MEMORANDUM

TO: Mayor and Council

FROM: Greg Guernsey, Director
Planning and Development Review Department

DATE: December 4, 2012

SUBJECT: C14-74-145(RCT) 500 South Third

City staff is requesting a postponement of this case until January 17, 2013.

City staff scheduled this item for public hearing and consideration by Planning Commission and City Council on November 27 and December 13, respectively. After public notice was completed, staff learned this tract is within the Waterfront Overlay District; as such, the request should be presented to the Waterfront Planning Advisory Board (WPAB) prior to Planning Commission. The next available WPAB meeting was December 10, 2012, and so the item was postponed by the Planning Commission, per staff request, until December 11, 2012.

25-2-281 of the City Code precludes staff from scheduling a zoning or rezoning application for Land Use Commission and Council action during the same week, with exceptions. This termination request is being treated as a zoning item because it is associated with a rezoning case and is subject to the public hearing provisions of such applications. Consequently, staff is requesting a postponement of this item until the next available agenda.

The owner is not in agreement with the request for postponement (please see attached).

Wendy Rhoades for

Greg Guernsey, Director
Planning and Development Review Department

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

TO: **Mayor and City Council**

FROM: **Michael & Allisyn Martin, owner of 500 S. 3rd St**

DATE: **December 5, 2012**

SUBJECT: **C14-74-145(RCT) 500 South Third**

We, the owners and consultant have been diligently working with the city legal and staff since Oct 10th in attempts to get on the City Council agenda regarding the release of the old restrictive covenant. The Dec 13th Council meeting has been scheduled since November and only recently were we informed that the Waterfront Overlay meeting must occur first in the city's process, thus postponing our November 27th Planning Commission hearing. Unfortunately, with the holiday season and the Dec. 13th meeting being the last meeting of the year, this would push it back over another month, targeting the later part of January 2013, and creating hardship. To our knowledge, the request from the city to postpone is procedural based rather than substantial with the Council having the option to decide whether to hear from the applicant.

We and the consultant have proactively met with neighbors, addressed any concerns or questions and reassured them that the release of the old restrictive covenant does not change the current use or plans which the neighbors and city are expecting to be on the site. A siteplan has recently been submitted to the city. It was at this point that we found some contradicting details in an old restrictive covenant that we needed to address. We respectfully ask the City Council to allow the restrictive covenant release request to stay on the agenda for December 13, 2012.

Thank you in advance for your consideration,

Michael & Allisyn Martin

Michael@texasmgm.com

512-785-5404

RESTRICTIVE COVENANT TERMINATION REVIEW SHEET

CASE: C14-74-145(RCT)
500 South Third

WAPB DATE: December 10, 2012
PC DATE: December 11, 2012

ADDRESS: 500 South Third Street

AREA: 0.6940 acres
(30,230 sq. ft.)

OWNER: Michael G. Martin

AGENT: Vaughn & Associates
(Rick Vaughn)

CURRENT ZONING: MF-3-NP and SF-3-NP

NEIGHBORHOOD PLAN AREA: Bouldin Creek

SUMMARY STAFF RECOMMENDATION:
Staff recommendation is to grant termination of the public restrictive covenant.

WATERFRONT PLANNING ADVISORY BOARD ACTION:
To be determined December 10, 2012

PLANNING COMMISSION ACTION:
November 27, 2012: Staff requested postponement until December 11, 2012 in order to present the case to the Waterfront Planning Advisory Board on December 10, 2012.

PROCEDURAL NOTE:
Public restrictive covenants are a means to control use or development of a property and are enforced by the City. A public restrictive covenant (RC) differs from a private RC, which is not enforced by the City, and conditional overlays, which are conditions to the granting of zoning incorporated into a (zoning) ordinance. A public RC can only be amended or terminated with Council approval.

If a public RC has been adopted in conjunction with a zoning or rezoning case, then termination or modification of that public RC is subject to review by the Land Use Commission, as well as the Council. In this case, review of the termination request is the purview of the Planning Commission. However, in preparing for Commission review, it was determined the property is within the Waterfront Overlay District.

Although not a rezoning application per se, the City treats covenant modification applications as such with a public hearing at Planning Commission and Council. Per City Code, if an application includes property located within the Waterfront Overlay combining district, PDR staff will request a recommendation from the Waterfront Planning Advisory Board to be considered by the Land Use Commission at the public hearing. If the Board fails to make a recommendation, the Land Use Commission may act on the application without a recommendation from the Board.

DEPARTMENT COMMENTS:
The subject tract is located at the northern end of South Third Street, immediately south of the old "Filling Station" site, which was recently approved for redevelopment as The Park Planned Unit Development (see Exhibits A to A-3).

In 1974, this tract, and the area between it and Barton Springs Road, was a single parcel comprising 1.514 acres and was rezoned by the Planning Commission and Council. That request was for a rezoning of three zoning tracts from "A" and "B" Residence, both First Height and Area, and "C-2" Commercial, Second Height and Area. After deliberation by the Commission and an amended request from the applicant, the Commission subsequently approved "C-2" Commercial, Second H&A on the northern tract, abutting Barton Springs Road, "C" Commercial, Second H&A on the middle tract, and "B" First H&A on the third, or southern, tract (which corresponds with the current subject tract) – with the condition that the southern 10' remain "A" Residence, First Height and Area. Additionally, the Commission required – and the applicant agreed – to restrict the tract to vehicular parking only without a special permit, the provision of a privacy fence north of the "A" residence strip, and a prohibition of access to South 3rd Street.

Council approved this amended rezoning request with the Commission's conditions.

The restrictive covenant executed at the time of the 1974 rezoning (see Exhibit B) mandated four things:

1) Required a 10-feet wide (then "A" now "SF-3") residential zoning along the southern property line;
2) Required a 6-feet high privacy fence along the northern edge of that 10-feet wide strip;
3) Limited the tract to no other purpose than vehicle parking without an approved special permit; and
4) Prohibited access from this tract to South 3rd Street, and required its closure at the owners' expense.

With adoption of the Zoning Conversion Ordinance in the 1980s, the parent property converted into a combination of CS-1, CS, and MF-3, along with a 10-feet wide SF-3 strip at the southern boundary. When the Bouldin Creek Neighborhood Plan was adopted in May 2002, the parent property was rezoned again, to CS-1-NP, MF-3-NP, and SF-3-NP, to reflect the neighborhood plan combining district.

In 2005 the approximate 1.5-acre property was subdivided, with the entirety of the subject tract becoming Lot 2 of a 2-lot subdivision (see Exhibit C). The two new Lots were sold to different buyers shortly after the subdivision plat was recorded.

