

RESTRICTIVE COVENANT AMENDMENT REVIEW SHEET

CASE: C14-72-204(RCA)

P.C. DATE: April 22, 2008

CC DATE April 24, 2008

ADDRESS: Lot 1 Block A Daugherty Subdivision
NE Corner Pleasant Valley Rd at Elmont Dr

OWNERS: Kenmare Partners Ltd

APPLICANT/AGENT: Terry Irion

SUMMARY PC RECOMMENDATION:

To be heard April 22, 2008.

SUMMARY STAFF RECOMMENDATION:

Staff recommends amendment of the restrictive covenant.

DEPARTMENT COMMENTS:

This property is subject to a restrictive covenant approved in 1972 that covered a larger 497 acres. This RC limited the residential density on this tract. In 2002 this tract we rezoned to GR-CO Community Commercial which does not allow residential as a permitted use. Therefore this RC is no longer relevant to this property and the staff recommends that the RC be amended to apply only to those uses permitted on this tract.

NEIGHBORHOOD PLAN AREA:

E Riverside Combined NP

TIA: N/A

WATERSHED: Country Club

CITY COUNCIL DATE: April 24, 2008

ACTION:

CASE MANAGER: Jerry Rusthoven, NPZD

PHONE: 974-3207

E-MAIL: jerry.rusthoven@ci.austin.tx.us

STATE OF TEXAS §
 §
COUNTY OF TRAVIS §

AMENDMENT TO AGREEMENT OF COVENANTS AND RESTRICTIONS

WHEREAS, DICKSON PROPERTIES and ROBERT DICKSON, as owners of approximately 497 acres in the City of Austin, Travis County, Texas, as more particularly described by metes and bounds in Exhibit A to that certain Restrictive Covenant, recorded in Volume 5234, page 2079, Deed Records of Travis County, Texas (The Parent Tract Property) did impress upon said Parent Tract, certain covenants and restrictions related to the permitted uses on the Parent Tract in favor of the City of Austin; and

WHEREAS, said Covenants and Restrictions require that any modification, amendment or termination of said Agreement be by the joint action of both the majority of the members of the City Council of the City of Austin, or such other governing body as may succeed the City Council of the City of Austin and by the owners of the above described Parent Tract or portion thereof subject to the modification, amendment or termination; and

WHEREAS, on the 1st day of August, 2002, the then owner of the portion of the Parent Tract currently described as Lot 1, Block A, Daugherty Subdivision, according to the map or plat of record in Document 200300160, Official Public Records of Travis County, Texas (the Property) requested of the City Council of the City of Austin and did obtain from the City Council of the City of Austin approval by Ordinance of the Austin City Council to amend the permitted uses on said Property to those use allowed in the "GR-CO" zone district as more particularly described in Ordinance No. 020801-58 (the Ordinance); and did authorize the modifications of said Agreement of Covenants and Restrictions recorded in Volume 5234, page 2079, Deed Records of Travis County, Texas to be consistent with the uses authorized by the Ordinance on the Property;

NOW, THEREFORE,

Kenmare Partners, Ltd., owner of the Property described as Lot 1, Block A, Daugherty Subdivision, according to the map or plat of record in Document 200300160, Official Public Records of Travis County, Texas and City of Austin agree to amend the Agreement of Covenants and Restrictions as it affects the Property, so as to permit all uses authorized by the Ordinance on the Property effective as of the date of adoption of Ordinance No. 020801-58 on August 1, 2002.

EXECUTED this _____ day of _____, 2008.

THE STATE OF TEXAS)
COUNTY OF TRAVIS)

Original
Restrictive

Covenant -16-3158

1350

WHEREAS, Dickson Properties and Roberta Dickson, as owners of approximately 497 acres in the City of Austin, Travis County, Texas, according to field notes prepared by S. A. Garza, Registered Professional Engineer, on August 1, 1972, a copy of which is attached marked Exhibit "A", by agreement with the City of Austin impressed upon said 497 acres certain covenants and restrictions dated January 3, 1973, wherein the development of said 497 was restricted.

WHEREAS, said covenants and restrictions require that any modification, amended or termination of said agreement be by joint action of both (a) a majority of the members of the City Council of the City of Austin, or such other governing body as may succeed the City Council of the City of Austin, and, (b) by the owners of the above described property at the time of such modification, amendment, or termination.

