

**October 24, 2024**  
**Item No. 9.2.**  
**UDO Amendment - CUPs in NG**

**Sponsor:** Molly Hitchcock, Assistant Director of Planning and Development

**Reviewed By CBC:** Planning & Zoning Commission

**Agenda Caption:** Public Hearing, presentation, discussion, and possible action regarding an ordinance amending Appendix A, Unified Development Ordinance, Section 3.6 “Conditional Use Permits,” Section 6.3.C “Use Table,” and Section 9.2.C “Abandonment” of the Code of Ordinances of the City of College Station, Texas, regarding conditional use permits, the abandonment of nonconforming uses, and requiring conditional use permits for new and expanding bars, nightclubs, and taverns in the NG-1 Core Northgate and NG-2 Transitional Northgate zoning districts.

**Relationship to Strategic Goals:**

- Good Governance

**Recommendation(s):** The Planning and Zoning Commission heard this item at their meeting on October 3, 2024 and unanimously recommended approval of the amendment with the exception of conditional use permits being required for bars in NG-1 Core Northgate.

**Summary:** This proposed Unified Development Ordinance amendment affects all Conditional Use Permits (CUPs) in the City; nightclubs, bars and tavern uses in Northgate; and non-conforming uses that are discontinued. Specifically, the amendment:

1. Provides additional criteria based on increased occupancy loads that further define when a new or revised CUP must be requested;
2. Clarifies and adds language that extends the expiration date of a CUP that is a part of a larger project under construction;
3. Provides a stronger basis for the revocation of a CUP;
4. Requires proposed nightclubs, bars, and taverns in Northgate to pursue a CUP, similar to everywhere else in the city; and
5. Doubles the time that a non-conforming use or conditional use may be discontinued before the right to continue the former use no longer exists and/or a new CUP must be requested.

**Background:** The Northgate district and future options for its improvement were discussed at an August 2022 City Council workshop. Re-implementing the conditional use permit process for bars in Northgate was presented as a tool that could help improve the Northgate environment in the long-term. This topic was discussed at a meeting with Northgate bar owners in November 2023.

An ordinance amendment was drafted, taking into account feedback provided from Northgate bar owners. A second in-person meeting and an on-line meeting were held in July 2024 where virtually all current CUP business owners and CUP property owners in the city, Northgate bar owners, and Northgate bar property owners were invited to hear about the proposed Unified Development Ordinance amendment and provide feedback. The meetings were primarily attended by Northgate interests and there was consensus opposing additional regulations.

**Budget & Financial Summary: N/A**

**Attachments:**

1. Ordinance
2. Section 3.6 Conditional Use Permits redlines
3. Section 6.3 Use Table redlines
4. Section 9.2 Nonconforming Uses redlines
5. Northgate Zoning Boundaries

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE AMENDING APPENDIX A, "UNIFIED DEVELOPMENT ORDINANCE," ARTICLE 3, "DEVELOPMENT REVIEW PROCEDURES," SECTION 3.6.G, "ENLARGEMENT, MODIFICATION, OR STRUCTURAL ALTERATION," SECTION 3.6.H.2, "EXPIRATION," SECTION 3.6.H.5, "REVOCATION," ARTICLE 6, "USE REGULATIONS," SECTION 6.3.C, "USE TABLE," AND ARTICLE 9, "NONCONFORMITIES," SECTION 9.2.C, "ABANDONMENT" OF THE CODE OF ORDINANCES OF THE CITY OF COLLEGE STATION, TEXAS, BY AMENDING CERTAIN SECTIONS RELATING TO CONDITIONAL USE PERMITS; BARS, TAVERN, AND NIGHTCLUB USES IN NORTHGATE ZONING DISTRICTS; AND NONCONFORMING USES; PROVIDING A SEVERABILITY CLAUSE; DECLARING A PENALTY; AND PROVIDING AN EFFECTIVE DATE.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF COLLEGE STATION, TEXAS:

**PART 1:** That Appendix A, "Unified Development Ordinance," Article 3, "Development Review Procedures," Section 3.6.G, "Enlargement, Modification, or Structural Alteration," Section 3.6.H.2, "Expiration," Section 3.6.H.5, "Revocation," Article 6, "Use Regulations," Section 6.3.C, "Use Table," And Article 9, "Nonconformities," Section 9.2.C, "Abandonment" of the Code of Ordinances of the City of College Station, Texas, be amended as set out in **Exhibit "A," Exhibit "B," Exhibit "C," Exhibit "D," and Exhibit "E,"** attached hereto and made a part of this Ordinance for all purposes.

