Vacancy Rate
- Proximity to Parks
- Proximity to Toxic Release Sites
- Proximity to Brownfields
- Crime Index
- Food Deserts
- Proximity to Health Care Facilities

GREEN DOORS

HOMES THROUGH COMMUNITY PARTNERSHIP

Appendix B

Detailed comparison of the current code language, language articulated in Resolution No. 20140410-026, and the staff recommended language.

Transit-oriented Criteria Code Amendment

Current Code	Resolution No. 20140410-26	Proposed Amendment Staff Recommendation	Staff Comments on Resolution
<p>Director's discretion</p>	<p>Project to be within 1/2 mile of a transit stop, measured by the actual travel distance, at the time the project is occupied,</p>	<p>Development located within ½ mile walking distance of a transit route at time of application</p>	<ul style="list-style-type: none"> • Requiring location within a ½ mile of a transit stop in high opportunity areas where transit is limited Does not Affirmatively Further Fair Housing: discourages geographic dispersion of affordable housing and limiting the development of S.M.A.R.T. Housing within high opportunity areas. • S.M.A.R.T. Housing certification is awarded during the pre-development phase of a residential project and therefore it is preferable that all criteria be tied to evaluation at the time of application. • NHCD staff will work with Capital Metro to ensure that additional transit stops are added when possible and appropriate.

Transit-oriented Criteria Code Amendment

Current Code	Resolution No. 20140410-26	Proposed Amendment Staff Recommendation	Staff Comments on Resolution
<p>Director's discretion</p>	<p>and requiring the route from the project to the transit stop to be accessible for pedestrians and people with disabilities.</p>	<p>No code amendment at this time</p>	<ul style="list-style-type: none"> • Requiring an accessible route to transit limits potential locations for the development of S.M.A.R.T. Housing and therefore does not Affirmatively Further Fair Housing: discourages geographic dispersion of affordable housing and limiting the development of S.M.A.R.T. Housing within high opportunity areas. • Austin currently has a limited sidewalk network and therefore limited opportunities for the development of affordable housing within an accessible route to transit. • Public Works has committed to integrating S.M.A.R.T. Housing into the City's Absent Sidewalk Priority Matrix and establish coordinated systems between NHCD and the Public Works department to ensure sidewalks for S.M.A.R.T. Housing are prioritized.

Transit-oriented Criteria Code Amendment

Current Code	Resolution No. 20140410-26	Proposed Amendment Staff Recommendation	Staff Comments on Resolution
Director's discretion	<p>The code amendment process should consider distinguishing the S.M.A.R.T. transit requirements for Austin projects applying for the Competitive 9% TDHCA Housing Tax Credit Program versus other projects desiring to use City of Austin affordable housing funds. The code amendment process should also include consideration of any potential exceptions or adjustments to the 1/2 mile requirement.</p>	<p>The Director may waive the transit-oriented requirements for developments if they meet the following criteria:</p> <ol style="list-style-type: none"> 1. Located within a high opportunity area as identified by the Director and established in the program guidelines; OR 2. Application includes a letter from Capital Metro confirming that a future route is documented in agency plans; OR 3. Project seeks to leverage funds through the State or Federal Government, to include the Low Income Tax Credit Program; OR 4. Project affirmatively furthers fair housing. <p>All projects that receive waivers at the discretion of the director will be reevaluated prior to the receiving certificate of occupancy and may be decertified if the Director determines the project is no longer in compliance with the terms of the waiver.</p>	<ul style="list-style-type: none"> • Allowing for the exemption of projects in high opportunity areas supports the City's efforts to Affirmatively Further Fair Housing through the geographic dispersion of affordable housing. • Allowing for the exemption of projects located within proximity of future transit routes ensures that we do not miss out on opportunities for the co-location of S.M.A.R.T. Housing and public transit. • NHCD will work with Capital metro to create a system for transit-oriented evaluation that considers holistic access to transit.