Lot 1 (the former Filling Station site), picked up a Vertical Mixed-Use Building zoning overlay in 2007. Most recently, in 2011, The Park PUD was approved by the Council; importantly, this PUD only included the platted Lot 1, north of the subject tract. Meanwhile, there was a proposal to vacate and replat Lot 2 (the subject tract), in order to remove a restriction on the 2005 subdivision plat that restricted development on Lot 2 to four (4) residential units. The request for the plat vacation and replat was not approved by the Commission, and the applications were subsequently withdrawn.

Consequently, today the subject property remains an undeveloped tract with MF-3-NP zoning, save for the 10' SF-3-NP zoning on the southern edge. A plat restriction limits development of the property to 4 residential units, and a restrictive covenant from a 1974 rezoning case effectively prohibits any access, and limits use to vehicular parking without a special permit. While easements dedicated on the property with the plat may be wholly or partially released, such as the partial release of a 15' wastewater easement in August 2012 or release of a 15' public utility easement in October 2012, the limitation of the use of the property to four residential units can only be modified with a plat vacation.

The request for the Waterfront Planning Advisory Board and Planning Commission's consideration at this time only involves the restrictive covenant from 1974.

EXISTING ZONING AND LAND USES:

	ZONING	LAND USES
Site	MF-3-NP & SF-3-NP	Undeveloped
North	PUD; P-NP; CS-1-V-NP	Park for Mobile Food Vendors; Offices (COA and Other)
East	MF-3-NP	Apartments
South	SF-3-NP	Single-family residential
West	SF-3-NP	Religious Assembly, Single-family residential

The subject tract is also within the Auditorium Shores subdistrict of the Waterfront Overlay District. However, it is outside the limits of both the primary and secondary setbacks. There is no additional setback for the creek which crosses the property, nor are there any additional development standards for this subdistrict (see Exhibit A-1 & A-2).

AREA STUDY: N/A
WATERSHED: Town Lake Creek
CAPITOL VIEW CORRIDOR: No

TIA: Not Required
DESIRED DEVELOPMENT ZONE: Yes
HILL COUNTRY ROADWAY: No

NEIGHBORHOOD ORGANIZATIONS:

Bouldin Creek Neighborhood Assn.	127
South Central Coalition	498
Austin Neighborhoods Council	511
Perry Grid	614
Austin Independent School District	742
Home Builders Association of Greater Austin	786
Save Town Lake	1004
Homeless Neighborhood Organization	1037
Bouldin Creek Neighborhood Planning Team	1074
League of Bicycling Voters	1075
Austin Parks Foundation	1113
Super Duper Neighborhood Objectors and Appealers Organization	1200
Austin Monorail Project	1224
Sierra Club, Austin Regional Group	1228
The Real Estate Council of Austin, Inc.	1236
Austin Heritage Tree Foundation	1340
SEL Texas	1363

RELATED CASES:

NUMBER	REQUEST	PLANNING COMMISSION	CITY COUNCIL
C14-74-145	"A" and "B" Residence 1st H&A to "C-2" Commercial 3rd H&A (north 150') "C-2" Commercial to "C" Commercial 3rd H&A and "B" Residence 1st H&A	As per the amended request: Tract 1: "C-2" Commercial 2nd H&A Tract 2: "C" Commercial 2nd H&A Tract 3: "B" Residence 1st H&A excluding southern 10' to remain "A" Residence 1st H&A	Adopted amended request as approved by Commission with conditions.
C8-05-0029.0A	Approve 1.502-acre, 2-lot Subdivision	Approved	N/A
C8-05-0029.0A and C8-06-0101.0A	Approve Vacation of Lot 2; and Approve new 0.694-acre, 1-lot Subdivision w/variance	Denied Variance (applications withdrawn)	N/A

CASE HISTORIES:

NUMBER	REQUEST	PLANNING COMMISSION	CITY COUNCIL
C14-2007-0097 (west)	SF-3-NP to NO-CO-NP (City as Applicant)	Expired without Public Hearing	N/A
C14-2007-0220 (northwest & north – NOT on subject tract)	Addition of Vertical Mixed Use zoning to selected tracts (City as Applicant)	Approved; 11/13/2007	Approved; 12/13/2007
C814-2008-0145	CS-1-V-NP to PUD-NP	Approved staff recommendation to deny PUD-NP; 02/09/2010	Approved PUD-NP; 03/03/2011

ABUTTING STREETS:

Street Name	ROW Width	Pavement Width	Classification	Bicycle Plan	Capital Metro	Sidewalks
South Third Street	50 Feet	Approximately 28 Feet	Local	No	No	No

CITY COUNCIL DATE: December 13, 2012* **ACTION:**

ORDINANCE READINGS: 1st 2nd 3rd

ORDINANCE NUMBER:

CASE MANAGER: Lee Heckman **PHONE:** 974-7604
e-mail address: lee.heckman@austintexas.gov

** Staff will request a postponement in order to accommodate consideration of the request by the Waterfront Planning Advisory Board and Planning Commission. Such consideration is anticipated to occur on December 10 and December 11, respectively. The Code precludes staff from scheduling Board or Commission action and City Council action within the same week.*

SUMMARY STAFF RECOMMENDATION

Staff recommendation is to grant termination of the public restrictive covenant.

BASIS FOR RECOMMENDATION

The request is for termination of the existing public restrictive covenant only. It is not a request to change the existing zoning, or remove restrictions set forth in the plat, such as the limitation of development to no more than four residential units.

Staff believes two of the four restrictive covenant requirements, namely, that 10' of (then A, now SF-3) residential zoning remain along the southern property line and that a privacy fence be erected on the northern edge of that (single) family residential strip, reflects a desire by the Commission and Council to provide an appropriate setback and buffer between the then existing single-family homes along South 3rd Street and the proposed multifamily zoning. In 1974, the City did not have the compatibility requirements that are in place today. In considering these two requirements, staff has deduced that the proposed multifamily use was not the issue per se, but how to provide for an appropriate interface, or compatibility, with the existing single family residential.

Any new development is subject to Subchapter E. Design Standards and Mixed Use. These standards include setbacks (no structure may be built within 25 feet of the property line; no structure in excess of two stories or 30 feet in height may be constructed within 50 feet of the property line; and no structure in excess of three stories or 40 feet in height may be constructed within 100 feet of the property line), landscaping (an area at least 15 feet wide is required along the property line), screening (a fence, berm, or dense vegetation must be provided to screen adjoining properties from views of parking, mechanical equipment, storage, and refuse collection), site layout (an intensive recreational use, including a swimming pool, tennis court, ball court, or playground, may not be constructed 50 feet or less from adjoining SF-3 property), among other requirements. Staff believes the suite of compatibility requirements in place today, and that would apply to development of the site, adequately protects the abutting single-family.