**PART 2:** If any provision of this Ordinance or its application to any person or circumstances is held invalid or unconstitutional, the invalidity or unconstitutionality does not affect other provisions or application of this Ordinance or the Code of Ordinances of the City of College Station, Texas, that can be given effect without the invalid or unconstitutional provision or application, and to this end the provisions of this Ordinance are severable.

**PART 3:** That any person, corporation, organization, government, governmental subdivision or agency, business trust, estate, trust, partnership, association and any other legal entity violating any of the provisions of this Ordinance shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punishable by a fine of not less than twenty five dollars (\$25.00) and not more than five hundred dollars (\$500.00) or more than two thousand dollars (\$2,000) for a violation of fire safety, zoning, or public health and sanitation ordinances, other than the dumping of refuse. Each day such violation shall continue or be permitted to continue, shall be deemed a separate offense.

**PART 4:** This Ordinance is a penal ordinance and becomes effective ten (10) days after its date of passage by the City Council, as provided by City of College Station Charter Section 35.

**PASSED, ADOPTED and APPROVED** this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

**ATTEST:**

**APPROVED:**

\_\_\_\_\_  
City Secretary

\_\_\_\_\_  
Mayor

**APPROVED:**

\_\_\_\_\_  
City Attorney

**Exhibit A**

That Appendix A, “Unified Development Ordinance,” Article 3, “Development Review Procedures,” Section 3.6.G, “Enlargement, Modification, or Structural Alteration,” of the Code of Ordinances of the City of College Station, Texas, is hereby amended to read as follows:

**G. Enlargement, Modification, or Structural Alteration.**

1. A building, premise, or use under a conditional use permit may be enlarged, modified, structurally altered, or otherwise changed without applying for a new conditional use permit provided the Administrator determines that the changes do not:
  - a. Increase the height of structures;
  - b. Increase building square footage from its size at the time the original conditional use permit was granted by greater than ten (10) percent;
  - c. Increase the approved occupancy load from the date the original conditional use permit was granted by greater than ten (10) percent for combined indoor occupancies;
  - d. Increase the approved occupancy load from the date the original conditional use permit was granted by greater than ten (10) percent for combined outdoor occupancies;
  - e. Reduce the distance between a building or noise-generating activity on the property and an adjacent, off-site residential use. This provision shall not apply should the property and the residential use be separated by a major thoroughfare depicted on the Comprehensive Plan Functional Classification & Context Class Map; or
  - f. Reduce the buffer yard or buffer plantings as indicated on the previously approved site plan.
2. The Administrator may require a new application for a conditional use permit for any reason when an enlargement, modification, or structural alteration is proposed.
3. All other enlargements, modifications, structural alterations, or changes shall require the approval of a new conditional use permit.

**Exhibit B**

That Appendix A, “Unified Development Ordinance,” Article 3 “Development Review Procedures,” Section 3.6.H.2, “Expiration,” of the Code of Ordinances of the City of College Station, Texas, is hereby amended to read as follows:

**2. Expiration.**

A conditional use permit shall expire if:

- a. A construction permit, if any, for the conditional use has not been issued within one (1) year of the date of approval of the conditional use permit;

If the conditional use will be for a tenant within a new multi-tenant building that is not yet constructed or is under construction, the conditional use permit shall expire if a building permit to finish out the tenant space has not been issued before the building receives its first certificate of occupancy;

- b. The construction permit subsequently expires for the building or the tenant finish out;
- c. The conditional use has been discontinued for a period exceeding six (6) months; or
- d. A termination date attached to the conditional use permit has passed.

### Exhibit C

That Appendix A, “Unified Development Ordinance,” Article 3 “Development Review Procedures,” Section 3.6.H.5, “Revocation,” of the Code of Ordinances of the City of College Station, Texas, is hereby amended to read as follows:

**5. Revocation.**

The revocation of a conditional use permit shall follow the following revocation procedure:

