

## **RESTRICTIVE COVENANT AMENDMENT REVIEW SHEET**

**CASE:** C14-91-0038(RCA) – Dabney-Horne House

**P.C. DATE:** January 12, 2016

**ADDRESS:** 507 W 23<sup>rd</sup> Street

**DISTRICT AREA:** 9

**OWNER/APPLICANT:** Austin City Realty LLC (David Kanne)

**AGENT:** Mike McHone Real Estate (Mike McHone)

**REQUEST:** To amend a 1991 Restrictive Covenant by changing the address that the RC applies to.

### **SUMMARY STAFF RECOMMENDATION:**

Staff recommends granting the amendment to the restrictive covenant.

### **PLANNING COMMISSION RECOMMENDATION:**

January 12, 2016; *Approved the amendment to the Restrictive Covenant, as requested by the applicant and in accordance with the Staff recommendation, per passage of the consent agenda [N. Zaragoza / P. Seeger – 2<sup>nd</sup>] (11-0). ABSENT – S. Oliver and J. Stevens.*

### **DEPARTMENT COMMENTS:**

The subject property is located on the southeast corner of West 23<sup>rd</sup> Street and Nueces Street and is zoned GO-CO-H. The conditional overlay (-CO-) prohibits development taller than 40feet. The (-H) identifies this property as being historically designated as it is the location of the Dabney-Horne House, a City of Historic Landmark structure (see Exhibits A & B). The property has a history of multifamily and offices uses. Surrounding uses include multifamily, structured parking and office uses. To the west, across Nueces Street, is the Gerhard – Schoch House, another City of Austin Historic Landmark structure.

The Applicant proposes to amend the restrictive covenant by changing the address that the RC applies to, from 507 W 23<sup>rd</sup> Street to 901 Shoal Cliff Court (see Exhibit C). The amendment is needed in order to allow for the relocation of the Dabney-Horne House to 901 Shoal Cliff Court, approximately 0.5 miles northwest of its current location at 507 W 23<sup>rd</sup> Street. Subsequently, the property at 507 W 23<sup>rd</sup> Street will become vacant. While plans for redevelopment at this location have not been formally submitted to the City of Austin for review, it is known that the intent of moving the Dabney-Horne House is to allow for the redevelopment of a residential tower under UNO district entitlements and development regulations. In addition to this RC amendment, it will be necessary to rezone the subject property from GO-CO-H to GO; whereby removing the conditional overlay (-CO-) and the historic designation (-H).

The subject property is located in the Inner West Campus sub-district of the University Neighborhood Overlay (UNO), and within the West Campus Neighborhood Area of the greater Central Austin Combined Neighborhood Planning Area. Properties in the UNO district have the option of choosing

to develop under existing entitlements of the base zoning district OR to *Opt-in* to the development entitlements of the UNO district at the time of site plan. Should the property opt-in to UNO development regulations, said regulations supersede zoning regulations established by the base zoning district wherever there are conflicts. The purpose of the UNO district is to promote high density redevelopment in this area in order to provide a densely populated but livable and pedestrian friendly environment for university students, staff and faculty, thereby protecting and preserving the character of the predominantly single-family residential neighborhoods adjacent to the district as it provides some relief to redevelopment pressure in the single family neighborhoods. Therefore, the proposed redevelopment of the subject property is consistent with the intent of the UNO district.

#### History of the Subject Property

In 1989, the Owner requested that the City of Austin conduct a determination of historical value for the structure at 507 W 23<sup>rd</sup> Street by the City of Austin. The structure was found to be historically significant. Subsequently, the Historic Landmark Commission initiated historic zoning with case C14H-89-0010 to rezone the property from MF-4 to MF-4-H (see Exhibit D); however, in opposition to the historic zoning, the Owner requested and indefinite postponement (see Exhibit E). The property remained with MF-4 zoning until 1991 when rezoning case C14-91-0038 was filed to rezone the property from MF-4 to GO to bring the use of the property into conformance with the Land Development Code and the longstanding office use on the property. The rezoning was approved with the condition that the Dabney-Horne House would be retained on the property. Therefore, GO-CO zoning was approved with the conditional overlay placing a 40 foot height restriction for any structures on the property (Exhibit F). A public Restrictive Covenant was executed to require that the Dabney-Horne House be retained on the property (Exhibit C). The RC protected the structure from demolition or relocation and in April of 1992, at the request of the Owner, the property was formally granted Historic zoning by appending an -H- to the existing GO-CO zoning with Ordinance No. 920402-F (see Exhibit G).

The owner applied to terminate the Restrictive Covenant and rezone a portion of the property from GO-CO-H-NP to GO-CO-NP in 2013. The proposal was to move the house to a new location on the same lot, approximately 12 feet northwest, and then remove the historic zoning for the portion of land not occupied by the Historic Landmark house in order to allow for new development on the property while preserving the Historic Landmark structure. However, the Historic Landmark Commission denied the request. The Owner appealed the HLC's denial at which time it was determined that the relocation permit would be granted by default since the HLC did not take action to deny the case within the 75 day period dictated by the Land Development Code. While the relocation permit was granted in default, the house has not been moved to date.

On September 28, 2015, under new ownership, a Certificate of Appropriateness was approved by the Historic Landmark Commission to remove the non-original additions to the house and to relocate the Dabney-Horne House to 901 Shoal Cliff Court. While the HLC initially opposed relocation of the Dabney-Horne House in prior years, this approval came as a solution and compromise to save the structure at 903 Shoal Cliff Court, also owned by the Owner of the Dabney-Horne House and property. The house at 903 Shoal Cliff Court has been determined to be historically significant and appropriate for Historic Landmark designation as the Clyde & Henrietta Littlefield House. The Owner was opposed to the designation of the Littlefield House but indicated that opposition would be withdrawn in exchange for approval to relocate the Dabney-Horne House to 901 Shoal Cliff Court, adjacent to the Littlefield House. Therefore, approval for relocation of the Dabney-Horne House was dependent upon execution of a written agreement that the demolition application and letter of opposition to historic zoning of the Littlefield House, located at 903 Shoal Cliff Court, will be withdrawn. Upon relocation to 901 Shoal Cliff Court, the Dabney-Horne House will be restored to its

original configuration and the City of Austin will gain the Clyde and Henrietta Littlefield House as a designated Historic Landmark Structure.

With approval from the Historic Landmark Commission for relocation of the Dabney-Horne House to 901 Shoal Cliff Court, Staff recommends the amendment to the Restrictive Covenant so that it will continue to protect the structure at the new location.

**ISSUES:** The owner of the Gerhard – Schoch House, a City of Austin Historic Landmark, is opposed to the relocation of the Dabney-Horne House and the associated request for to amend the Restrictive Covenant.