Appendix C

Stakeholder engagement

Targeted Stakeholder Engagement

NHCD reached out to a targeted group of stakeholders to provide feedback on the S.M.A.R.T. Housing policy and program and proposed code amendment. Stakeholder organizations and companies that choice to participate in either one-on-one interviews or focus groups include:

- ADAPT Austin
- Austin Board of Realtors
- Benchmark Land Development
- CHDO Roundtable
- College Houses
- Foundation Communities
- Guadalupe Neighborhood Association
- Habitat for Humanity Austin
- Home Builders Association of Greater Austin
- S.M.A.R.T Housing staff (current and former)
- Lennar Homes
- My Brilliant City of Austin

Major Themes from Stakeholders

- Transit orientation is always a priority but the cost of land has become a great barrier to developing on a medium-large scale within transit connected areas
- Lack of sidewalk connectivity and inconsistency of sidewalk quality makes providing an accessible route very challenging
 - Onus should be on the City not on affordable housing developers
- Transit-oriented requirements limit the geographic dispersion of affordable housing and therefore do not support the City's commitment to Affirmatively Further Fair Housing
- S.M.A.R.T. certified projects are no longer experiencing expedited review or development review advocacy from the City
 - Planning & Development Review, Law Department, Austin Energy, and Austin Water Utility all should be included
- Fees eligible to be waived should be expanded beyond the current list and capture future fees

Major Themes from Stakeholders

- A much higher percentage of fee waivers will be necessary to entice for-profit developers to participate
- The most valued current incentive is the promise of expedited review
- Frequent Development Review staff turnover makes consistency challenging
- Policy should consider differences between non-profit and for-profit business models and goals
- There is a need for additional incentives to bring for-profit developers to the table
- Program could benefit from targeted outreach and education to for-profit developers/builders
- Providing accessible units does not increase cost of development significantly, nor do the units elicit negative feedback from residents
- Land value/cost is a major challenge for...
 - Non-profits to secure financing
 - For-profits to provide affordable units and still meet investor expectations
 - In transit connected areas where land costs are generally higher