- a. If the Administrator determines, based on inspection or investigation by the City, that there are reasonable grounds for revocation of a conditional use permit, a public hearing shall be set before the Planning and Zoning Commission for a recommendation and a public hearing before the City Council for the consideration of an ordinance amendment. Circumstances that warrant revocation of an approved conditional use permit application shall include but not be limited to the following:
  - 1) There is a conviction of a violation of any of the provisions of state law, this UDO, the ordinance approving the conditional use, or any ordinance of the City of College Station that occurs on the property for which the conditional use permit is granted;
  - 2) The property is found to be in violation of state laws or City ordinance resulting in a history of arrests or criminal activity on the property;
  - 3) The building, premise, or uses under the conditional use permit is enlarged, modified, structurally altered, or otherwise significantly changed without the approval of a separate conditional use permit for such enlargement, modification, structural alteration, or change, unless the Administrator had determined that such enlargement, modification, or structural alteration did not require a new conditional use permit, as described in the Applicability Subsection above;
  - 4) Violation of any provision of the site plan encompassing the property for which the conditional use permit was issued, terms, or conditions of a conditional use permit;
  - 5) The conditional use permit was obtained by fraud or deception; or
  - 6) The use of the property is detrimental to the public health, safety, or general welfare of the City.
- b. The revocation process shall be conducted as for the conditional use permit, including giving notice to the holder of the conditional use permit and property owners within 200 feet of the public hearings in the manner provided in the Required Public Notice Subsection of the General Approval Procedures Section above.
- c. The City Council may revoke the conditional use permit, deny the revocation and allow the conditional use to continue, or deny the revocation and amend the conditional use permit to attach conditions to assure that the terms, conditions, and requirements of the conditional use permit be met.

Upon the effective date of the revocation set by the City Council, it shall be unlawful to undertake or perform any activity that was previously authorized by the conditional use permit. The property subject to the conditional use permit may be used for any permitted use within the base zoning district.

### Exhibit D

That Appendix A, “Unified Development Ordinance,” Article 6, “Use Regulations,” Section 6.3.C, “Use Table,” of the Code of Ordinances of the City of College Station, Texas, is hereby amended to read as follows:

**C. Use Table.**

Except where otherwise specifically provided herein, regulations governing the use of land and structures with the various zoning districts and classifications of planned developments are hereby established as shown in the following Use Table.

**1. Permitted Uses.**

A "P" indicates that a use is allowed by right in the respective district. Such uses are subject to all other applicable regulations of this UDO.

**2. Permitted Uses Subject to Specific Standards.**

A "P\*" indicates a use that will be permitted, provided that the use meets the provisions in the Specific Use Standards Section below. Such uses are also subject to all other applicable regulations of this UDO.

**3. Conditional Uses.**

A "C" indicates a use that is allowed only where a conditional use permit is approved by the City Council. The Council may require that the use meet the additional standards enumerated in the Specific Use Standards Section below. Conditional uses are subject to all other applicable regulations of this UDO.















## **Exhibit E**

That Appendix A, “Unified Development Ordinance,” Article 9, “Nonconformities,” Section 9.2.C, “Abandonment” of the Code of Ordinances of the City of College Station, Texas, is hereby amended to read as follows:

**C. Abandonment.**

Whenever a nonconforming use has been discontinued and changed to a conforming use, or whenever a nonconforming use has been discontinued or abandoned for more than six (6) months, an intent to abandon said use shall have been established and the right to continue the former nonconforming use shall no longer exist. Subsequent operation as a nonconforming use shall be unlawful.

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## Sec. 3.6. Conditional Use Permits.

### Conditional Use Permit Review Process



A. **Purpose.**

Conditional use permits allow City Council discretionary approval of uses with unique or widely varying operating characteristics or unusual site development features, subject to the terms and conditions set forth in this UDO.

B. **Applicability.**

Conditional uses are generally compatible with those uses permitted by right in a zoning district, but require individual review of their location, design, configuration, density, and intensity and may require the imposition of additional conditions to ensure the appropriateness and compatibility of the use at a particular location.

C. **Applications.**

A complete application for a conditional use permit shall be submitted to the Administrator as set forth in the General Approval Procedures Section above. A complete site plan must accompany all applications for a conditional use permit.

D. **Approval Process.**

1. **Pre-Application Conference.**

Prior to the submission of an application for a conditional use permit, applicants are encouraged to schedule and attend an optional pre-application conference in accordance with the Pre-Application Conference Subsection of the General Approval Procedures Section above.

2. **Review and Report by Administrator.**



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Once the application is complete, the Administrator shall review the proposed development subject to the criteria enumerated in the Conditional Use Review Criteria Subsection below and give a report to the Planning and Zoning Commission on the date of the scheduled public hearing.