WHEREAS, the owners have presented to the City of Austin a revised conceptual plan for the development of the 497 acres dated October 3, 1973, a copy of which is attached hereto and marked Exhibit "C".

WHEREAS, the Capitol National Bank as Trustee and Roberta Dickson, Dickson Properties, Inc., and Mark Eight Associates, a Texas Limited Partnership as beneficiaries were the owners of said 497 acres as of the date of said revised conceptual plan and are presently owners of approximately 402 of said 497 acres and Austin Country Club Estates, a Texas Limited Partnership has purchased 94.984 acres of said 497 acres, said 94.984 are described in the field notes prepared by Jeryl D. Hart, Registered Professional Engineer, on November 2, 1973, a copy of which is attached marked Exhibit "B", and is presently owner of said 94.984 acres as described, and these owners hereinafter shall be referred to as Owners.

1-16-3159

WHEREAS, the City of Austin and the Owners have agreed that the covenants and restrictions dated January 3, 1973 should be terminated and that the above described property should be impressed with certain other covenants and restrictions running with the land and desire to set forth such agreement and such covenants and restrictions in writing.

NOW THEREFORE, the Owners for and in consideration of One and No/100 Dollars (\$1.00) and other good and valuable consideration in hand to the undersigned paid by the City of Austin, the receipt of which is hereby acknowledged, does hereby agree with respect to said property described above, such agreement to be deemed and considered as a covenant running with the land and which shall be binding on them, their successors and assigns, as follows, to wit:

1. The total number of dwelling units for the described 497 acres shall not exceed a total of 4,658.

2. The conceptual plan dated October 3, 1973 which shows the property divided into designated areas referred to as Tracts and numbered as Tracts 1 through 25, a copy of which is attached hereto and marked as Exhibit "C", is the official plan approved by the City of Austin and supercedes and replaces any and all previously adopted plans.

3. Those Tracts 1 through 25 which relate to residential uses on said official plan shall be restricted to the approximate densities and number of dwelling units shown thereon, the total of which shall not exceed 4,658 and subject to the following conditions:

Residential Tract Number	Acres	Density	Dwelling Units
1	12	8 DU/ac	96
2	20.5	5 DU/ac	103
3	12.4	8 DU/ac	99

1-16-3160

4	6.6	12 DU/ac	79
4a	8	20 DU/ac	160
5	22	20 DU/ac	440
10	28.87	20 DU/ac	577
11	9.52	20 DU/ac	190
(4) 12	41.44	22 DU/ac	912
13	21.82	22 DU/ac	480
16	4.2	20 DU/ac	50
18	30.2	20 DU/ac	604
21	45.18	10 DU/ac	452
22	20.56	10 DU/ac	200
23	18.52	10 DU/ac	179
24	3.67	10 DU/ac	37

(25 ?)

4. The number of acres designated to each tract is approximate and adjustments to the total number of dwelling units for a specific Tract will be made based upon the true number of acres contained within a tract as shown on the preliminary plat and the total dwelling units for a specific tract will be shown on said preliminary plat and will be based upon the number of acres multiplied by the designated density provided for said tract as indicated above. The preliminary plat will indicate the density requirements as indicated above and all final subdivision plans must be in conformance with these density restrictions and must be so designated on the recorded plan(s). Although adjustments because of approximation as to acreage shall be allowed as set forth above the overall density limitation of 4,658 units shall not be exceeded unless otherwise agreed to by the City of Austin and the Owners.

1-16-3161

5. If any person, persons, corporations or entity of any other character shall violate or attempt to violate the foregoing agreement and covenant, it shall be lawful for the City of Austin, a municipal corporation, its successors and assigns, to presecute proceedings at law, or in equity, against said person, or entity violating or attempting to violate such agreement or covenant and to prevent said person or entity from violating or attempting to violate such agreement or covenant.

6. If any part or provision of this agreement or covenant herein contained shall be declared invalid, by judgment or court order, the same shall in no wise affect any of the other provisions of this agreement, and such remaining portion of this agreement shall remain in full force and effect.