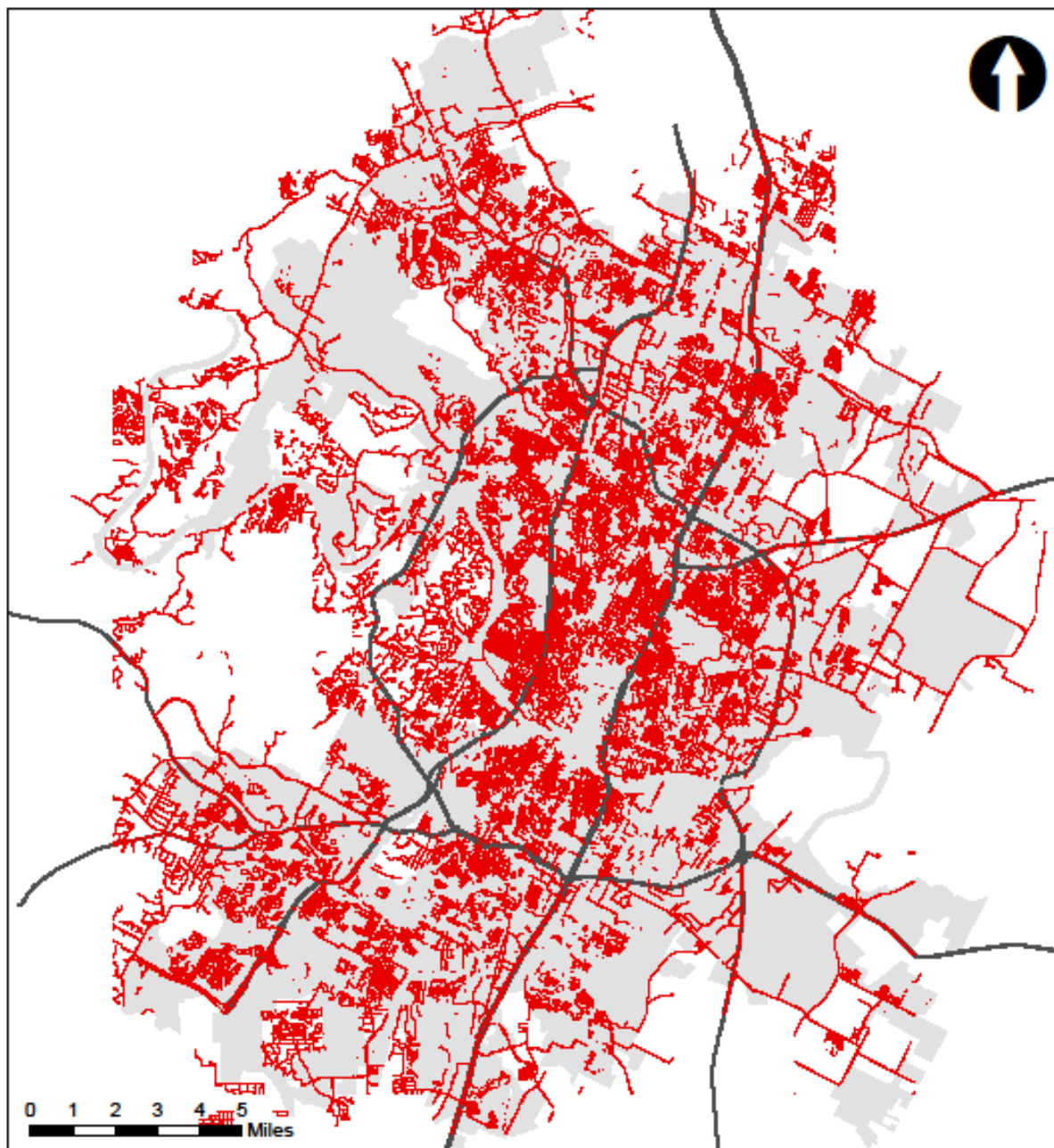
Appendix D

Data Analysis related to transit-oriented criteria

Data Analysis

Analysis specific to the transit-oriented criteria	
Topic of Interest	Conclusions
Sidewalk infrastructure (accessible routes)	The sidewalk network within the City of Austin Limits is greatly lacking in connectivity. Even our Transit Oriented Districts such as the MLK Station TOD do not have complete sidewalk networks.
Public transit network	The public transit network is generally concentrated in the central core and along major arterials of the city and there is limited or no service to some of the census tracts that rate highest on the Kirwan Institute Opportunity Map.
Existing S.M.A.R.T. developments	S.M.A.R.T. Housing certified developments under the current transit-oriented criteria are primarily located within in the urban roadway boundary and within areas with good access to public transit.

DRAFT: Absent Sidewalks Citywide



Note: Sidewalk data was provided by the Public Works Department and was last modified 7/18/2014.