**3. Planning and Zoning Commission Recommendation.**

**a. Notice.**

The Planning and Zoning Commission shall publish, post, and mail notices in accordance with the General Approval Procedures Section above.

**b. Public Hearing.**

After review of the conditional use permit application, subject to the criteria enumerated in the Conditional Use Review Criteria Subsection below, the Planning and Zoning Commission shall hold a public hearing and recommend to the City Council such action as the Planning and Zoning Commission deems proper.

**4. City Council Action.**

**a. Notice.**

The City Council shall publish, post, and mail notices in accordance with the General Approval Procedures Section above.

**b. Public Hearing.**

The City Council shall hold a public hearing after review of the conditional use permit application, subject to the criteria enumerated in the Conditional Use Review Criteria Subsection below. With consideration of the recommendation provided by the Planning and Zoning Commission, the City Council shall approve, approve with modifications or conditions, or disapprove the conditional use permit application.

**E. Conditional Use Review Criteria.**

The City Council may approve an application for a conditional use permit where it reasonably determines that there will be no significant negative impact upon residents of surrounding properties or the general public. The City Council shall consider the following criteria in its review:

**1. Purpose and Intent of the Unified Development Ordinance.**

The proposed use shall meet the purpose and intent of this UDO and the use shall meet all the minimum standards established in this UDO for this type of use.

**2. Consistency with the Comprehensive Plan.**

The proposed use shall be consistent with the development policies and goals and objectives as embodied in the Comprehensive Plan.

**3. Compatibility with the Surrounding Area.**

The proposed use shall not be detrimental to the health, welfare, or safety of the surrounding neighborhood or its occupants, nor be substantially or permanently injurious to neighboring property.

**4. Harmonious with the Character of the Surrounding Area.**

The proposed site plan and circulation plan shall be harmonious with the character of the surrounding area.

**5. Infrastructure Impacts Minimized.**

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The proposed use shall not negatively impact existing uses in the area or the city through impacts on public infrastructure such as roads, parking facilities, electrical, or water and sewer systems, or on public services such as police and fire protection, solid waste collection, or the ability of existing infrastructure and services to adequately provide services.

**6. Effect on the Environment.**

The proposed use shall not negatively impact existing land uses in the area or the city.

**F. Additional Conditions.**

The City Council may impose additional reasonable restrictions or conditions to carry out the spirit and intent of this UDO and to mitigate adverse effects of the proposed use. These requirements may include but are not limited to increased open space, loading and parking requirements, additional landscaping, and additional improvements such as curbing, utilities, drainage facilities, sidewalks, and screening.

**G. Enlargement, Modification, or Structural Alteration.**

1. A building, premise, or use under a conditional use permit may be enlarged, modified, structurally altered, or otherwise changed without applying for a new conditional use permit provided the Administrator determines that the changes do not:
  - a. Increase the height of structures;
  - b. Increase building square footage from its size at the time the original conditional use permit was granted by greater than ten (10) percent;
  - c. Increase the approved occupancy load from the date the original conditional use permit was granted by greater than ten (10) percent for combined indoor occupancies;
  - d. Increase the approved occupancy load from the date the original conditional use permit was granted by greater than ten (10) percent for combined outdoor occupancies;
  - e. Reduce the distance between a building or noise-generating activity on the property and an adjacent, off-site residential use. This provision shall not apply should the property and the residential use be separated by a major thoroughfare depicted on the Comprehensive Plan Functional Classification & Context Class Map; or
  - df. Reduce the buffer yard or buffer plantings as indicated on the previously approved site plan.
2. The Administrator may require a new application for a conditional use permit for any reason when an enlargement, modification, or structural alteration is proposed.
3. All other enlargements, modifications, structural alterations, or changes shall require the approval of a new conditional use permit.

**H. Duration; Expiration; Suspension; Violation; Revocation.**

**1. Duration.**

A conditional use permit shall remain in effect until it expires, is suspended, or is revoked in accordance with this Section.

**2. Expiration.**

A conditional use permit shall expire if:

- a. A construction permit, if any, for the conditional use has not been ~~approved~~issued within one (1) year of the date of approval of the conditional use permit;

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If the conditional use will be for a tenant within a new multi-tenant building that is not yet constructed or is under construction, the conditional use permit shall expire if a building permit to finish out the tenant space has not been issued before the building receives its first certificate of occupancy;

- b. The construction permit subsequently expires for the building or the tenant finish out;
- c. The conditional use has been discontinued for a period exceeding ~~three (3)~~six (6) months; or
- d. A termination date attached to the conditional use permit has passed.