**EXISTING ZONING AND LAND USES:**

	<b>ZONING</b>	<b>LAND USES</b>
<i>Site</i>	GO-CO-H-NP	Offices, Historic Landmark
<i>North</i>	MF-4-NP	Multi-family / student housing cooperative
<i>South</i>	GO-NP	Parking lot associated with use on subject property
<i>East</i>	CS-NP	Structured Parking Facility
<i>West</i>	MF-4-H-NP & MF-4-NP	Multi-family / Historic Landmark

**NEIGHBORHOOD PLANNING AREA:** West University Neighborhood Planning area (of the Central Austin Combined Neighborhood Plan)

**TIA:** Not Applicable

**WATERSHED:** Shoal Creek - Urban

**DESIRED DEVELOPMENT ZONE:** Yes

**CAPITOL VIEW CORRIDOR:** No

**HILL COUNTRY ROADWAY:** No

**NEIGHBORHOOD ORGANIZATIONS:**

<i>Community Registry Name</i>	ID No.
Bike Austin	1528
Sierra Club, Austin Regional Group	1228
Shoal Creek Conservancy	1497
Friends of Austin Neighborhoods	1530
Central Austin Community Development Corporation	1391
Austin Neighborhoods Council	511
Austin Independent School District	742
Austin Heritage Tree Foundation	1340
My Guadalupe	1510
University Area Partners	69
CANPAC (Central Austin Neigh Plan Area Committee)	754
Preservation Austin	1424
SEL Texas	1363

**SCHOOLS:** Bryker Woods Elementary, O Henry Middle, Austin High School

**COUNCIL DATE:**

**ACTION:**

February 11, 2016;

*Approved a postponement request by the Neighborhood to March 24, 2016 [S. Gallo / D. Zimmerman -2<sup>nd</sup>] (11-0).*

March 24, 2016;

*Closed the public hearing and postponed discussion to March 31, 2016 [L. Pool / O. Houston-2<sup>nd</sup>] (8-0-1)  
ABSTAINED – D. Zimmerman. ABSENT – S. Gallo, G. Casar.*

March 31, 2016;

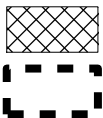
**ORDINANCE READING:**

**ORDINANCE NUMBER:**

**CASE MANAGER:** Victoria Haase

**PHONE:** 512-974-7691

**EMAIL:** [tori.haase@austintexas.gov](mailto:tori.haase@austintexas.gov)



Subject Property  
Zoning Boundry

### ZONING MAP - EXHIBIT A

ZONING CASE#: C14-91-0038RCA  
ZONING CHANGE: An amendment to the RC  
LOCATION: 507 W 23rd Street



1' = 400'

This map has been produced by the Communications Technology Management Dept. on behalf of the Planning Development Review Dept. for the sole purpose of geographic reference. No warranty is made by the City of Austin regarding specific accuracy or completeness.





W 23RD ST

SAN ANTONIO ST

NUECES ST

# **AERIAL MAP - EXHIBIT B**

ZONING CASE#: C14-91-0038RCA  
 ZONING CHANGE: An amendment to the RC  
 LOCATION: 507 W 23rd Street



Subject Property

1' = 400'

This map has been produced by the Communications Technology Management Dept. on behalf of the Planning Development Review Dept. for the sole purpose of geographic reference. No warranty is made by the City of Austin regarding specific accuracy or completeness.





DOC. NO.

91077601

00004743387

EXHIBIT C - C14-91-0038RCA

13<sup>th</sup>

Zoning Case No. C14-91-0038

**RESTRICTIVE COVENANT**

OWNER: UNIVERSITY COOPERATIVE SOCIETY, INC., a Texas corporation

ADDRESS: 2246 Guadalupe Street, Austin, Texas, 78705.  
Attn: George Mitchell, President.

CONSIDERATION: Ten and No/100 Dollars (\$10.00) and other good and valuable consideration paid by the City of Austin to the Owner, the receipt and sufficiency of which is acknowledged.

PROPERTY: Tract 1: North 9 foot tract of land out of Lot 14, Outlot 34, Division D, Louis Horst Subdivision, said North 9 foot tract of land being that same tract of land conveyed to University Cooperative Society, Inc., a Texas corporation, and described in the deed recorded in Volume 4420, at Page 2060, of the Deed Records of Travis County, Texas, said deed being attached as "Exhibit A" and incorporated herein for all purposes.

Tract 2: Lot 13, Outlot 34, Division D, Louis Horst Subdivision, a subdivision in the City of Austin, Travis County, Texas, according to the map or plat of record in Book Z, Page 613, of the Plat Records of Travis County, Texas.

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13.00 IND  
2 4 09/04/9  
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WHEREAS, the Owner of the Property and the City of Austin have agreed that the Property should be impressed with certain covenants and restrictions as conditions of zoning for the Property;

NOW, THEREFORE, it is declared that the Owner of the Property, for the consideration, shall hold, sell and convey the Property, subject to the following covenants and restrictions impressed upon the Property by this restrictive covenant. These covenants and restrictions shall run with the land, and shall be binding on the Owner of the Property, its successors and assigns.

1. The [Dabney-Horne] home existing on the Property on the date of the execution of this restrictive covenant shall be retained on the Property.
2. If any person or entity shall violate or attempt to violate this agreement and covenant, it shall be lawful for the City of Austin to prosecute proceedings at law or in equity against such person or entity violating or attempting to violate such agreement or covenant, to prevent the person or entity from such actions, and to collect damages for such actions.
3. If any part of this agreement or covenant is declared invalid, by judgment or court order, the same shall in no way affect any of the other provisions of this agreement, and such remaining portion of this agreement shall remain in full effect.
4. If at any time the City of Austin fails to enforce this agreement, whether or not any violations of it are known, such failure shall not constitute a waiver or estoppel of the right to enforce it.
5. 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, and (b) by the owner(s) of the Property at the time of such modification, amendment or termination.

11514 0506

REAL PROPERTY RECORDS  
Travis County, Texas

All citations to the Austin City Code shall refer to the Austin City Code of 1981, as amended from time to time, unless otherwise specified. When the context requires, singular nouns and pronouns include the plural.

UNIVERSITY COOPERATIVE SOCIETY, INC.,  
a Texas corporation

BY: George H. Mitchell  
George Mitchell, President

Date: July 23, 1991.

THE STATE OF TEXAS  
COUNTY OF TRAVIS

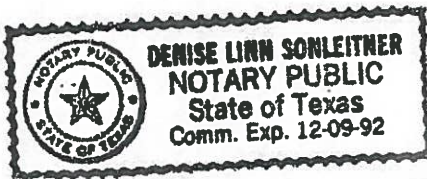
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This instrument was acknowledged before me on this the 23<sup>rd</sup> day of July, 1991, by George Mitchell, President of UNIVERSITY COOPERATIVE SOCIETY, INC., a Texas corporation, on behalf of said corporation.

Denise Linn Sonleitner

Notary Public Signature

Type or Print Name of Notary  
My Commission Expires: \_\_\_\_\_



After Recording, Please Return to:  
City of Austin  
Department of Law  
P. O. Box 1088  
Austin, Texas 78767  
Attention: Joe Jimenez, Legal Assistant



WARRANTY DEED

THE STATE OF TEXAS    |  
COUNTY OF TRAVIS     |

KNOW ALL MEN BY THESE PRESENTS:

That, for a good and valuable consideration to me in hand paid by University Cooperative Society, Inc., the receipt of all of which is hereby acknowledged, I, the undersigned, J. BURLESON SMITH, INDIVIDUALLY AND AS INDEPENDENT EXECUTOR OF THE ESTATE OF RUBY C. SMITH, DECEASED, of Bexar County, Texas, have granted, sold and conveyed and by these presents do grant, sell and convey unto the said UNIVERSITY COOPERATIVE SOCIETY, INC., a Texas corporation of Travis County, Texas, its successors and assigns, the following described premises lying and being situated in Travis County, Texas, to-wit:

Lot No. Thirteen (13) and North Nine (9) feet of Lot No. Fourteen (14), HORST ADDITION, Outlot Thirty-four (34), Division "D", an Addition in the City of Austin, Travis County, Texas, according to the map or plat thereof, recorded in Plat Book 2, Pages 594, and 613, Plat Records of Travis County, Texas.

TO HAVE AND TO HOLD the said premises, together with all rights and appurtenances thereunto in anywise appertaining, unto the said University Cooperative Society, Inc., its successors and assigns, forever. For the same consideration, I, the undersigned, J. Burleson Smith, Independent Executor of the Estate of Ruby C. Smith, Deceased, do covenant and agree that the Estate of Ruby C. Smith, Deceased, will warrant and forever defend title to the said premises against all persons whomsoever lawfully claiming or to claim the same or any part thereof.

The grant hereof is subject to all restrictive covenants, if any, of record in Travis County, Texas, affecting the said premises or any part thereof.