7. The failure at any time to enforce this agreement by the City of Austin, its successors and assigns, whether any violations hereof are known or not, shall not constitute a waiver or estoppel of the right to do so.

8. This agreement may be modified, amended or terminated only by joint action of both (a) a majority of the members of the City Council of the City of Austin, or such other governing body as may succeed the City Council of the City of Austin, and, (b) by the owners of the above described property at the time of such modification, amendment, or termination.

9. The purpose of this Covenant is to limit the development of the areas as to density and shall in no way be construed as a dedication of any street or area for specific use.

1-16-3162

EXECUTED this 31st day of January, A. D. 1975.CAPITOL NATIONAL BANK IN AUSTIN
AS TRUSTEE

(NO SEAL)

By: Richard W. Uote
Richard W. Uote
Trust Administration Officer
Roberta Dickson
ROBERTA DICKSON

DICKSON PROPERTIES, INC.

(NO SEAL)

By: Roberta Dickson - Pres.MARK EIGHT ASSOCIATES, A TEXAS
LIMITED PARTNERSHIPBy: MARK EIGHT CORPORATION
A GENERAL PARTNER

By: JOHN A. SBAROUNIS, PRESIDENT

(NO SEAL)

John A. Sbarounis
James F. SbarounisAUSTIN COUNTRY CLUB ESTATES, A
TEXAS LIMITED PARTNERSHIPBy: MARK EIGHT ASSOCIATES, GENERAL
PARTNER OF AUSTIN COUNTRY CLUB
ESTATESBy: MARK EIGHT CORPORATION, GENERAL
PARTNER OF MARK EIGHT ASSOCIATES

(NO SEAL)

By: John A. Sbarounis
President
James F. Sbarounis

5234 2033

1-16-3163

THE STATE OF TEXAS
COUNTY OF TRAVIS)

BEFORE ME, the undersigned authority, on this day personally appeared of DICKSON PROPERTIES, INC. of Austin, Travis County, Texas, known to me to be the person and officer whose name is subscribed to the foregoing instrument and he acknowledged to me that he executed the same for the purposes and consideration therein expressed, as the act and deed of said corporation and in the capacity therein stated.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this the 21 day of Feb, 1975.

NOTARY SEAL

L. E. Gilbert
NOTARY PUBLIC, TRAVIS COUNTY, TEXAS

THE STATE OF TEXAS)
COUNTY OF TRAVIS)

BEFORE ME, the undersigned authority, on this day personally appeared ROBERTA P. DICKSON, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that she executed same for the purposes and consideration therein expressed.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, this 21 day of Feb, 1975.

NOTARY SEAL

L. E. Gilbert
NOTARY PUBLIC, TRAVIS COUNTY, TEXAS

THE STATE OF ILLINOIS)
COUNTY OF WILL)

BEFORE ME, the undersigned authority, on this day personally appeared JOHN A. SBAROUNIS, President of Mark Eight Corporation, known to me to be the person and officer whose name is subscribed to the foregoing instrument and he acknowledged to me that he executed the same for the purposes and consideration therein expressed, as the act and deed of said corporation and in the capacity therein stated.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this the 6th day of February, 1975.

NOTARY SEAL

Rosa Elena Murray
NOTARY PUBLIC, WILL COUNTY, ILLINOIS

MY COMMISSION EXPIRES APRIL 5, 1978

5234 2084

THE STATE OF TEXAS

1-16-3164

COUNTY OF TRAVIS

BEFORE ME, the undersigned authority, on this day personally appeared RICHARD W. CHOTE, Trust Officer, The Capital National Bank in Austin, Trustee, known to me to be the person and officer whose name is subscribed to the foregoing instrument and he acknowledged to me that he executed the same for the purposes and consideration therein expressed, as the act and deed of said corporation and in the capacity therein stated.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this the 25 day of February, 1975.