3. **Suspension.**

In accordance with the authority granted to municipalities by the state, the City shall have the right to immediately suspend the conditional use permit for any property where the premises are determined to be an immediate hazard to the health and safety of any person or an immediate danger to any adjacent property. The suspension shall be for a period not to exceed twenty-four (24) hours or until the danger or hazard is removed.

4. **Violation.**

It is unlawful for any person to violate or to cause or permit to be violated any terms or conditions of a conditional use permit or upon which a conditional use permit was issued.

5. **Revocation.**

The revocation of a conditional use permit shall follow the following revocation procedure:

- a. If the Administrator determines, based on inspection or investigation by the City, that there are reasonable grounds for revocation of a conditional use permit, a public hearing shall be set before the Planning and Zoning Commission for a recommendation and a public hearing before the City Council for the consideration of an ordinance amendment. Circumstances that warrant revocation of an approved conditional use permit application shall include but not be limited to the following:
  - 1) There is a conviction of a violation of any of the provisions of state law, this UDO, the ordinance approving the conditional use, or any ordinance of the City of College Station that occurs on the property for which the conditional use permit is granted;
  - 2) The property is found to be in violation of state laws or City ordinance resulting in a history of arrests or criminal activity on the property;
  - 3) The building, premise, or uses under the conditional use permit is enlarged, modified, structurally altered, or otherwise significantly changed without the approval of a separate conditional use permit for such enlargement, modification, structural alteration, or change, unless the Administrator had determined that such enlargement, modification, or structural alteration did not require a new conditional use permit, as described in the Applicability Subsection above;
  - ~~34)~~ Violation of any provision of the site plan encompassing the property for which the conditional use permit was issued, terms, or conditions of a conditional use permit; ~~or~~
  - ~~45)~~ The conditional use permit was obtained by fraud or deception; or
  - 6) The use of the property is detrimental to the public health, safety, or general welfare of the City.
- b. The revocation process shall be conducted as for the conditional use permit, including giving notice to the holder of the conditional use permit and property owners within 200 feet of the

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public hearings in the manner provided in the Required Public Notice Subsection of the General Approval Procedures Section above.

- c. The City Council may revoke the conditional use permit, deny the revocation and allow the conditional use to continue, or deny the revocation and amend the conditional use permit to attach conditions to assure that the terms, conditions, and requirements of the conditional use permit be met.

Upon the effective date of the revocation set by the City Council, it shall be unlawful to undertake or perform any activity that was previously authorized by the conditional use permit. The property subject to the conditional use permit may be used for any permitted use within the base zoning district.

( Ord. No. 2023-4453 , Pt. 1(Exh. A), 8-10-2023)















Sec. 9.2. - Nonconforming Uses.

A. **Continuance.**

An existing use that is not in compliance with this UDO or subsequent amendments applicable to the use shall not be enlarged, extended, reconstructed, substituted or structurally altered unless the use is brought into compliance with this UDO, except as follows:

1. **Expansion.**

- a. For properties designated as Neighborhood Conservation in the Comprehensive Plan Future Land Use and Character Map: When authorized by the Zoning Board of Adjustment in accordance with the provisions of this Article, enlargement or completion of a building devoted to a nonconforming use may be made upon the lot occupied by such building, where such extension is necessary and incidental to the existing use of such building and does not exceed twenty-five (25) percent of the original area of nonconformity.
- b. For properties in all other areas: Buildings and structures devoted to nonconforming uses may be enlarged, extended, or structurally altered provided such enlargement, extension, or structural alteration is incidental to the existing use of existing buildings and does not exceed fifty (50) percent of the original area of nonconformity. Enlargements greater than fifty (50) percent of the original area of nonconformity shall require approval of the Zoning Board of Adjustment.