REAL PROPERTY RECORDS  
Travis County, Texas

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DEED RECORDS

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~~66-7797~~

Possession of the said premises shall be delivered contemporaneously with the delivery hereof.

EXECUTED this 26<sup>th</sup> day of September, 1972.

*J. Burleson Smith*  
J. Burleson Smith, Individually  
and as Independent Executor of  
the Estate of Ruby C. Smith,  
Deceased.

THE STATE OF TEXAS |  
COUNTY OF <sup>TRAVIS</sup> ~~BEXAR~~ |

BEFORE ME, the undersigned authority, on this day personally appeared J. Burleson Smith, Independent Executor of the Estate and under the Will of Ruby C. Smith, Deceased, 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<sup>th</sup> day of September, A.D., 1972.

*David Stone*  
Notary Public in and for ~~Travis~~  
County, Texas. *Travis*

NOTARY SEAL

STATE OF TEXAS      COUNTY OF TRAVIS  
I hereby certify that this instrument was FILED on the  
date and at the place indicated herein; and was duly  
RECORDED, in the Volume and Page of the named RECORDS  
of Travis County, Texas, as Standing Order by me, on

OCT 4 1972



*David Stone*  
COUNTY CLERK  
TRAVIS COUNTY, TEXAS

FILED

OCT 4 9 15 AM '72

-2-

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0509

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REAL PROPERTY RECORDS  
Travis County, Texas

"EXHIBIT A" - Page 2 of 3

**SURVEY PLAT**

**TO ALL PARTIES INTERESTED IN PREMISES SURVEYED:—**

This is to certify that I have, this date, made a careful and accurate survey on the ground of property located at No.

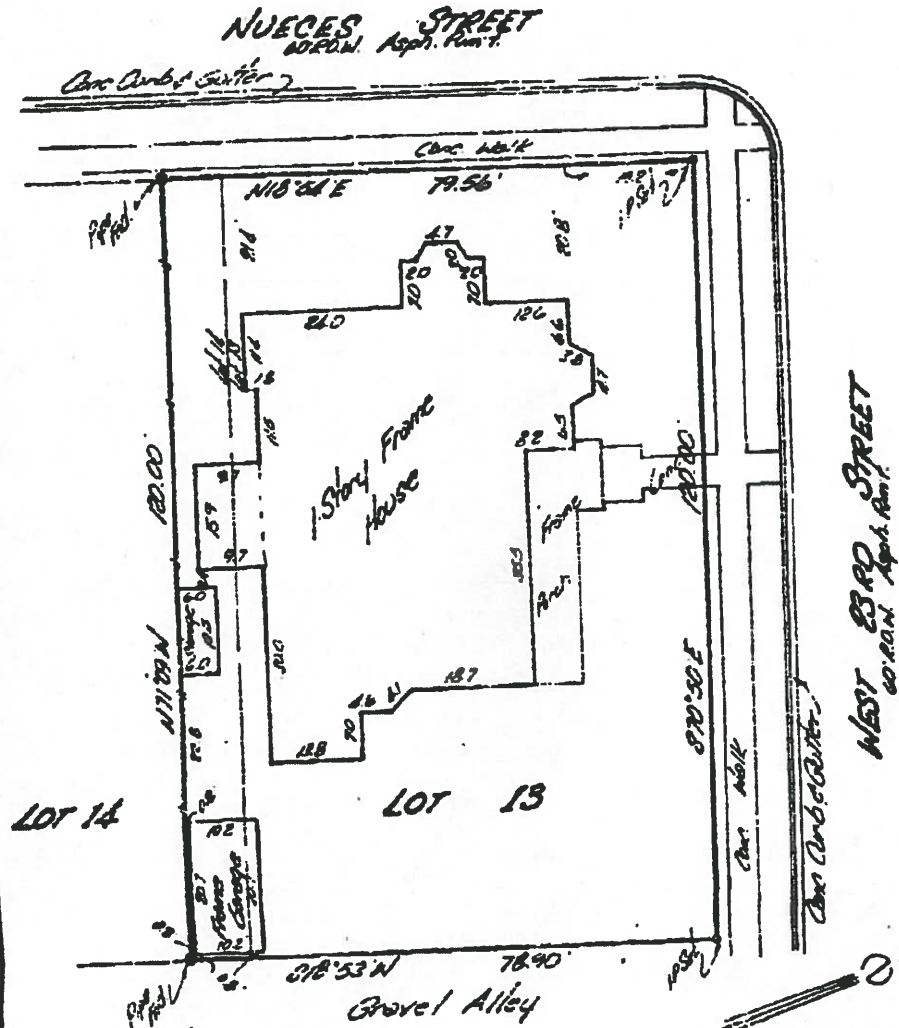
Nueces & W 23rd St. in the City of Austin, Texas being described as follows:

Lot No. 13 & N 9' of Lot 14 Block No. \_\_\_\_\_

of Louis Horst's Sub. an addition to the City of Austin

Texas, according to the final plat thereof recorded in Vol. 7 at page 594 of the Deed

XXX Records of Travis County, Texas. Ref. Ruby Smith Estate



The undersigned does hereby certify that this survey was this day made on the ground of the property legally described hereon and is correct, and that there are no discrepancies, conflicts, shortages in area, boundary line conflicts, encroachments, overlapping of improvements, visible utility easements or roadways, except as shown hereon, and that said property has access to and from a dedicated roadway, except as shown hereon.

There are no encroachments upon this lot.

Dated Sept. 20, 1978 Invoice No. 18886 Work Order No. 16851

11514 0510

REAL PROPERTY RECORDS  
Travis County, Texas

"EXHIBIT A" - Page 3 of 3

FILED

1991 SEP -4 PM 3 16

DANA DE BEAUMONT  
COUNTY CLERK  
TRAVIS COUNTY, TEXAS

STATE OF TEXAS

COUNTY OF TRAVIS

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

SEP 4 1991



*Dana DeBeaumont*

COUNTY CLERK  
TRAVIS COUNTY, TEXAS

RECORDER'S MEMORANDUM - At the time of  
recording this instrument was found to be inadequate  
for the best photographic reproduction, because of  
illegibility, carbon or photo copy, discolored paper,  
etc. All blockouts, additions and changes were present  
at the time the instrument was filed and recorded.