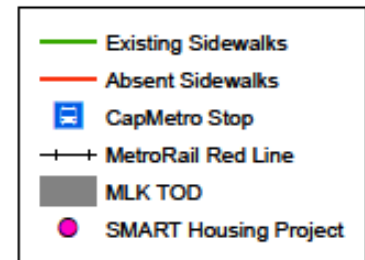
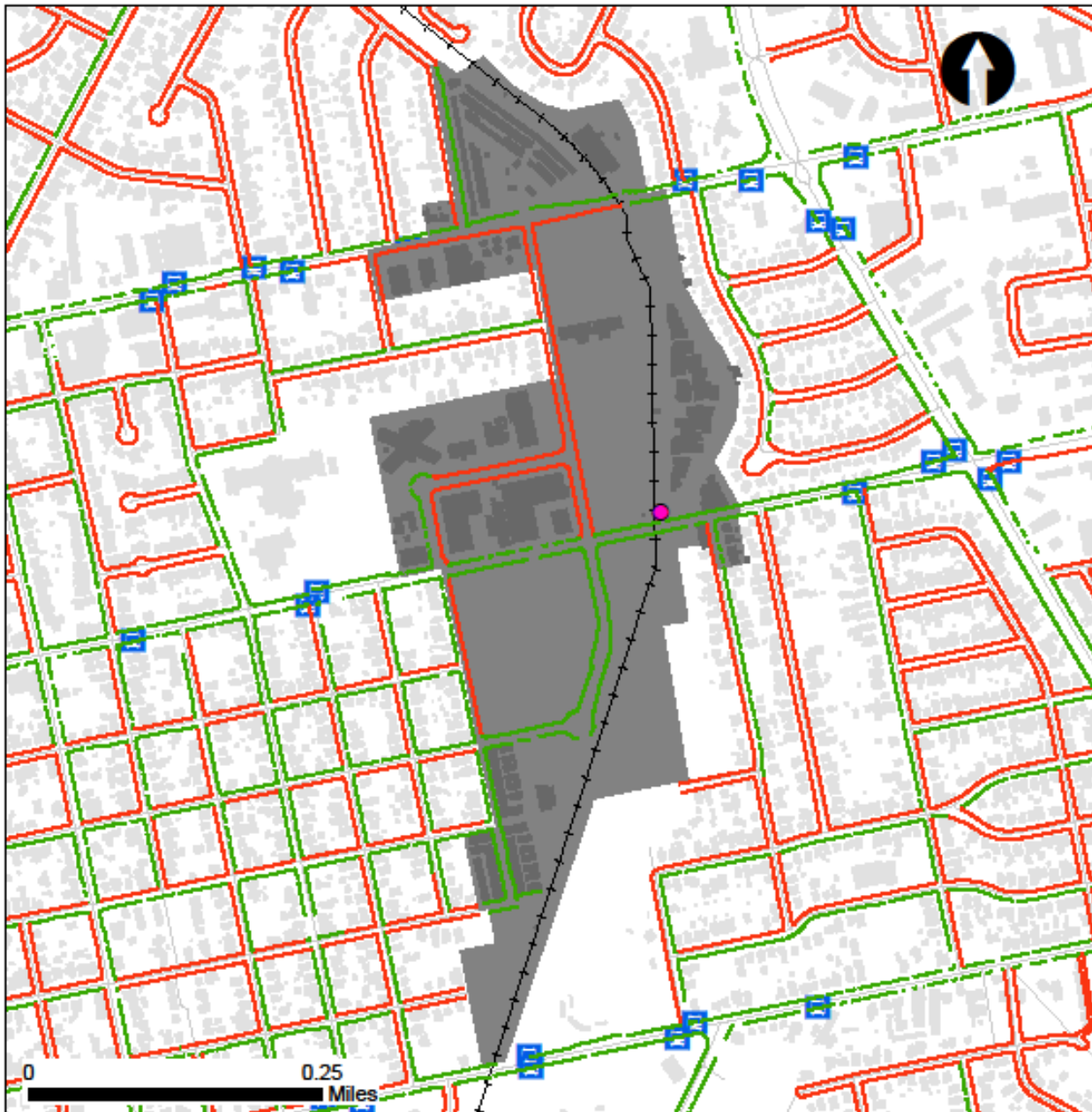