Termination of the covenant would remove the requirement of a privacy fence at the northern edge of the 10' strip. The result is that the property owner could erect a fence or gate on the property line, if it is so desired. Termination would not change the underlying zoning of the 10' SF-3-NP strip. It would, however, allow the owner to submit an application to rezone the property from SF-3-NP. Such an application for rezoning would be subject to all normal rezoning procedures, including public hearings, and positive recommendations by the Waterfront Planning Advisory Board and the Planning Commission, as well as adoption by the City Council.

Requirement that the tract be used only for vehicular parking without a special permit may reflect a desire on the part of the Commission and Council for flexibility. At the time this tract was rezoned to multifamily, it abutted multifamily to the east, and was part of the commercially-zoned property to the north. Without topographic constraints, it's conceivable the commercial endeavors could/would use the extra surface parking this tract provided. Or, if additional parking was unnecessary, perhaps the site could be developed as an extension of the existing apartments to the east.

Regardless, in the 1970s all site plans for apartments and condominiums were reviewed by the Planning Commission as special permits. So, the Council was not attempting to prohibit multifamily use. Rather, the Council simultaneously granted multifamily zoning to the tract and took steps to ensure that the site plan for any use was approved by the Planning

Commission, via the special permit process. Approval by the Planning Commission of subdivisions and site plans necessarily meant public notice to nearby residents and a hearing on the proposed site plan.

Multifamily projects are not uncommon today, and may be routinely approved administratively unless they involve a variance. In the case of a variance, approval of the relevant Boards and Commissions is required. In addition, the City notifies property owners and residents within 500 feet of a property when a site plan application is filed. Those so inclined may register as interested parties. The covenant's requirement of a special permit for any use other than parking is procedural only, and not a substantive prohibition against uses otherwise allowed under the multifamily zoning. Given the notice and review provisions of today's code, staff believes the absolute requirement for Planning Commission review of a site plan on this tract is an unnecessary requirement, unless some sort of variance is requested.

Lastly, the covenant's prohibition against access to and from South Third Street from this property effectively makes this tract land-locked and therefore undevelopable. At the time of the restrictive covenant, this tract was part of a larger parcel that extended to Barton Springs Road. Preventing cut-through traffic or shortcuts across the property from Barton Springs to South 3rd Street would have been appropriate. Such a prohibition of access to South 3rd also reinforces the notion this tract was seen as likely to be incorporated and developed either with the commercial to the north or the multifamily to the east.

Topographically, incorporation options seem infeasible (see Exhibit A-3). There is an approximate six-foot drop in elevation from this tract to the old Filling Station parking lot; there is a creek and ravine crossing the eastern part of the property that ostensibly separates this tract from the apartments to the east. What was a topographically-isolated piece of property became a legally-isolated property with the subdivision plat approved in 2005, in which this tract became its own Lot. City Code requires that each Lot have access and frontage to a public right-of-way. As configured and approved, this tract/Lot takes frontage to South 3rd Street. That it was also expected to take access to S 3rd St is reinforced by the fact that 10 feet of additional right-of-way along that Street was dedicated at the time of subdivision (see Exhibit B).

It is unknown if the restrictive covenant surfaced in the preparation and review of this subdivision; presumably, if it had, the request for termination or modification would have been submitted at that time. Perhaps there was an expectation that frontage would be provided by S 3rd St, but access from Barton Springs Road through some form of joint use driveway/agreement between future property owners; however, there is no evidence of such a shared-access solution in the subdivision application case folders. Staff could not have knowingly approved creation of Lots without frontage and access (although there may be Code provisions for special purpose, City-owned, Lots); similarly, the Council would likely not prohibit access to a stand-alone single-parcel property today.

This parcel is not likely to be reincorporated into the tract to the north, or provided access to and from Barton Springs Road. There would have been opportunity for either incorporation or a provision of access at the time of The Park PUD application. Neither happened, and staff believes this reflects the topographic challenges of the site. Staff thinks this prohibition of access is a hold-over from an earlier day when the tract was part of a parent parcel and was not land-locked. Platting the tract as a Lot without legal access may have been an oversight; or, anticipated (but undocumented) cross-access from Barton Springs didn't materialize over time. While staff is aware access to and from the tract will have an impact

on the abutting single-family neighborhood, the reality is that without access to South 3rd Street, this tract is land-locked and will not be developed.

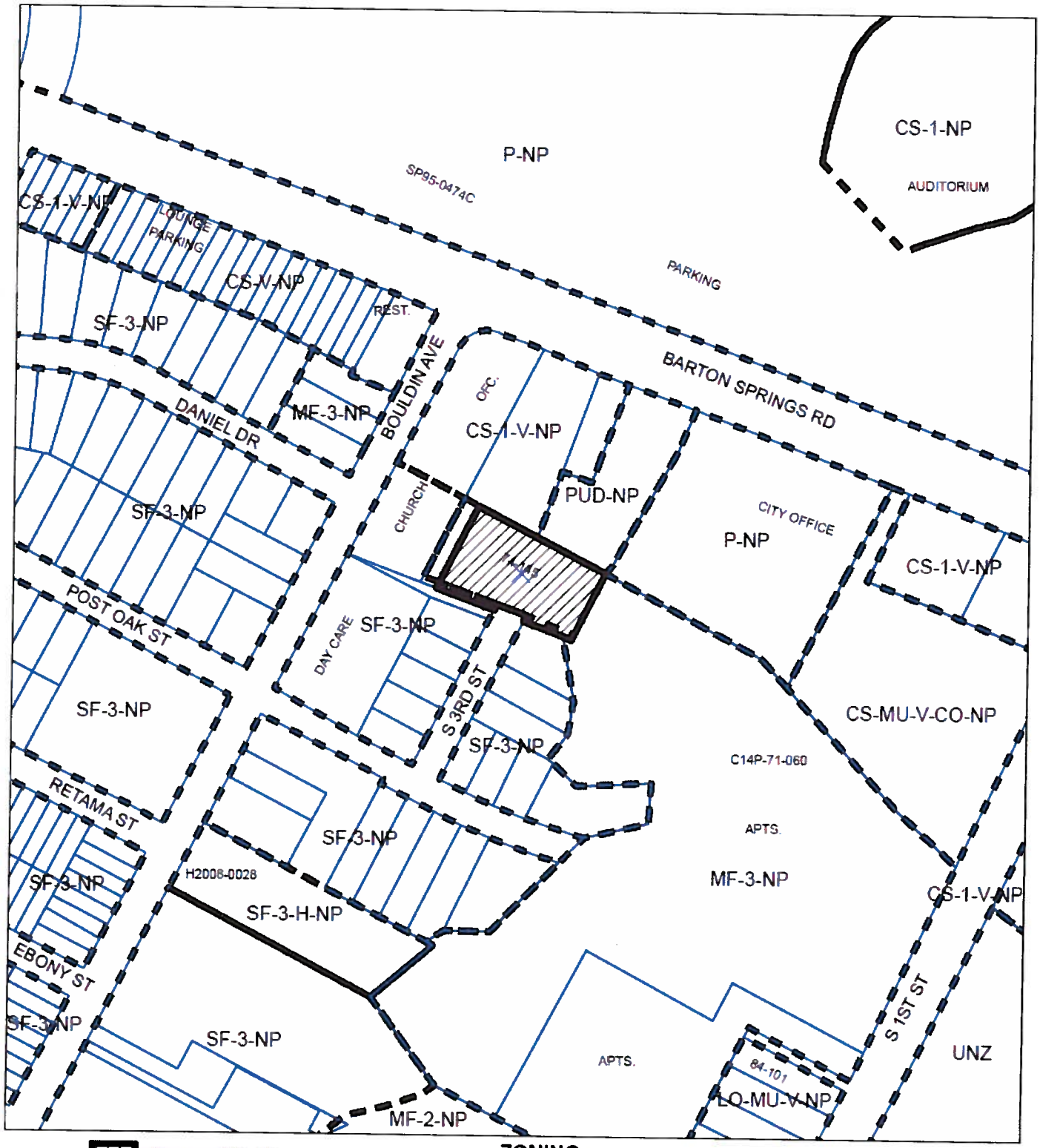
In sum, staff believes the three substantive prohibitions in the covenant (no access to S 3rd, provide a setback, and build a fence), as well as the procedural requirement (no multifamily or other allowed use without Planning Commission approval), were intended to protect the then abutting and existing single-family residential, and to keep residents and owners informed of the proposed development of the site. While much has changed along Barton Springs Road, including approval of The Park PUD on the northern portion of this tract's parent parcel, the immediate neighborhood along S 3rd St remains single-family. As such, any new development on this tract must comply with today's compatibility standards and current zoning provisions. Area residents and owners will be noticed of any proposed site development. Staff believes the protections adopted by Council in 1974 when adopting the rezoning ordinance and restrictive covenant are still appropriate, but that these protections are provided (or even exceeded) with current Code and application requirements. Furthermore, staff does not believe the Council would restrict access on this isolated tract today, thus rendering it undevelopable. Maintaining a prohibition against access is contrary to the subdivision requirements and can no longer be justified.