11514 0511

REAL PROPERTY RECORDS

Travis County, Texas





**UNIVERSITY CO-OPERATIVE SOCIETY**

2246 GUADALUPE STREET • P.O. DRAWER 7520 • AUSTIN, TEXAS 78713 • 512 476-7211

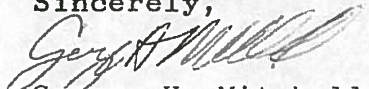
May 8, 1989

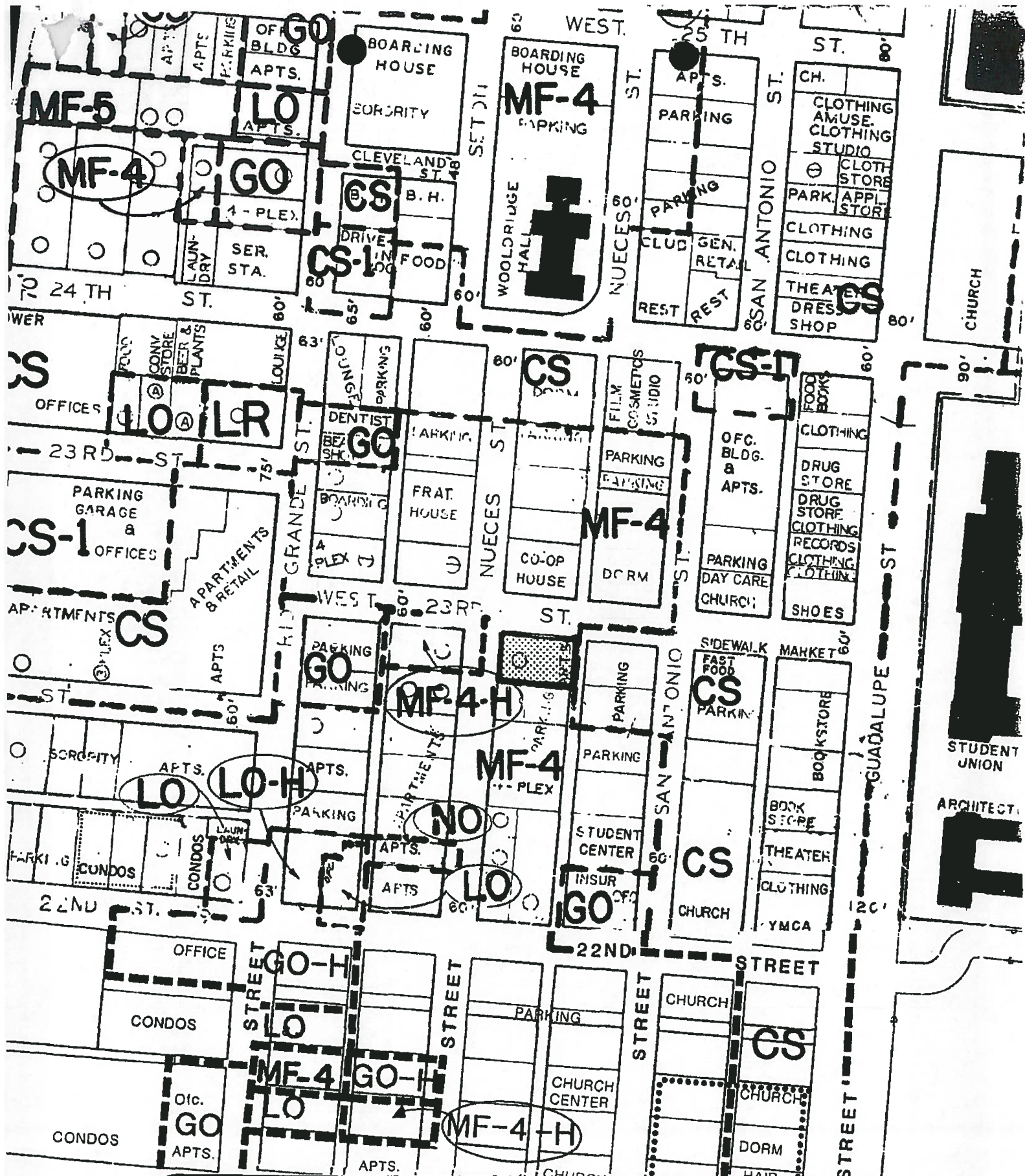
Norman R. Standerfer  
Acting Director of Planning Dept.  
City of Austin  
P.O. Box 1088  
Austin, Texas 78767

Dear Sir:

On behalf of the owners, I request determination of the historical value of the property of existing house at 507 West 23rd St. in Austin, Texas.

Sincerely,

  
George H. Mitchell  
President



NORTH 	PENDING CASE .....	SUBJECT TRACT.....	GRID
	ZONING LINE .....	SUBJECT ACREAGE .....	J
	CYCLE 6/89 INTLS jramos	CASE NO: C14H-89-0010	23,24



Historic Landmark Commission MINUTES - March 22, 1989

3. C14h-89-010

Dabney-Horne House  
507 W. 23rd Street

Staff reported that the house was placed on the agenda by the owner. The historical association of this structure and the contributions to the city by its owners are highly significant and apparent. The structure appears to meet Items (1), (6), (8), (9), (11) and (12) of the criteria; item (13) would be met if the structure were restored. Staff is recommending historic zoning.

Two persons spoke in favor of historic zoning:

Eugenia Schoch - former Landmark Commission member  
Mike McHone - Save University Neighborhoods

Both persons spoke to urge the Commission to zone the structure historic, and Mr. McHone urged that the maximum number of uses per permitted for this structure if it was zoned historic.

Speaking in opposition, B.J. Cornelius, representing the University Co-op (owners), showed slides of the house, and stated that it was the wish of the owners to move the house to a different location to make way for more parking for the business. They presently have two offers to purchase the structure and to relocate it. The owners are not interested in restoring the structure and will board it up within two months. The structure has been used in the immediate past as rental property, but because the structure is deemed as unsafe, that use has ceased. The owners do not feel the house is architecturally significant, and that it does not warrant historic zoning.

Commissioners Blake Alexander and Sharon Judge both stated that the house was in good condition with the Co-op acquired it, and it is the Co-op that has allowed it to deteriorate to this degree. Both felt that the owners should not be rewarded for allowing this deterioration.

COMMISSION ACTION: Christianson/Judge

Motion: To recommend historic zoning.

Ayes: Unanimous  
Absent: Creer, Fowler

THE MOTION PASSED BY A VOTE OF 8-0.

4. C14h-89-009

Preston-Garcia House  
1214 Newning Avenue

Staff reported that this is an owner-initiated request. Staff and Commission have been aware of its significance for some time, and the recent restoration and ownership by an individual who is supportive of historic zoning are welcome. The structure was built around 1886, and appears to meet Items (1), (3), (4), (6), (9), (11), (12), and (13) of the criteria, and is recommended for historic zoning. This is only the second structure with Hispanic ownership to be recommended.



**UNIVERSITY CO-OPERATIVE SOCIETY**

2246 GUADALUPE STREET • P.O. DRAWER 7520 • AUSTIN, TEXAS 78713 • 512 476-7211

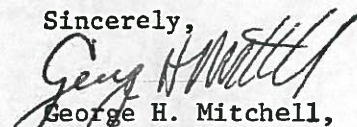
May 30, 1989

Norman R. Standerfer  
Acting Director of Planning Dept.  
City Of Austin  
P.O.Box 1088  
Austin, Texas 78767

Dear Sir:

On behalf of the University Co-Operative Society, I request that case # CIAH-89-0010 not be scheduled for the planning commission, and further request an indefinite postponement.

Sincerely,

  
George H. Mitchell,  
President



AN ORDINANCE ORDERING A REZONING AND CHANGING THE ZONING MAP ACCOMPANYING CHAPTER 13-2 OF THE AUSTIN CITY CODE OF 1981 AS FOLLOWS: LOTS 13, 14, AND 15, OUTLOT 34, DIVISION D, LOUIS HORST SUBDIVISION, FROM "MF-4" MULTIFAMILY RESIDENCE (MODERATE-HIGH DENSITY) DISTRICT TO "GO-CO" GENERAL OFFICE DISTRICT-CONDITIONAL OVERLAY COMBINING DISTRICT, LOCALLY KNOWN AS 507 WEST 23RD AND 2211-2217 NUECES STREET, IN THE CITY OF AUSTIN, TRAVIS COUNTY, TEXAS; WAIVING THE RULE REQUIRING THE READING OF ORDINANCES ON THREE SEPARATE DAYS; AND PROVIDING AN EFFECTIVE DATE.

**PART 1.** Chapter 13-2 of the Austin City Code of 1981 is amended to change the base zoning district from "MF-4" Multifamily Residence (Moderate-High Density) district to "GO-CO" General Office district-Conditional Overlay combining district on the property described in File C14-91-0038, as follows:

locally known as 507 West 23rd and 2211-2217 Nueces Street, in the City of Austin, Travis County, Texas.

**PART 2.** The property within the boundaries of the Conditional Overlay combining district established by this ordinance is subject to the following condition:

1. No structure of any kind shall be built to a height greater than 40 feet above ground level on the Property.

**PART 3.** It is ordered that the Zoning Map established by Sec. 13-2-22 of the Austin City Code of 1981 and made a part thereof shall be changed to record the amendment enacted by this ordinance.