Neighborhood Housing and Community Development

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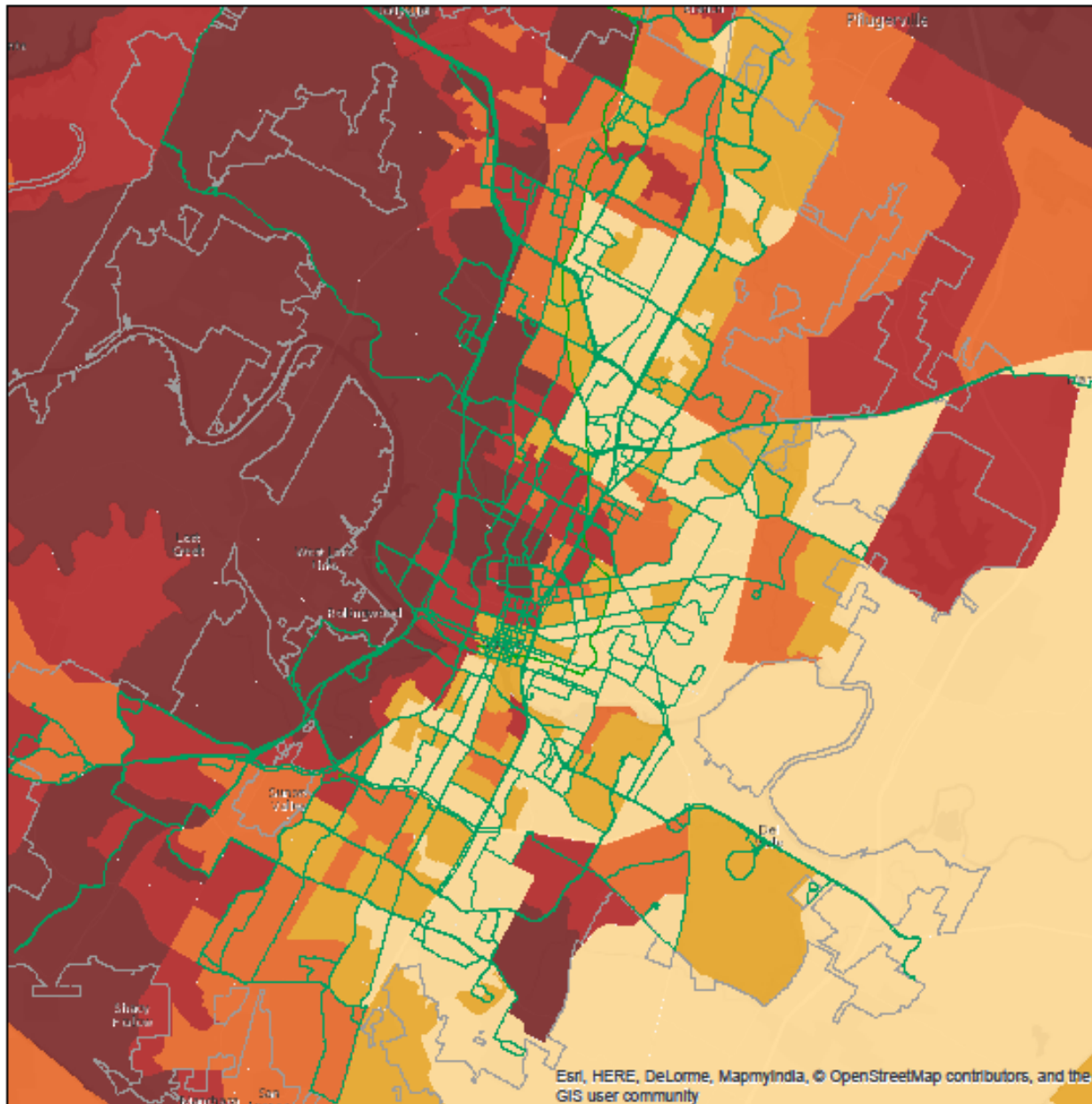
Sidewalk Infrastructure Surrounding the MLK TOD: Driveways



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DRAFT: Opportunity Areas and Public Transit



— CapMetro Routes

□ COA City Limit

**Kirwan Institute 2013 Comprehensive
Opportunity Index**

Very Low

Low

Moderate

High

Very High

Esri, HERE, DeLorme, MapmyIndia, © OpenStreetMap contributors, and the
GIS user community