EXISTING CONDITIONS

Site Characteristics

The site is an undeveloped tract currently zoned MF-3-NP and SF-3-NP at the northern terminus of South Third Street. It is heavily wooded, although it is unknown if any of the trees are considered protected under the Code. The site is topographically constrained, falling from west to east, and with a sharp drop to the north; East Bouldin Creek separates the eastern portion of the tract from the western. The site is further constrained by floodplain and easements. The property is encumbered with FEMA and Austin's fully developed floodplain, and nearly the entire eastern third of the tract remains in a Drainage Easement and Critical Water Quality Zone.

A plat restriction limits development of the tract/Lot to a maximum of 4 residential units.



ZONING

N

SUBJECT TRACT

PENDING CASE

ZONING BOUNDARY

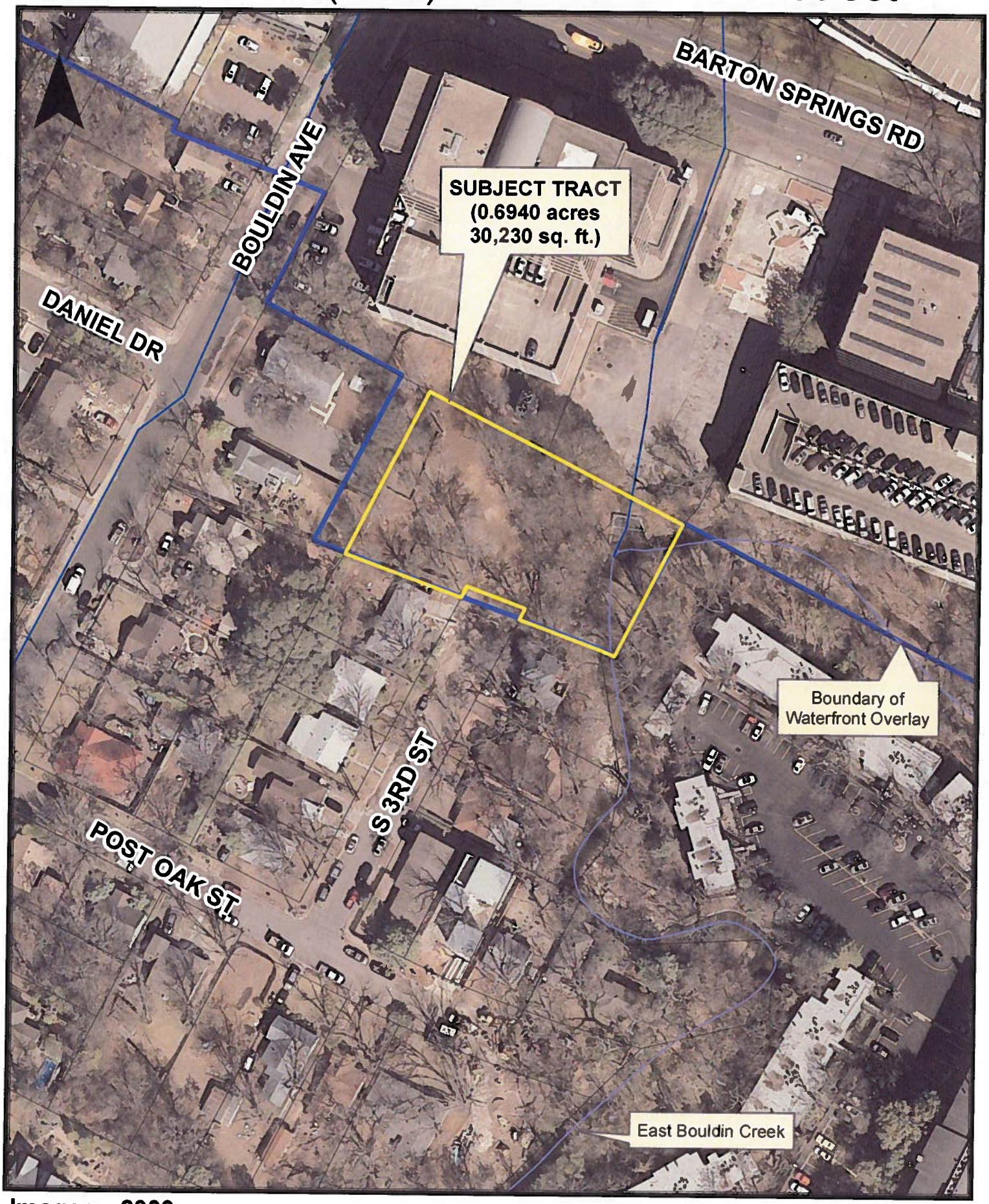
1" = 200'

ZONING CASE#:C14-74-145(RCT)