**PART 5.** This ordinance shall be effective ten days after the date of its final passage.

August 1, 1991

**అంతా అంతా అంతా**

Bruno

**Bruce Todd  
Mayor**

**APPROVED:**

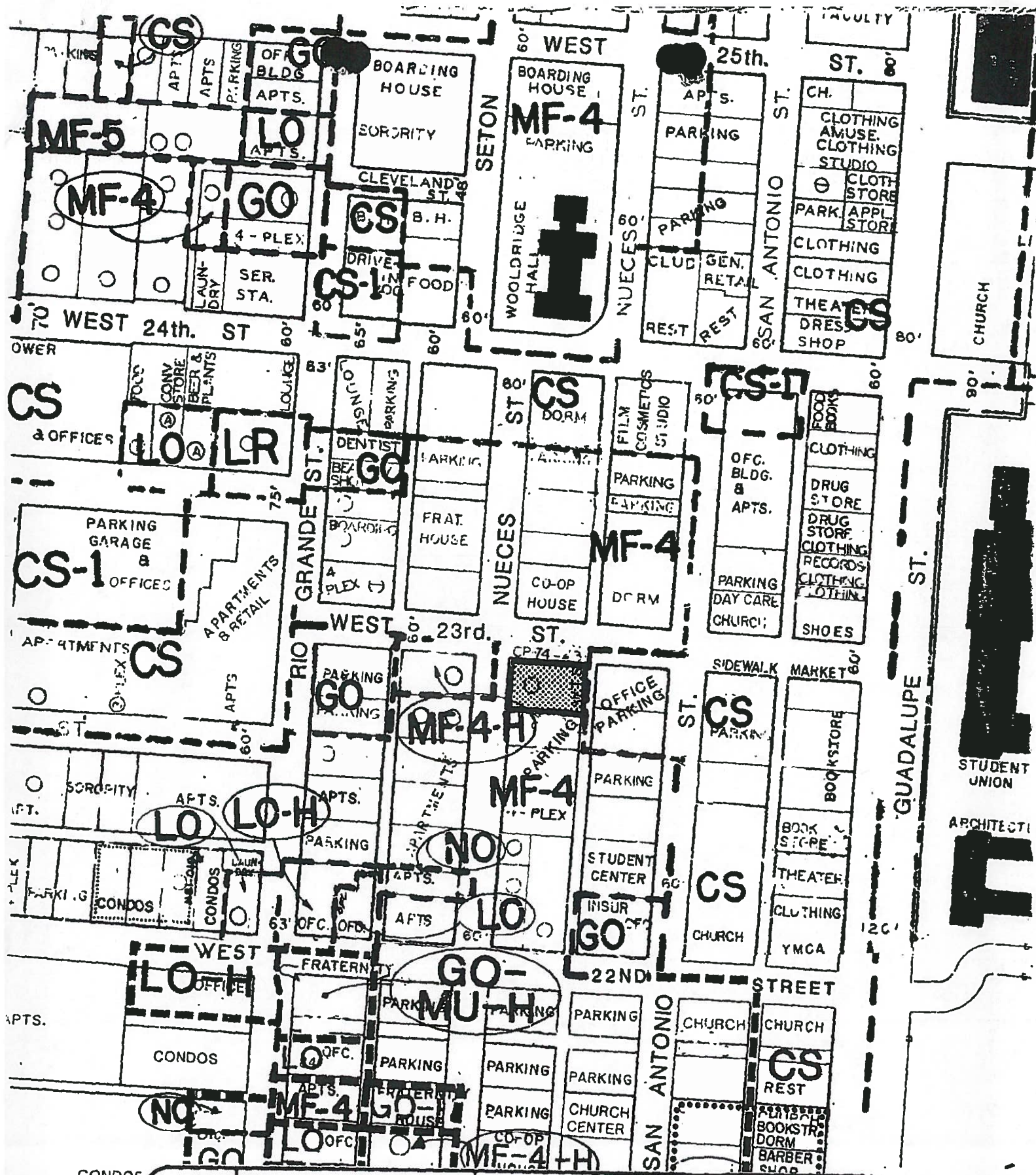
**Iris J. Jones**  
**City Attorney**

**ATTEST**

James E. Aldridge  
City Clerk

1AUG91  
ME/ij

C14-91-0038



Pending Case:.....  
 Zoning Boundary:---  
 Cycle 5/91 Intls frames

Subject Tract [REDACTED]  
 Subject Acreage: 0.199  
 Case No: C14-91-0038

Grid  
 J 24

WEST  
 DORM. MALL



DOC. NO.

91077601

00004743387

Zoning Case No. C14-91-0038

**RESTRICTIVE COVENANT**

OWNER: UNIVERSITY COOPERATIVE SOCIETY, INC., a Texas corporation

ADDRESS: 2246 Guadalupe Street, Austin, Texas, 78705.  
Attn: George Mitchell, President.

CONSIDERATION: Ten and No/100 Dollars (\$10.00) and other good and valuable consideration paid by the City of Austin to the Owner, the receipt and sufficiency of which is acknowledged.

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1. The [Dabney-Horne] home existing on the Property on the date of the execution of this restrictive covenant shall be retained on the Property.
2. If any person or entity shall violate or attempt to violate this agreement and covenant, it shall be lawful for the City of Austin to prosecute proceedings at law or in equity against such person or entity violating or attempting to violate such agreement or covenant, to prevent the person or entity from such actions, and to collect damages for such actions.
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5. 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, and (b) by the owner(s) of the Property at the time of such modification, amendment or termination.

11514 0506

REAL PROPERTY RECORDS  
Travis County, Texas

All citations to the Austin City Code shall refer to the Austin City Code of 1981, as amended from time to time, unless otherwise specified. When the context requires, singular nouns and pronouns include the plural.

UNIVERSITY COOPERATIVE SOCIETY, INC.,  
a Texas corporation

BY: George H. Mitchell  
George Mitchell, President

Date: July 23, 1991.

THE STATE OF TEXAS  
COUNTY OF TRAVIS

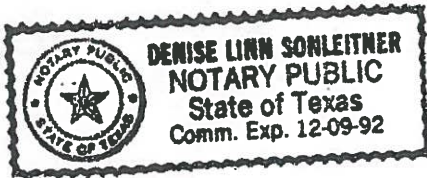
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§

This instrument was acknowledged before me on this the 23<sup>rd</sup> day of July, 1991, by George Mitchell, President of UNIVERSITY COOPERATIVE SOCIETY, INC., a Texas corporation, on behalf of said corporation.

Denise Linn Sonleitner

Notary Public Signature

Type or Print Name of Notary  
My Commission Expires: \_\_\_\_\_



After Recording, Please Return to:  
City of Austin  
Department of Law  
P. O. Box 1088  
Austin, Texas 78767  
Attention: Joe Jimenez, Legal Assistant



WARRANTY DEED

THE STATE OF TEXAS    |  
COUNTY OF TRAVIS     |

KNOW ALL MEN BY THESE PRESENTS:

That, for a good and valuable consideration to me in hand paid by University Cooperative Society, Inc., the receipt of all of which is hereby acknowledged, I, the undersigned, J. BURLESON SMITH, INDIVIDUALLY AND AS INDEPENDENT EXECUTOR OF THE ESTATE OF RUBY C. SMITH, DECEASED, of Bexar County, Texas, have granted, sold and conveyed and by these presents do grant, sell and convey unto the said UNIVERSITY COOPERATIVE SOCIETY, INC., a Texas corporation of Travis County, Texas, its successors and assigns, the following described premises lying and being situated in Travis County, Texas, to-wit:

Lot No. Thirteen (13) and North Nine (9) feet of Lot No. Fourteen (14), HORST ADDITION, Outlot Thirty-four (34), Division "D", an Addition in the City of Austin, Travis County, Texas, according to the map or plat thereof, recorded in Plat Book 2, Pages 594, and 613, Plat Records of Travis County, Texas.