Neighborhood Housing and Community Development

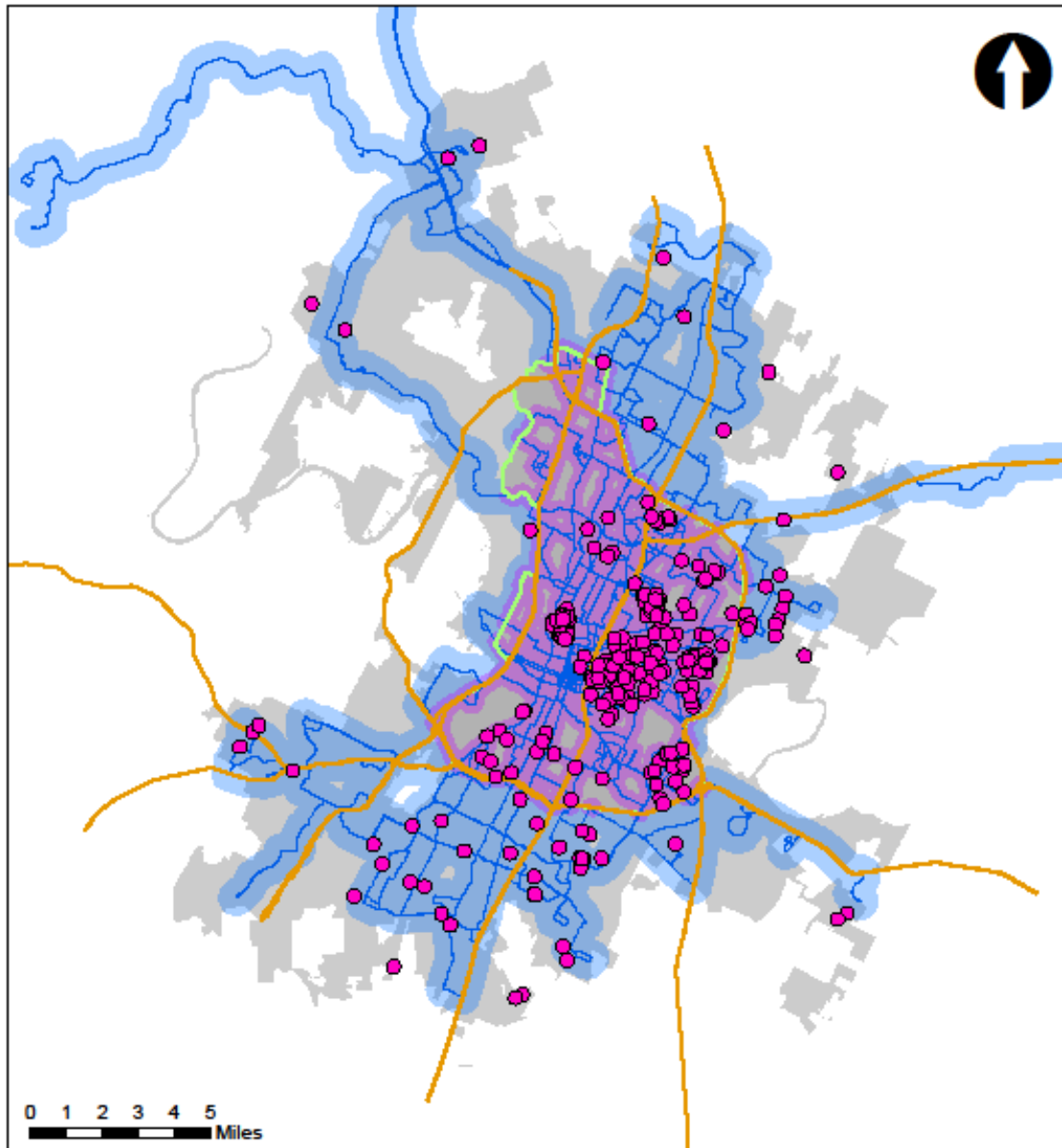
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Date: 9/8/2014

DRAFT: Existing SMART Housing Transit Requirements

Under the Current SMART Housing ordinance, projects within the Urban Roadway network must be within 1/4 mile of a transit line and projects in the Suburban Roadway network must be within 1/2 mile.

- SMART Housing Project
- CapMetro Bus Route
- 1/4 Mile Service Area
- 1/2 Mile Service Area
- Urban Roadways



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Appendix E

NHCD Staff Approach

Major Challenges

1. Inflexible transit-oriented requirements undermine the City's commitment to Affirmatively Further Fair Housing. When the City certifies that it will Affirmatively Further Fair housing as a condition of the Consolidated Plan required by HUD it means that "it will conduct an analysis of impediments to fair housing choice within the jurisdiction, take appropriate actions to overcome the effects of any impediments identified through that analysis, and maintain records reflecting that analysis and actions in this regard."
2. The existing sidewalk network has many significant gaps in connectivity throughout the city and therefore the accessible route requirement could become a barrier to the development of affordable housing. S.M.A.R.T. Housing is not currently captured in the City's Absent Sidewalk Priority Matrix which is the tool used to identify prioritization of sidewalk development throughout the city.
3. Capital Metro transit stops are not permanent fixtures. Capital Metro reserves the right to add and remove transit stops as they determine is best for the overall transit network. This means that affordable housing developers and Capital Metro cannot guarantee that a transit stop that is present at the time a S.M.A.R.T. Housing application is submitted will still be present at the time of occupancy. This also means that there is often the possibility of a transit stop being located in close proximity to a S.M.A.R.T. Housing development at some point in the future.