CITY OF AUSTIN
FOUNDED 1839

Exhibit A

C14-74-145(RCT) / 300 South Third Street



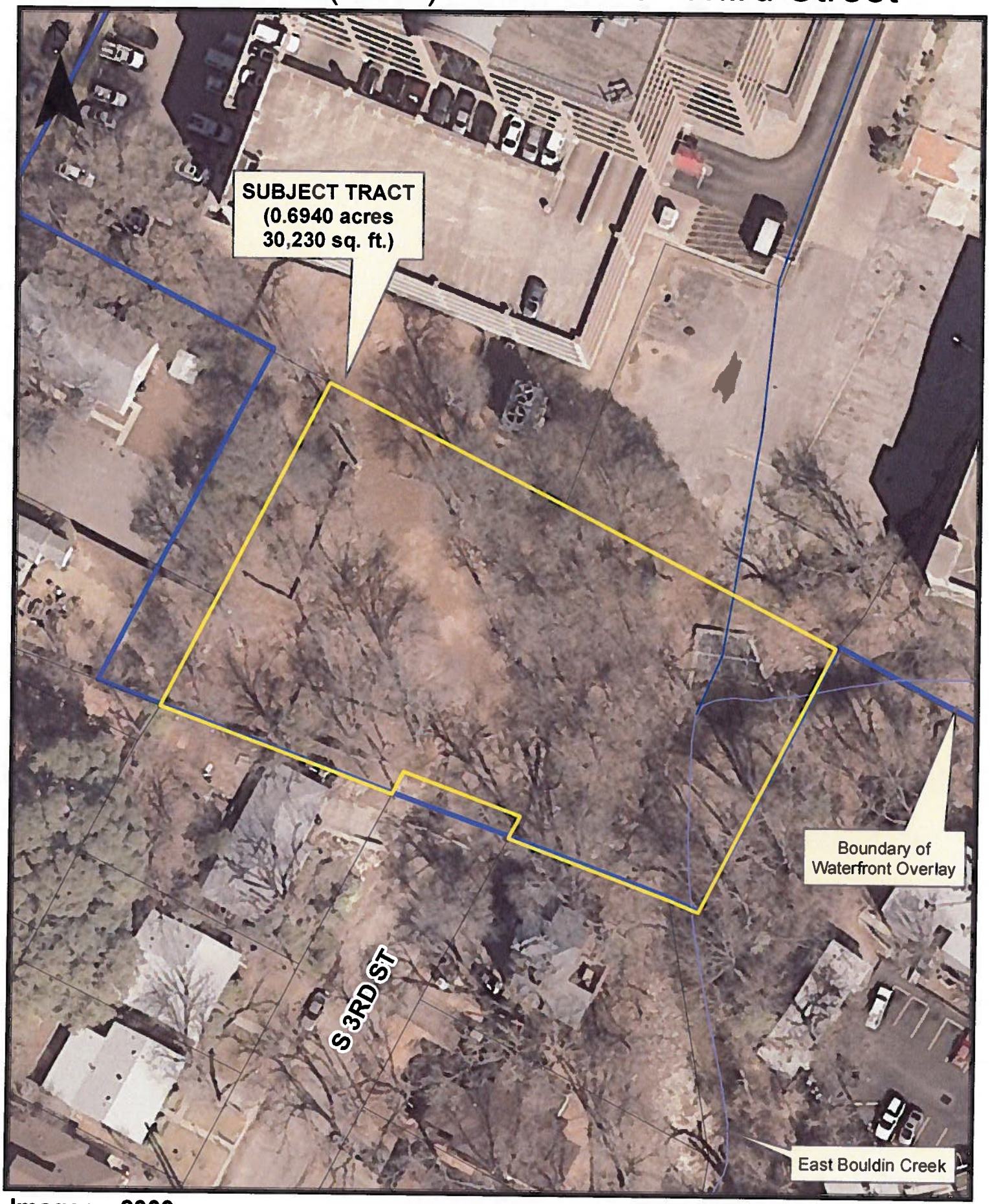
Imagery: 2009

Exhibit A-1

0 50 100 200 Feet

1 inch = 100 feet

C14-74-145(RCT) / 300 South Third Street



Imagery: 2009

Exhibit A-2

0 25 50 100 Feet

1 inch = 50 feet

C14-74-145(RCT) / 300 South Third Street

Imagery: 2009
Contours: 2003

Exhibit A-3

0 25 50 100 Feet

1 inch = 50 feet

COVENANT

1-CE-6563

STATE OF TEXAS [illegible] 5146 * 6.50
§
COUNTY OF TRAVIS §

WHEREAS, Forest S. Pearson, Trustee, acting on behalf of the beneficiaries therein concerned, being the owners of approximately 1.514 acres of land described in Exhibit "A" attached hereto and made a part hereof for all purposes, and,

WHEREAS, the City of Austin and the owner of the land mentioned above have agreed that the above described property should be impressed with certain covenants and restrictions running with the land and desire to set forth such agreement in writing:

NOW THEREFORE, THE UNDERSIGNED OWNER of said property located in the City of Austin, Travis County, Texas, for and in consideration of the sum of ONE DOLLAR ($1.00) cash and other valuable consideration to him in hand paid by the City of Austin, a municipal corporation, 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 him, his successors and assigns, as follows, to-wit:

1. This ~~Contract~~ Covenant affects only the southern most portion of the 1.514 acre tract described in Exhibit "A" and said portion herein concerned is shown as Tract 3 on Exhibit "B" attached hereto and incorporated herein for all purposes.

Therefore, with respect to Tract 3, the following covenant shall apply:

(a) "A" Residence zoning shall exist on the southern most ten (10) feet of Tract 3 in a strip paralleling the southern most line of Tract 3.

(b) At the northern perimeter of said ten (10) foot strip of "A" zoned land, a six (6) privacy fence shall be constructed by the owner of said property at the time

DEED RECORDS

5076 733

Exhibit B - 1

permanent construction may commence on any portion of the 1.514 acre tract.

(c) Tract 3 shall be used for no purpose other than the parking of vehicles unless pursuant to an approved special permit.

(d) There shall be no access to South 3rd Street where same abuts Tract 3, and it shall be closed at the expense of the owner at such time as permanent construction may commence on any portion of the 1.514 acre tract.

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, as well as any adjoining property owner, his successors and assigns, to prosecute 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.

If any part of the 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.

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.

This agreement may be modified, amended or terminated only by joint action of both (1) 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 (2) by the owners of the above described property at the time of such modification, amendment, or termination, or, upon change of designation of zoning of lots adjoining the subject property to such an extent that the character of the neighborhood has thereby been substantially changed, thereby rendering the protection for the surrounding property owners created herein, no longer meaningful.

EXECUTED this 26 day of November, 1974.