TO HAVE AND TO HOLD the said premises, together with all rights and appurtenances thereunto in anywise appertaining, unto the said University Cooperative Society, Inc., its successors and assigns, forever. For the same consideration, I, the undersigned, J. Burleson Smith, Independent Executor of the Estate of Ruby C. Smith, Deceased, do covenant and agree that the Estate of Ruby C. Smith, Deceased, will warrant and forever defend title to the said premises against all persons whomsoever lawfully claiming or to claim the same or any part thereof.

The grant hereof is subject to all restrictive covenants, if any, of record in Travis County, Texas, affecting the said premises or any part thereof.

REAL PROPERTY RECORDS  
Travis County, Texas

11514

0508

DEED RECORDS

~~1150~~ 2060

~~66-7797~~

Possession of the said premises shall be delivered contemporaneously with the delivery hereof.

EXECUTED this 26<sup>th</sup> day of September, 1972.

*J. Burleson Smith*  
J. Burleson Smith, Individually  
and as Independent Executor of  
the Estate of Ruby C. Smith,  
Deceased.

THE STATE OF TEXAS |  
COUNTY OF TRAVIS |  
                          DEXAR |

BEFORE ME, the undersigned authority, on this day personally appeared J. Burleson Smith, Independent Executor of the Estate and under the Will of Ruby C. Smith, Deceased, 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<sup>th</sup> day of September, A.D., 1972.

*David Stone*  
Notary Public in and for Travis  
County, Texas.

NOTARY SEAL

STATE OF TEXAS                      COUNTY OF TRAVIS  
I hereby certify that this instrument was FILED on the  
date set out in the above captioned instrument, and was duly  
RECORDED, in the Volume and Page of the public RECORDS  
of Travis County, Texas, as stated herein by me, on

OCT 2 1972

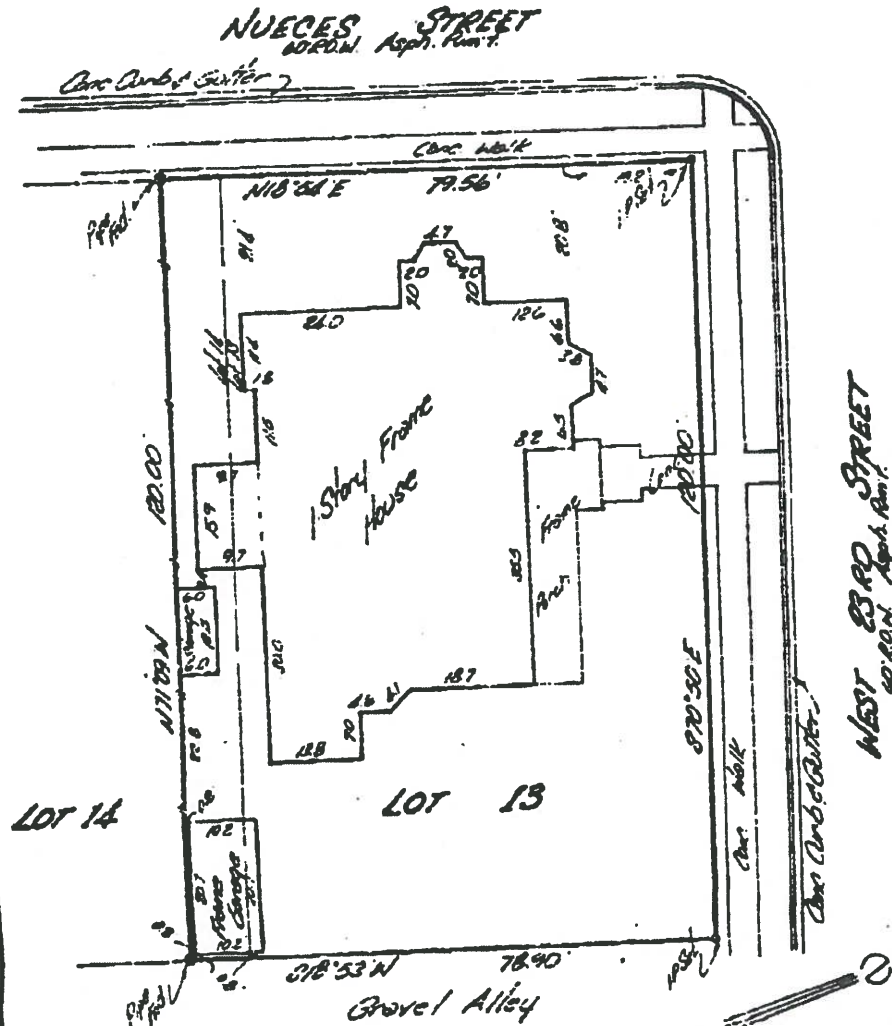


*David Stone*  
COUNTY CLERK  
TRAVIS COUNTY, TEXAS

FILED  
OCT 4 9 15 AM '72

**SURVEY PLAT**

**TO ALL PARTIES INTERESTED IN PREMISES SURVEYED:—**  
 This is to certify that I have, this date, made a careful and accurate survey on the ground of property located at No. Nueces & W 23rd St. in the City of Austin, Texas, being described as follows:  
Lot No. 13 & N 9' of Lot 14, Block No. \_\_\_\_\_  
of Louis Horst's Sub., \_\_\_\_\_ an addition to the City of Austin  
 Texas, according to the final plat thereof recorded in Vol. 7 at page 594 of the Reed  
 Ref. Ruby Smith Estate  
 XXXX Records of Travis County, Texas.



The undersigned does hereby certify that this survey was this day made on the ground of the property legally described hereon and is correct, and that there are no discrepancies, conflicts, shortages in area, boundary line conflicts, encroachments, overlapping of improvements, visible utility easements or roadways, except as shown hereon, and that said property has access to and from a dedicated roadway, except as shown hereon.

There are no encroachments upon this lot.

Date Sept. 20, 1978 Invoice No. 18886 Work Order No. 16851

*Harvey Smith*  
 Surveyor  
 Austin, Texas 78703

11514 0510

FILED

1991 SEP -4 PM 3 16

DANA DE BEAUMONT  
COUNTY CLERK  
TRAVIS COUNTY, TEXAS

STATE OF TEXAS      COUNTY OF TRAVIS  
I hereby certify that this instrument was FILED on  
date and at the time stamped hereon by me, and  
is duly RECORDED, in the Volume and Page of the  
said RECORDS of Travis County, Texas, on

SEP 4 1991



*Dana De Beaumont*  
COUNTY CLERK  
TRAVIS COUNTY, TEXAS

RECORDER'S MEMORANDUM - At the time of  
recordation this instrument was found to be inadequate  
for the best photographic reproduction, because of  
illegibility, carbon or photo copy, discolored paper,  
etc. All blockouts, additions and changes were present  
at the time the instrument was filed and recorded.