NOTARY SEAL

Daniel Deane
NOTARY PUBLIC, TRAVIS COUNTY,
TEXAS

5234 2085

EXHIBIT "A"

1-16-3165

FIELD NOTES FOR THE ENTIRE DICKSON PROPERTY, SAID TRACT OF LAND BEING MORE FULLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING at the iron stake at the southwest corner of the herein described tract of land, same iron stake also being in the north right-of-way line of Riverside Drive, same iron stake also being in the east right-of-way line of Pleasant Valley Road;

THENCE with the east right-of-way line of Pleasant Valley Road the following two (2) courses:

(1) N 30° 24' E, passing an iron stake at 1417.25 feet, 2287.93 feet to an iron stake;

(2) N 30° 13' E, passing an iron stake at 1583.20 feet, 1788.12 feet to an iron stake;

THENCE N 75° 55' E, 34.39 feet to an iron stake;

THENCE N 71° 55' E, 397.91 feet to an iron stake;

THENCE N 71° 29' E, 324.96 feet to an iron stake;

THENCE N 71° 56' E, 220.33 feet to an iron stake;

THENCE N 67° 47' E, 471.48 feet to an iron stake;

THENCE S 84° 30' E, 418.95 feet to an iron stake;

THENCE N 30° 11' E, 1975.20 feet to an iron stake;

THENCE N 24° 58' E, 214.15 feet to an iron stake in the south bank of the Colorado River for the northwest corner of the herein described tract of land;

THENCE with the south bank of the Colorado River the following twelve (12) courses:

(1) N 88° 53' E, 334.30 feet to an iron stake;

(2) S 88° 58' E, 369.60 feet to an iron stake;

(3) S 82° 06' E, 471.10 feet to an iron stake;

(4) S 77° 18' E, 316.76 feet to an iron stake;

(5) S 88° 32' E, 167.35 feet to an iron stake;

(6) S 81° 24' E, 292.00 feet to an iron stake;

FIELD NOTES

DICKSON PROPERTY

Page 2 of 3

1-16-3166

- (7) S 56° 42' E, 98.77 feet to an iron stake;
- (8) S 30° 13' E, 110.70 feet to an iron stake;
- (9) S 07° 28' E, 197.90 feet to an iron stake;
- (10) S 09° 44' E, 280.12 feet to an iron stake;
- (11) S 18° 10' E, 210.57 feet to an iron stake;

(12) S 30° 31' E, 183.86 feet to an iron stake at the northeast corner of the herein described tract of land;

THENCE S 29° 33' W, 466.24 feet to an iron stake;

THENCE S 29° 47' W, 1104.50 feet to an iron stake;

THENCE N 69° 13' W, 1219.86 feet to an iron stake;

THENCE S 36° 18' W, 1305.03 feet to an iron stake;

THENCE S 41° 14' W, 448.81 feet to an iron stake;

THENCE S 21° 43' W, 645.80 feet to an iron stake;

THENCE S 02° 21' E, 281.82 feet to an iron stake;

THENCE S 02° 16' E, 889.86 feet to an iron stake;

THENCE S 02° 17' E, 698.12 feet to an iron stake;

THENCE S 02° 20' E, 790.45 feet to an iron stake;

THENCE S 29° 33' W, 480.73 feet to a concrete monument;

THENCE S 30° 06' W, 563.19 feet to a concrete monument in the north right-of-way line of Riverside Drive for the southeast corner of the herein described tract of land;

THENCE with the north right-of-way line of Riverside Drive the following eleven (11) courses:

- (1) N 57° 47' W, 626.34 feet to an iron stake;
- (2) N 58° 26' W, 194.97 feet to an iron stake;
- (3) N 60° 45' W, 299.92 feet to an iron stake;

ORIGINAL DEED

5234 2087

FIELD NOTES

Page 3 of 3

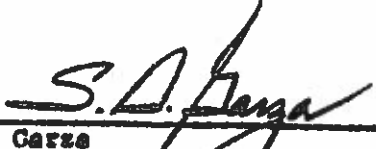
DICKSON PROPERTY

1-16-3167

- (4) N 62° 59' W, 484.18 feet to an iron stake;
- (5) N 64° 18' W, 703.33 feet to an iron stake at a point of curvature;
- (6) With a curve to the left whose chord bears N 65° 17' W, 43.53 feet and whose arc measures 43.53 feet to an iron stake;
- (7) Continuing that same curve to the left an additional arc length of 247.45 feet and an additional chord which bears N 70° 23' W, 247.16 feet to an iron stake at a point of tangency;
- (8) N 75° 17' W, 342.35 feet to an iron stake at a point of curvature;
- (9) With a curve to the right whose chord bears N 67° 06' W, 396.50 feet and whose arc measures 397.85 feet to an iron stake at a point of tangency;
- (10) N 58° 55' W, 518.44 feet to an iron stake at a point of curvature;
- (11) With a curve to the right whose chord bears N 54° 39' W, 136.00 feet and whose arc measures 136.11 feet to the original point of beginning containing 496.80 acres of land.