Forest S. Pearson, Trustee

THE STATE OF TEXAS §
§
COUNTY OF TRAVIS §

Before me, the undersigned authority, on this day personally appeared Forest S. Pearson, Trustee, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same for the purposes and consideration therein expressed and in the capacity therein stated.

Given under my hand and seal of office on this the 26 day of November, A.D. 1974.

NOTARY SEAL

Notary Public in and for
Travis County, Texas.

5470 135

Exhibit B - 3

Exhibit "A"

FIELD NOTES

I-86-6586 ~~97 8668~~

FIELD NOTES FOR 1.518 ACRES OF LAND OUT OF THE ISAAC DECHER LEAGUE IN THE CITY OF AUSTIN, TRAVIS COUNTY, TEXAS, SAME BEING THOSE CERTAIN TRACTS OF LAND CONVEYED TO ROY SEEKATZ, BY DEEDS OF RECORD IN VOLUME 710 AT PAGE 71, VOLUME 728 AT PAGE 5, VOLUME 736 AT PAGE 273, AND VOLUME 909 AT PAGE 58 OF THE DEED RECORDS OF TRAVIS COUNTY, TEXAS; SAID 1.518 ACRES BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING at an iron pin found on the south line of Barton Springs Road, which point of beginning is the northeast corner of Vernon's Addition, a subdivision of record in Book 62 at Page 62, of the Plat Records of Travis County, Texas, same being the northerly northwest corner of this tract, and from which point of beginning an iron pin found at the northwest corner of Vernon's Addition, bears N66° 54'W 50.00 feet;

THENCE, with the south line of Barton Springs Road, S66° 54'E 120.47 feet to an iron pin found at the northeast corner of this tract;

THENCE, in a southerly and westerly direction with the following eight (8) courses;

(1) S28° 39'W 49.70 feet to an iron pin set;
(2) S31° 56'W 49.70 feet to an iron pin set;
(3) S32° 10'W 51.30 feet to a bolt found;
(4) S33° 48'W 55.80 feet to a nail in concrete;
(5) S23° 18'W 47.87 feet to an iron pin set;
(6) S58° 37'W 7.93 feet to an iron pin set;
(7) S30° 18'W 30.50 feet to an iron pin found; and
(8) S30° 02'W 133.91 feet to an iron pin set at the southeast corner of this tract, which point is in the easterly prolongation of the north line of Convenient Courts, a subdivision of record in Book 4 at Page 28 of the Plat Records of Travis County, Texas;

THENCE, with the north line and its easterly prolongation of Convenient Courts, in a northwesterly direction with the following two (2) courses;

(1) N66° 57'W at 83.57 feet passing an iron pin found at the northwest corner of Lot 6, Convenient Courts, in all a distance of 133.91 feet to an iron pin found at the northeast corner of Lot 15, Convenient Courts; and

(2) N67° 00'W 100.42 feet to an iron pin found at the southwest corner of this tract, same being the southeast corner of that certain tract of land conveyed to Rudie B. Williams by deed of record in Volume 776 at Page 234 of the Deed Records of Travis County, Texas;

THENCE, with the east line of the Williams tract, N30° 15'E 46.93 feet to an iron pin found at the southeast corner of that certain tract of land conveyed to John Woody by deed of record in

FIELD NOTES
PAGE TWO

1-06-6587 ~~97-8661~~

Volume 524 at Page 87 of the Deed Records of Travis County, Texas;

THENCE, with the east line of the Woody tract, N30° 02'E 100.05 feet to an iron pin found at the northeast corner of the Woody tract, and which point is in the south line of that certain tract of land conveyed to Minelma Brown Lockwood by deed of record in Volume 1822 at Page 350 of the Deed Records of Travis County, Texas;

THENCE, with the south line of the Lockwood tract, S60° 03'E 106.67 feet to an iron pin found at the southeast corner of the said Lockwood tract;

THENCE, with the east line of the Lockwood tract, N23° 06'E 113.88 feet to an iron pin found at the southwest corner of the aforesaid Vernon's Addition;

THENCE, with a chain link fence, S66° 54'E 50.00 feet to an iron pin found at the southeast corner of Vernon's Addition;

THENCE, N23° 07'E 167.50 feet to the POINT OF BEGINNING and containing 1.514 acres of land.

FIELD NOTES BY B.F. Priest DATE 6-7-74
B.F.Priest, Reg. Public Surveyor

B. F. Priest
629

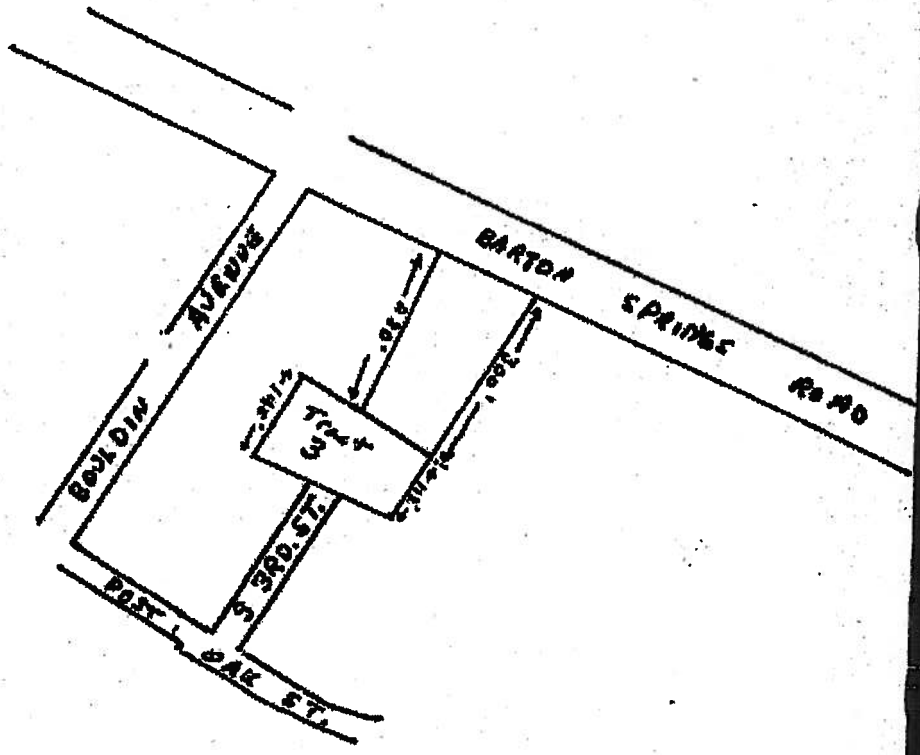
5075 — 737

~~4082 — 2256~~

Exhibit B - 5

Exhibit "B"