2. **Conditional Use.**

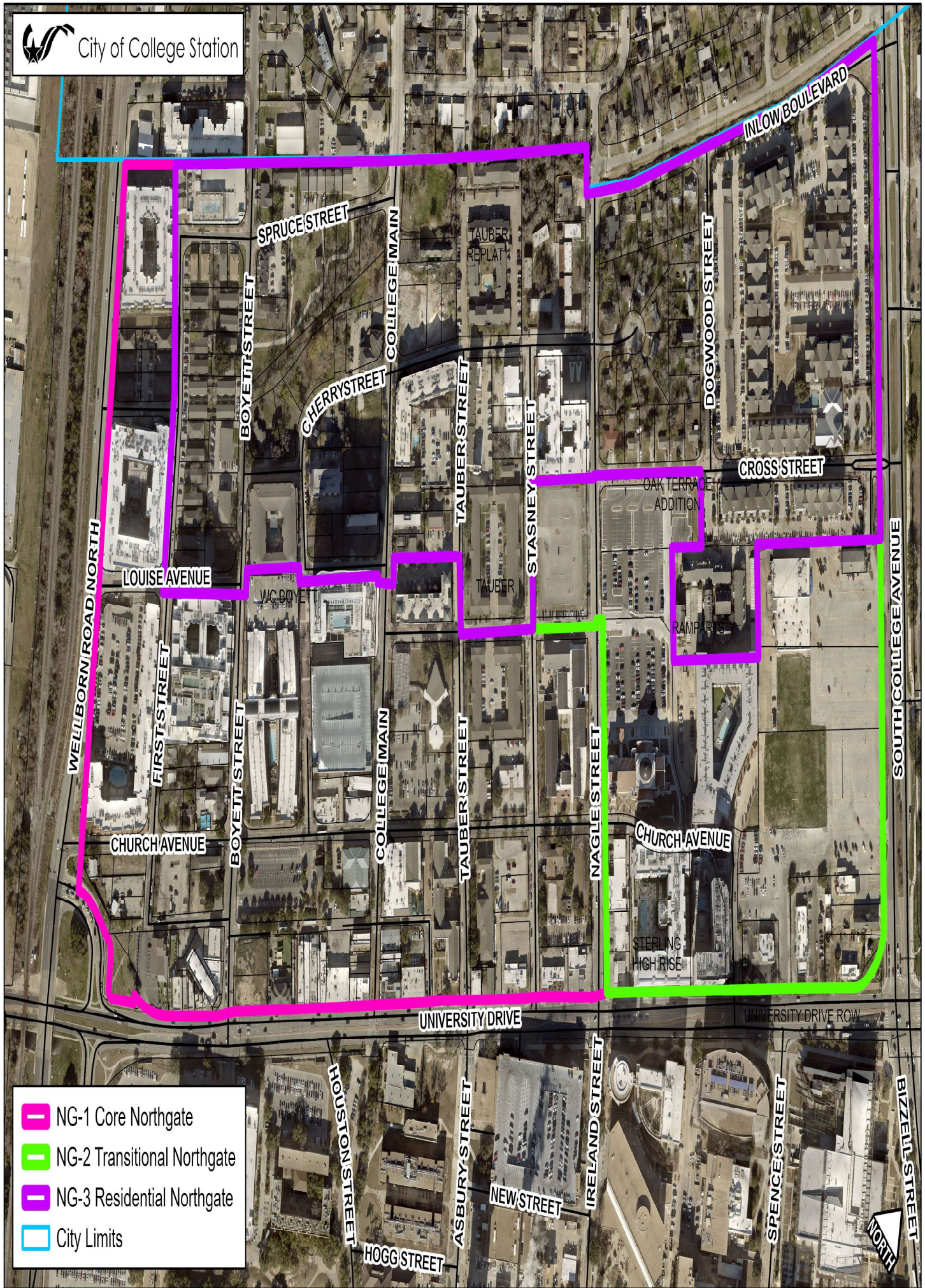
A use existing on the effective date of this UDO, or subsequent amendment applicable to its use, which would only be permitted as a conditional use, shall be a lawful nonconforming use until altered pursuant to the Conditional Use Permit section of this UDO. In the event of issuance of a conditional use permit, such use becomes a permitted and lawful use.

B. **Termination.**

The City Council shall have the authority to initiate, on its motion, action to bring about the discontinuance of a nonconforming use under any plan whereby full value of the structure can be amortized within a definite period of time, taking into consideration the general character of the area and the necessity for all property to conform to the regulations of this UDO.

C. **Abandonment.**

Whenever a nonconforming use has been discontinued and changed to a conforming use, or whenever a nonconforming use has been discontinued or abandoned for more than ~~three (3)~~six (6) months, a ~~presumption of~~ intent to abandon said use shall have been established and the right to continue the former nonconforming use shall no longer exist. Subsequent operation as a nonconforming use shall be unlawful.



-  NG-1 Core Northgate
-  NG-2 Transitional Northgate
-  NG-3 Residential Northgate
-  City Limits