11514 0511

REAL PROPERTY RECORDS  
Travis County, Texas



AN ORDINANCE ORDERING A REZONING AND CHANGING THE ZONING MAP ACCOMPANYING CHAPTER 13-2 OF THE AUSTIN CITY CODE OF 1981 AS FOLLOWS:

TRACT 1: NORTH 9 FOOT TRACT OF LAND OUT OF LOT 14, OUTLOT 34, DIVISION D, LOUIS HORST SUBDIVISION, FROM "GO-CO" GENERAL OFFICE DISTRICT-CONDITIONAL OVERLAY COMBINING DISTRICT TO "GO-CO-H" GENERAL OFFICE DISTRICT-CONDITIONAL OVERLAY COMBINING DISTRICT-HISTORIC; AND,

TRACT 2: LOT 13, OUTLOT 34, DIVISION D, LOUIS HORST SUBDIVISION, FROM "GO-CO" GENERAL OFFICE DISTRICT-CONDITIONAL OVERLAY COMBINING DISTRICT TO "GO-CO-H" GENERAL OFFICE DISTRICT-CONDITIONAL OVERLAY COMBINING DISTRICT-HISTORIC,

LOCALLY KNOWN AS 507 WEST 23RD STREET, IN THE CITY OF AUSTIN, TRAVIS COUNTY, TEXAS, WAIVING THE RULE REQUIRING THE READING OF ORDINANCES ON THREE SEPARATE DAYS; AND PROVIDING AN EFFECTIVE DATE.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF AUSTIN:

PART 1. That Chapter 13-2 of the Austin City Code of 1981 is amended to change the respective base zoning districts on all the property described in File C14h-89-0010, as follows:

Tract 1: From "GO-CO" General Office district-Conditional Overlay combining district to "GO-CO-H" General Office district-Conditional Overlay combining district-Historic.

North 9 foot tract of land out of Lot 14, Outlot 34, Division D, Louis Horst Subdivision, said North 9 foot tract of land being that same tract of land conveyed to University Cooperative Society, Inc., a Texas corporation, and described in the deed recorded in Volume 4420, at Page 2060, of the Deed Records of Travis County, Texas, said deed being attached as "Exhibit A" and incorporated herein for all purposes.

Tract 2: From "GO-CO" General Office district-Conditional Overlay combining district to "GO-CO-H" General Office district-Conditional Overlay combining district-Historic.

Lot 13, Outlot 34, Division D, Louis Horst Subdivision, a subdivision in the City of Austin, Travis County, Texas, according to the map or plat of record in Book Z, Page 613, of the Plat Records of Travis County, Texas.

locally known as 507 West 23rd Street, in the City of Austin, Travis County, Texas.

PART 2. That it is ordered that the Zoning Map established by Sec. 13-2-22 of the Austin City Code of 1981 and made a part thereof shall be changed to record the amendment enacted by this ordinance.

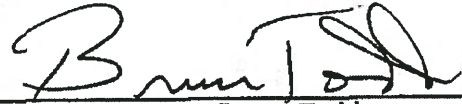
PART 3. That the requirement imposed by Section 2-2-3 of the Austin City Code of 1981 that this ordinance be read on three separate days shall be waived by the affirmative vote of five members of the City Council to pass this ordinance through more than one reading on a single vote.

PART 4. That this ordinance shall become effective upon the expiration of ten days following the date of its final passage.

PASSED AND APPROVED:

April 2, 1992

SECTION 105.001



Bruce Todd  
Mayor

APPROVED:



Diana L. Granger  
Acting City Attorney

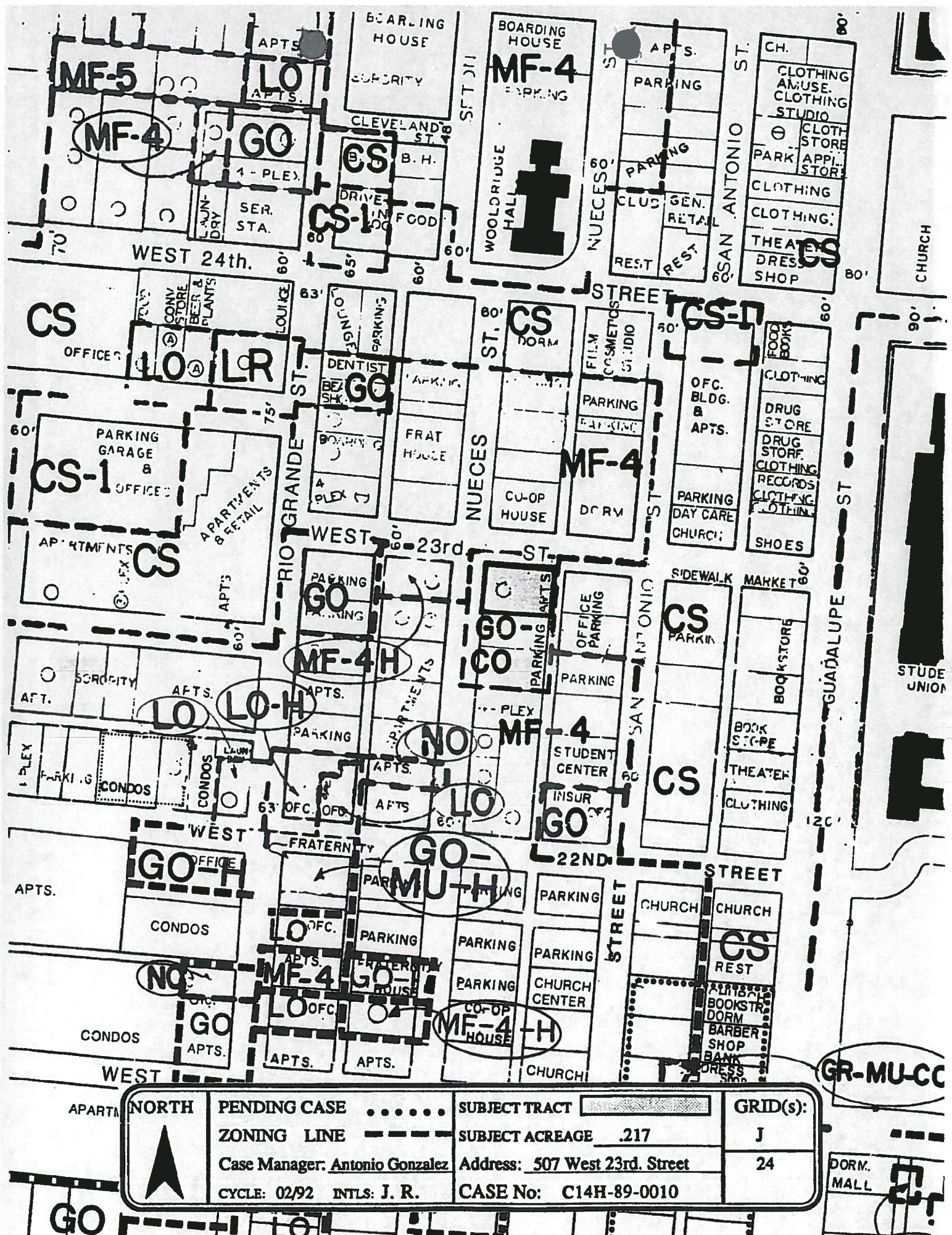
ATTEST:



James E. Aldridge  
City Clerk

2Apr92  
ME/jj







WARRANTY DEED

THE STATE OF TEXAS |  
COUNTY OF TRAVIS |

KNOW ALL MEN BY THESE PRESENTS:

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The grant hereof is subject to all restrictive covenants, of record in Travis County, Texas, affecting the said or any part thereof.

Possession of the said premises shall be delivered contemporaneously with the delivery hereof.

EXECUTED this 26<sup>th</sup> day of September, 1972.

*J. Burleson Smith*  
J. Burleson Smith, Individually  
and as Independent Executor of  
the Estate of Ruby C. Smith,  
Deceased.

THE STATE OF TEXAS |  
COUNTY OF <sup>TEXAS</sup> ~~DEKAR~~ |

BEFORE ME, the undersigned authority, on this day personally appeared J. Burleson Smith, Independent Executor of the Estate and under the Will of Ruby C. Smith, Deceased, 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.