Field Notes prepared in the offices of S. A. Garza Engineers, Inc.,
503 Scarborough Building, Austin, Texas, August 1, 1972.




S. A. Garza
Registered Professional Engineer

5234 2088

FIELD NOTES AROUND THE
OUTBOUNDARY OF THE CROSSING PHASE I

FIELD NOTES OF A 94.984 ACRE TRACT OUT OF THE SANTIAGO DEL VALLE GRANT, IN THE CITY OF AUSTIN, TRAVIS COUNTY, TEXAS; SAID 94.984 ACRE TRACT BEING ALL OR A PORTION OF THE FOLLOWING: A 56.99 ACRE TRACT OF WHICH ONE-HALF INTEREST WAS CONVEYED TO THE CAPITAL NATIONAL BANK, TRUSTEE IN VOLUME 4588, PAGE 1640 OF THE TRAVIS COUNTY, TEXAS DEED RECORDS; THE REMAINING ONE-HALF INTEREST OF THE 56.99 ACRE TRACT AND A 1/2 INTEREST IN AN ADDITIONAL 439.77 ACRES (496.76 ACRES IN TOTAL) BEING CONVEYED TO CAPITAL NATIONAL BANK, TRUSTEE BY DEED RECORDED IN VOLUME 4588, PAGE 1629; THE REMAINING ONE-HALF INTEREST IN THE 439.77 ACRE TRACT BEING CONVEYED TO CAPITAL NATIONAL BANK, TRUSTEE, BY DEED RECORDED IN VOLUME 4588, PAGE 1679 OF THE DEED RECORDS OF TRAVIS COUNTY, TEXAS; SAID 94.984 ACRE TRACT BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING at an iron stake found at the most westerly corner of Lot 1, Penick Place, a subdivision in Travis County, Texas as recorded in Book 5, Page 147 of the Plat Records of Travis County, Texas; said point being on the northerly right-of-way line of Riverside Drive;