1-CE-5588



NORTH

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

DEC 17 1974

COUNTY CLERK
TRAVIS COUNTY, TEXAS

FILED

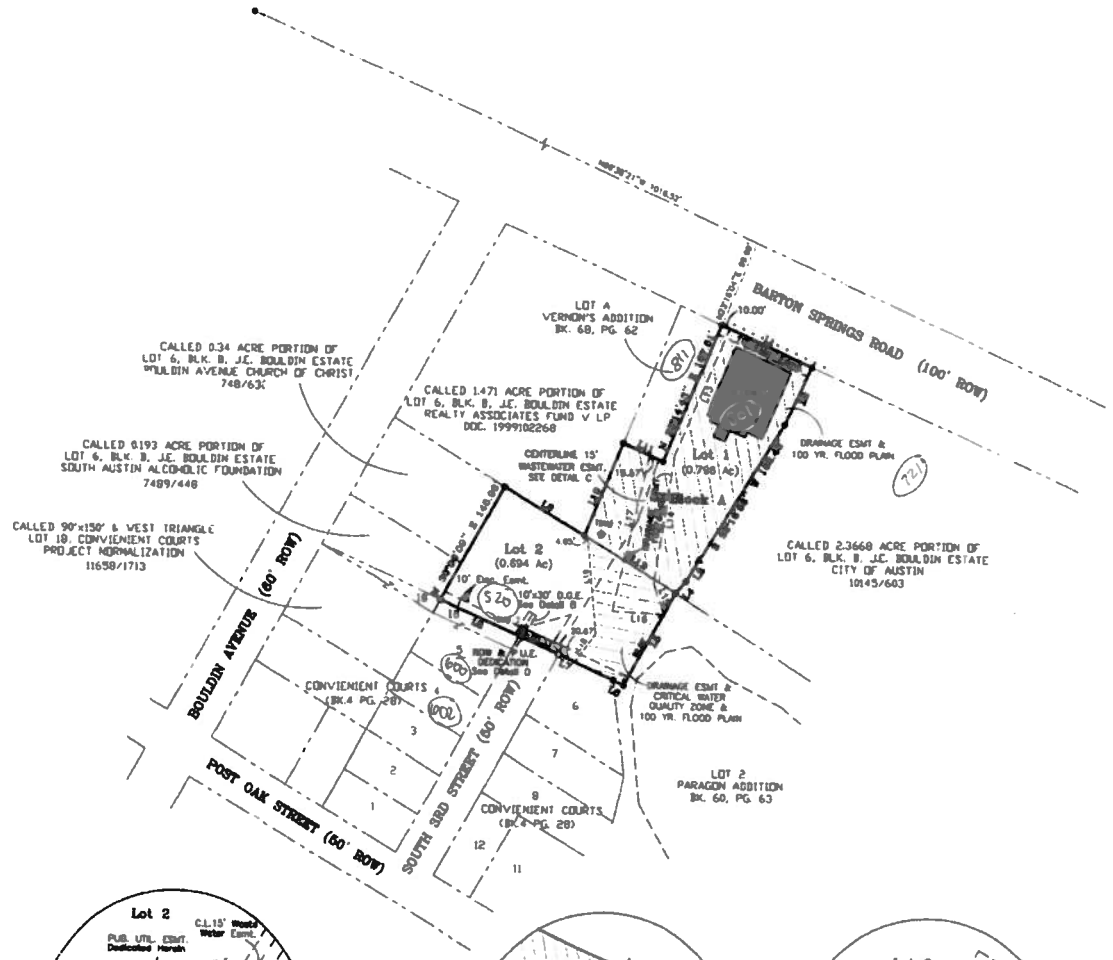
Dec 17 8 09 AM '74

COUNTY CLERK
TRAVIS COUNTY, TEXAS

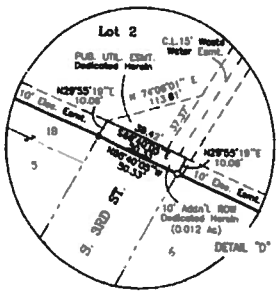
5076 738

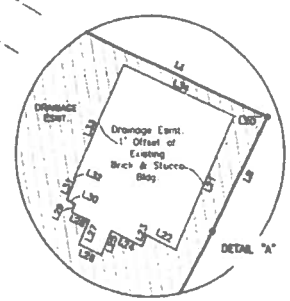
THE CRESCENT ON BOULDIN CREEK

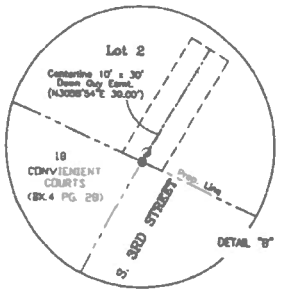
SCALE 1"= 100'

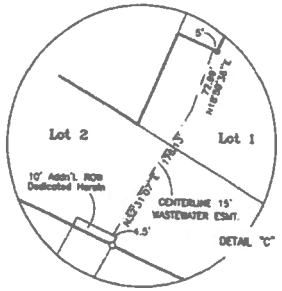


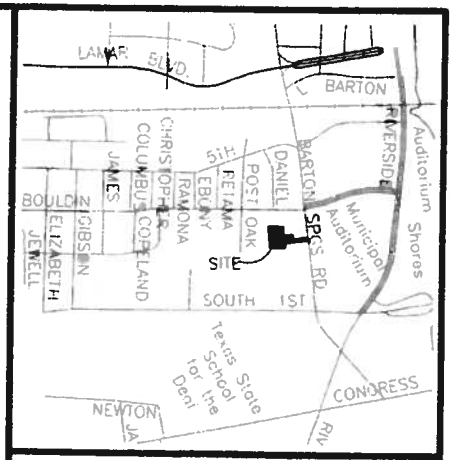
NUMBER	DIRECTION	DISTANCE
L1	S68°43'41"E	114.94'
L2	S25°34'02"W	71.68'
L3	S32°10'54"W	27.79'
L4	S42°42'07"W	17.56'
L5	S29°48'48"W	119.75'
L6	N65°21'58"W	13.14'
L7	N66°40'05"W	119.58'
L8	N66°54'33"W	100.11'
L9	S80°02'80"E	106.87'
L10	N23°14'00"E	113.12'
L11	S67°01'37"E	49.95'
L12	N59°49'09"W	123.95'
L13	S23°14'43"W	154.96'
L14	S09°05'19"W	145.98'
L15	S19°27'40"E	35.83'
L16	N87°36'01"W	58.74'
L17	N13°22'01"E	179.21'
L18	N36°28'18"E	40.00'
L19	N09°49'46"W	107.34'
L20	S79°01'48"W	24.02'
L21	S23°32'54"W	83.46'
L22	N66°38'21"W	18.80'
L23	S23°21'39"W	6.30'
L24	N66°38'21"W	19.50'
L25	S23°21'39"W	14.00'
L26	N66°38'21"W	14.10'
L27	N23°21'39"E	14.00'
L28	N66°38'21"W	11.00'
L29	N23°21'39"E	4.90'
L30	N66°38'21"W	5.80'
L31	N23°21'39"E	12.60'
L32	N66°38'21"W	1.07'
L33	N23°33'54"E	70.36'
L34	S66°38'21"E	72.00