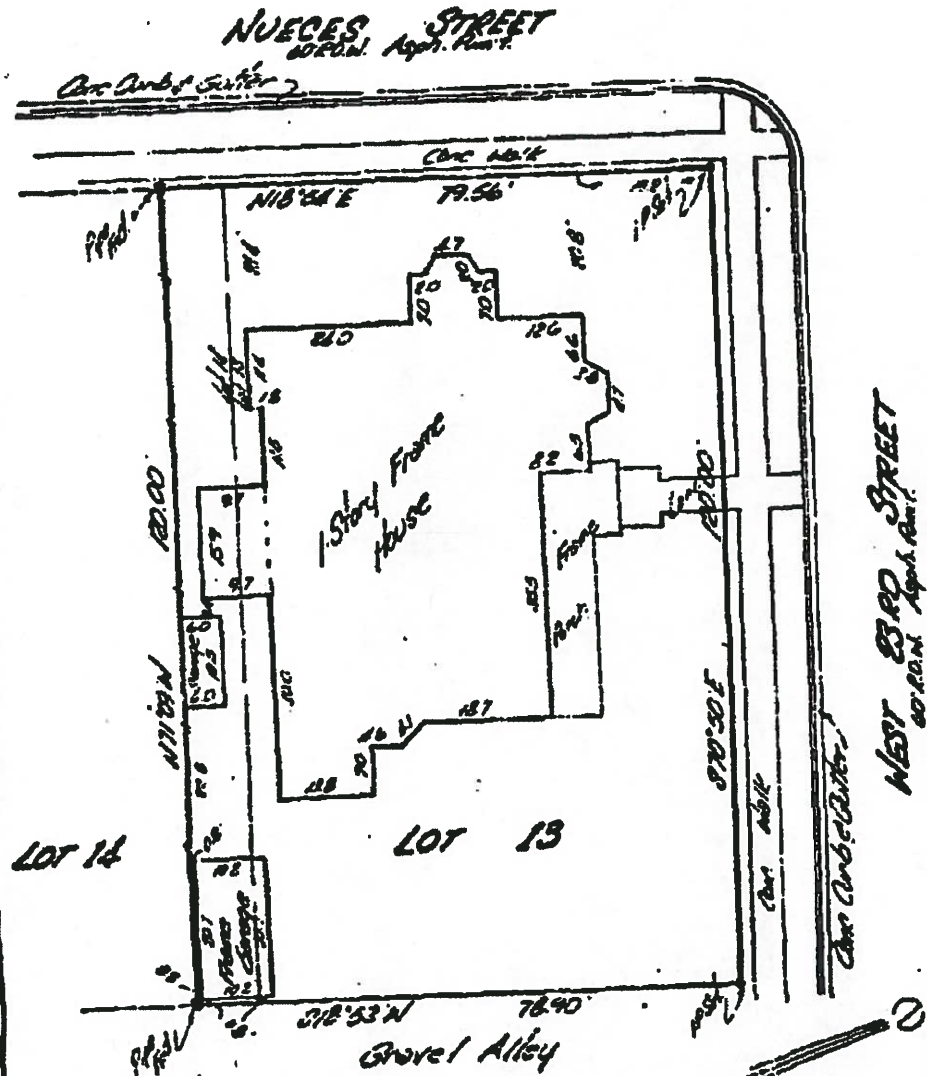
Given under my hand and seal of office on this the 26<sup>th</sup> day of September, A.D., 1972.

*David L. Stone*  
Notary Public in and for ~~DeKalb~~ <sup>Gravis</sup>  
County, Texas.

NOTARY SEAL

**SURVEY PLAT**

TO **PARTIES INTERESTED IN PREMISES SURVEYED** —  
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Lot No. 13 & N 9' of Lot 14 Block No. \_\_\_\_\_  
of Louis Horst's Sub. on addition to the City of Austin  
 Texas, according to the final plat thereof recorded in Vol. 7 at page 594 of the Reed  
 Ref. Ruby Smith Estate  
 1914 Records of Travis County, Texas.



The undersigned does hereby certify that this survey was this day made on the ground of the property legally described hereon and is correct, and that there are no discrepancies, conflicts, shortages in area, boundary line conflicts, encroachments, overlapping of improvements, visible utility easements or roadways, except as shown hereon, and that the property has access to and from a dedicated roadway, except as shown hereon.

There are no encroachments upon this lot.

Date Sept. 21, 1972 Service No. 18896 Work Order No. 16851

## Haase, Victoria [Tori]

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**From:** Sadowsky, Steve  
**Sent:** Tuesday, January 12, 2016 9:16 AM  
**To:** Haase, Victoria [Tori]  
**Cc:** mike mchone  
**Subject:** Removal of restrictive covenant - 507 W. 23rd Street

The Landmark Commission approved a Certificate of Appropriateness to move this historically-zoned house to 901 Shoal Cliff Court. Removing the restrictive covenant requiring the house to stay on its current location will allow for the move, which serves the interests of historic preservation. The new site is located in the same West Campus area as the current house, and the house will be moved next to the Clyde and Henrietta Littlefield house, which is also up for landmark designation. Moving the house currently at 507 W. 23<sup>rd</sup> Street will encourage the restoration of the house, as well as the preservation of the Littlefield house in a low-scale residential context more appropriate to the original history of both houses.

The City Historic Preservation Office supports the removal of the restrictive covenant on the Dabney Horne House at 507 W. 23<sup>rd</sup> Street, and its relocation to 901 Shoal Cliff Court.

*Steve Sadowsky  
Historic Preservation Officer  
City of Austin, Texas  
974-6454*



1/10/2016

To:     Tori Haase  
          Planning and Zoning Department  
          City of Austin

From: The Owners of Modern Eyes  
       (Dr Sonja Franklin & Mark Lind)  
       2222 Rio Grande, Suite 180

Case: C14-91-0038(RCA)

Dear Members of the City Council and Planning Commission—

As nearby property owners, we have received notification that another historic building in our area is under consider for relocation. Please consider our comments as you make your decision.

This will be the second notification we have received in less than a year. While we are not opposed to Austin's growth, nor opposed to new development, we are concerned about its impact on Austin's cultural heritage. And that is what is at stake.

These are not just old buildings that happen to be in the way of new construction; these are important elements in Austin's cultural heritage. That is why they were awarded the protections given to historic structures, after having gone through a rigorous historical review process.

As an architecture student who was fortunate enough to spend a semester studying in Europe, my husband was able to see firsthand how they manage to not only allow for growth, but to do so in a manner that allows for the protection of their older buildings. In fact, what occurs regularly in Europe and many older countries around the world, is a happy coexistence between old and new. Older buildings are not just either destroyed or relocated. Rather they are built upon and around and integrated within new buildings, rather than being leveled or displaced. We find that strategy to be more acceptable to removing historic structures from their original sites, and suggest that this is an alternative strategy that should be considered in cases where new projects are proposed on property already occupied by existing historic structures.

Another strategy that should be considered, would be to create an Historic District within which historic structures could be relocated to sit beside one another on a street that preserves the urban scale as well as the buildings! Quite frankly, you must admit that it is difficult to separate a historic structure from its context. Buildings are as much a part of their place as they are of their time. Rather than remove a structure from its original site, and relegate it to some remote corner of another neighborhood where it is unlikely to be appreciated or perhaps even seen, would it not be better to group similar historic structures together so that the streetscape of that era can be preserved? After all, that is what is truly historic : a sense of the scale and urban quality that these buildings made up, not just the buildings themselves !!

Unfortunately, the system that is currently in place now— where the relocation of historic structures is considered independently, on a case by case basis— seems to be flawed in that it allows for the protection of individual structures without recognizing the importance of their context. Despite the best efforts of many, that system now seems to be failing to protect historic structures in the manner that we believe was originally intended. If an historic plaque on a building is to have any real meaning, then it should not be an easy thing to move it from its site without considering its overall urban context or the historic significance of its original location.

We respectfully request that a moratorium upon any further removal and relocations of historic structures be immediately enacted, until a truly equitable and comprehensive plan is developed—one that will preserve Austin's dwindling cultural legacy and live up to the promise of protection that was given to these buildings when their plaques were originally installed.

Thank you,

Dr Sonja Franklin  
Mr. Mark Lind