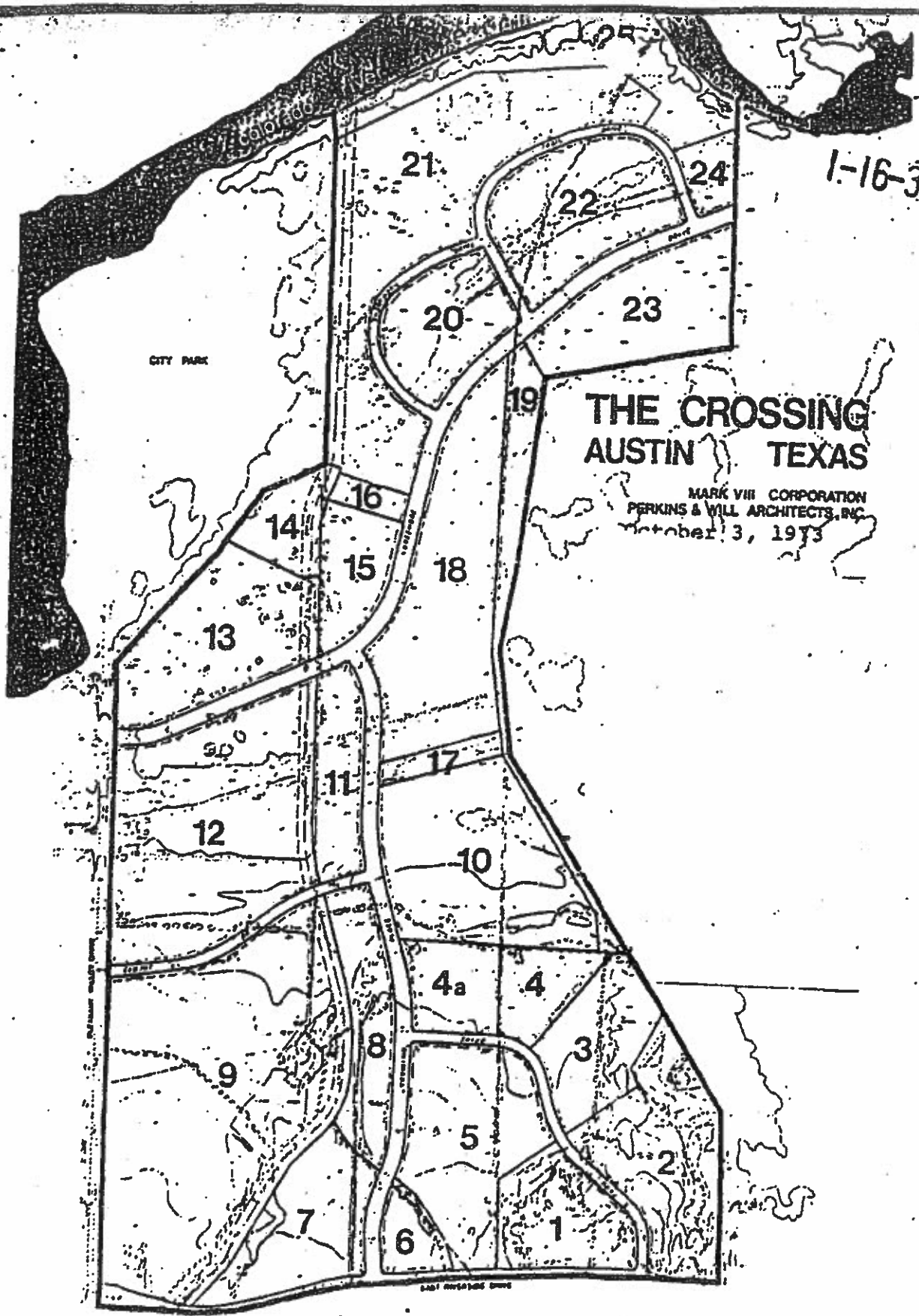
THENCE along the northerly right-of-way line of Riverside Drive the following five (5) courses:

1. N 57°-36' W., 627.22 feet to an iron stake found;
2. N 58°-03' W., 195.01 feet to an iron stake found;
3. N 60°-25' W., 299.64 feet to an iron stake found;
4. N 62°-39' W., 484.22 feet to an iron stake found;
5. N 63°-57' W., 702.96 feet to an iron stake found;

THENCE through the interior of the said 496.76 acre tract the following twelve (12) courses:

1. N 26°-00' E., 39.29 feet to an iron stake set;
2. S 64°-00' E., 37.96 feet to an iron stake set;
3. An arc distance of 23.56 feet along a curve to the left whose elements are: I=90°-00', Rad.=15.00', Tan.=15.00' and whose longchord bears N 71°-00' E., 21.21 feet to the P.T. of said curve;

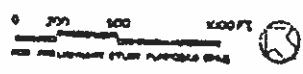
1-16-3170



THE CROSSING AUSTIN TEXAS

MARK VIII CORPORATION
PERKINS & WILL ARCHITECTS, INC.
October 3, 1973

EXHIBIT "C"



RECORDERS MEMORANDUM
ALL ON PARTS OF THE TRACT ON THIS PAGE
AND NOT SEPARATE LEGALS FOR SATISFACTORY REDEMPTION

5234 2091

1516-3171

FILED

JUL 24 8 38 AM '75

David R. Hargrave
COUNTY CLERK
TRAVIS COUNTY, TEXAS

Hand, change of name
LAW DEPARTMENT
CITY OF AUSTIN
P.O. BOX 1088
AUSTIN, TEXAS 78761

INDEXED
V

STATE OF TEXAS

COUNTY OF TRAVIS

I hereby certify that this instrument was FILED on the
date and at the time stamped hereon by me; and was duly
RECORDED, in the Volume and Page of the named RECORDS
of Travis County, Texas, as Stamped hereon by me, on

JUL 24 1975



David R. Hargrave
COUNTY CLERK-
TRAVIS COUNTY, TEXAS

5234 2092