VICINITY MAP
(NOT TO SCALE)

LEGEND

●	1/2-INCH IRON ROD FOUND (UNLESS OTHERWISE NOTED)
○	1/2-INCH IRON ROD W/ PLASTIC CAP STAMPED "McANGUS SURVEY" SET
□	CONCRETE MONUMENT SET
◆	BENCHMARK
D.G.E.	DOWN GUY EASEMENT
.....	SIDEWALK

PROJECT DATA

TOTAL ACREAGE	1.502 Acres
TOTAL LOTS =	2 Lots

BENCHMARKS

TBM #1: C.G.S. SET IN POWER POLE +/- 20 EAST OF THE SOUTHWEST CORNER OF LOT 1, BLK. A
Elev.= 459.50

TBM #2: TBM #2: C.G.S. SET IN POWER POLE +/- 2 NORTH OF THE PROJECTED WESTERLY R.O.W. OF SOUTH 3RD STREET
Elev = 451.28

McANGUS SURVEYING CO., INC.

1101 HIGHWAY 360 SOUTH
BUILDING H, SUITE 100
AUSTIN, TEXAS 78746
(512) 328-9302

Plat of Subject Tract

Exhibit C - 1

PHOTOGRAPHIC MYLAR

SHEET 1 of 2

Plat – Close-up of Lots

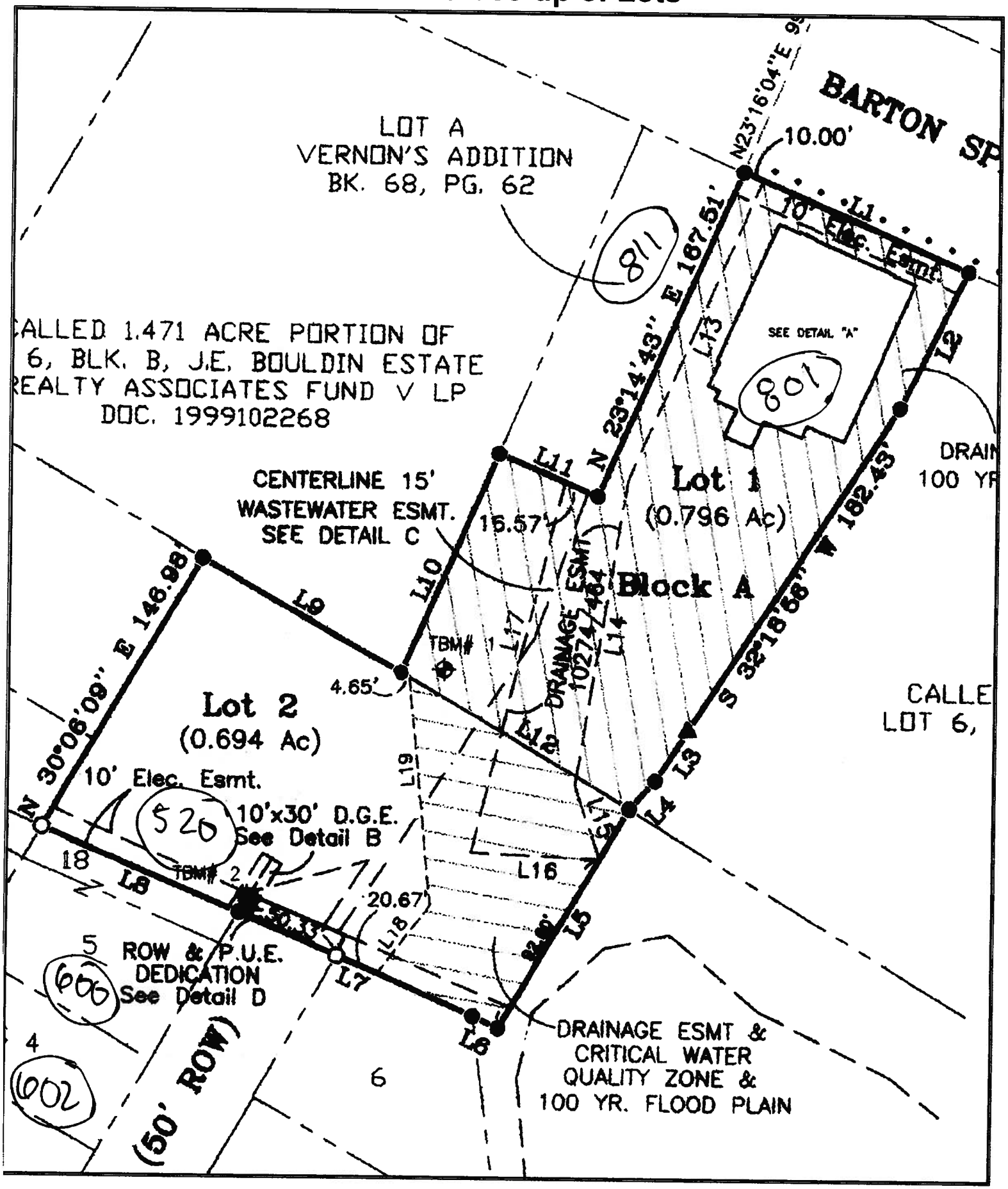
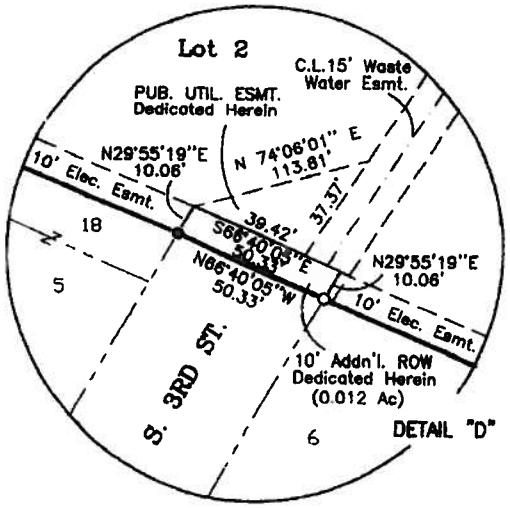


Exhibit C - 2

Plat Restrictions and Easements

Plat Note Regarding Use of Subject Tract (Lot 2)

22. DEVELOPMENT OF LOT 1, BLOCK A, IS RESTRICTED TO USES OTHER THAN RESIDENTIAL AND DEVELOPMENT OF LOT 2, BLOCK A, IS RESTRICTED TO 4 RESIDENTIAL UNITS.



Plat Note Dedicating Right-of-Way

Other Easements Dedicated by Plat