

**Zoning Public Hearing
CITY OF AUSTIN
RECOMMENDATION FOR COUNCIL ACTION**



**AGENDA ITEM NO.: Z-12
AGENDA DATE: Thu 09/01/2005
PAGE: 1 of 1**

SUBJECT: C14-79-151 (RCT) - Z-Lofts Subdivision - Conduct a public hearing and approve a restrictive covenant termination for the property locally known as 2919 Martin Luther King Jr. Blvd. East (Boggy Creek Watershed). Zoning and Platting Commission Recommendation: To grant the request to terminate the restrictive covenant. Applicant: Marbella Development. Agent: Jan Davis. City Staff: Robert Heil, 974-2330.

REQUESTING Neighborhood Planning
DEPARTMENT: and Zoning

DIRECTOR'S
AUTHORIZATION: Greg Guernsey

ZONING CHANGE REVIEW SHEET**CASE:** C14-79-151(RCT) Z-Lofts**P.C. DATE:** August, 2005**ADDRESS:** 2919 Martin Luther King Jr. Blvd**OWNER/APPLICANT:** Marbella Development**AGENT:** Jan Davis**REQUEST:** Termination of the Restrictive Covenant.**SUMMARY STAFF RECOMMENDATION:**

Staff recommends Termination of the Restrictive Covenant.

PLANNING COMMISSION RECOMMENDATION:**August 23, 2005:** *APPROVED A TERMINATION OF RESTRICTIVE COVENANT.**VOTE: 9-0 (JR-1st, JMC-2nd)***DEPARTMENT COMMENTS:**

This item is related to Item 8.

Staff recommends Termination of the Restrictive Covenant.

The property in question is subject to a 25 year old restrictive covenant that limits developed to an approved site plan, attached as part of the covenant. The site plan, while not specifying a use of the property, appears to be designed to limit the development to small storage units. That same year, 1980, the property was rezoned from "A" Residential zoning to Local Retail (LR) zoning.

The 1980 rezoning was not recommended by staff, as the surrounding uses in the neighborhood were residential, but was approved by City Council.

In 2002 the property was rezoned as part of the Rosewood Neighborhood Plan to CS-MU-CO-NP. The conditional overlay prohibited several uses incompatible with nearby residential uses, limited the height of buildings on the property to 40 feet, and allowed the development of a neighborhood mixed use building special use.

It is the intent of the applicant to build four single family homes on the property.

EXISTING ZONING AND LAND USES:

	ZONING	LAND USES
Site	CS-MU-CO-NP	Undeveloped
North	CS-MU-CO-NP	Undeveloped
East	SF-3-NP	Single Family Homes
South	SF-3-NP	Single Family Homes
West	CS-MU-CO-NP	Grocery Store

NEIGHBORHOOD PLAN: Rosewood**TIA:** N/A**WATERSHED:** Boggy Creek.**DESIRED DEVELOPMENT ZONE:** Yes**CAPITOL VIEW CORRIDOR:** No**HILL COUNTRY ROADWAY:** No**REGISTERED NEIGHBORHOOD ORGANIZATIONS:**

03--Martin Luther King Jr./Airport Blvd. Sector

443--Clifford-Sanchez Neigh. Assn.

511--Austin Neighborhoods Council

603--Mueller Neighborhoods Coalition

742--Austin Independent School District

744--Sentral Plus East Austin Koalition (SPEAK)

972--PODER People Organized in Defense of Earth & Her R

SCHOOLS: (AISD ISD)

Blackshear Elementary School

Kealing Middle School

Johnston High School

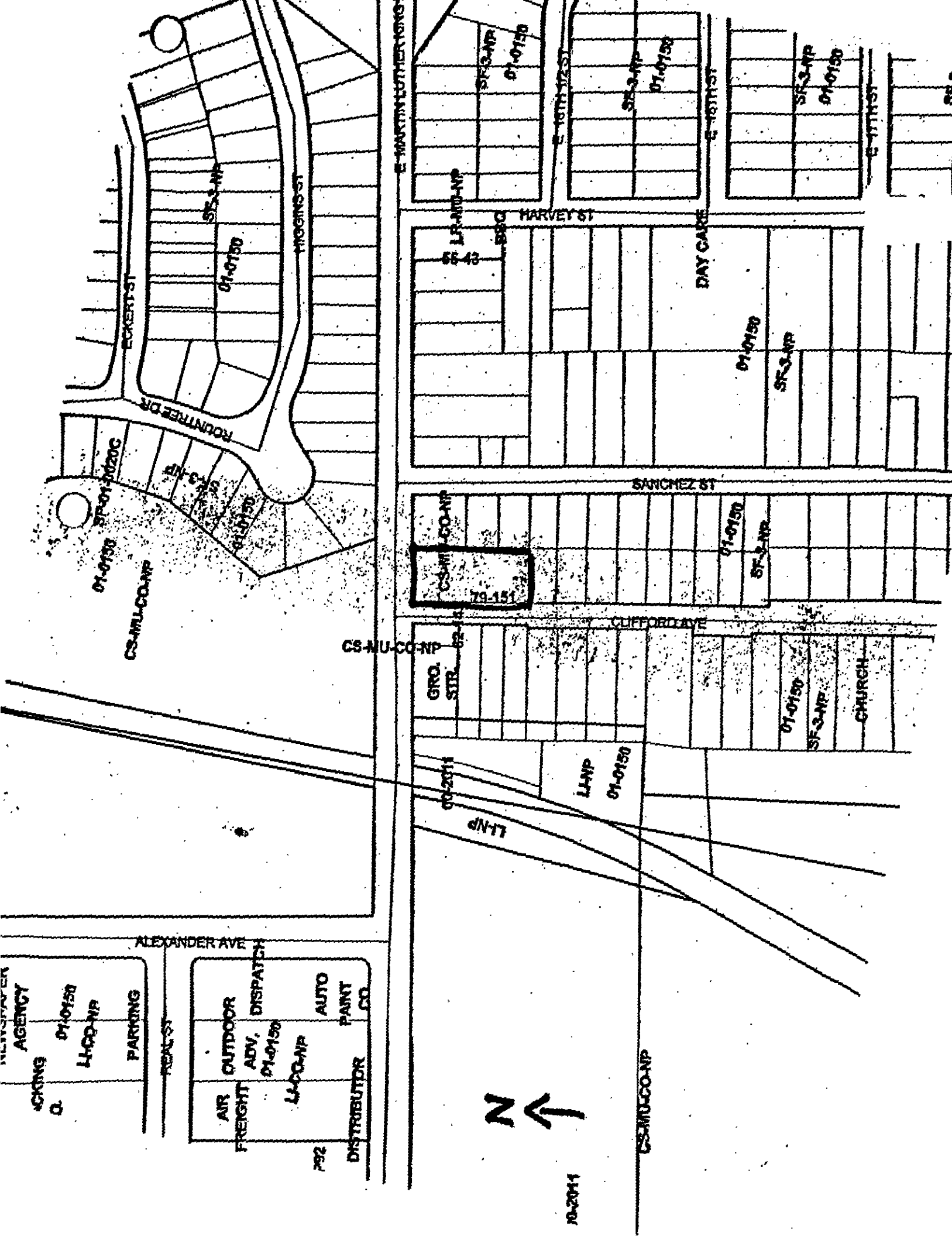
CITY COUNCIL DATE:

September 1, 2005

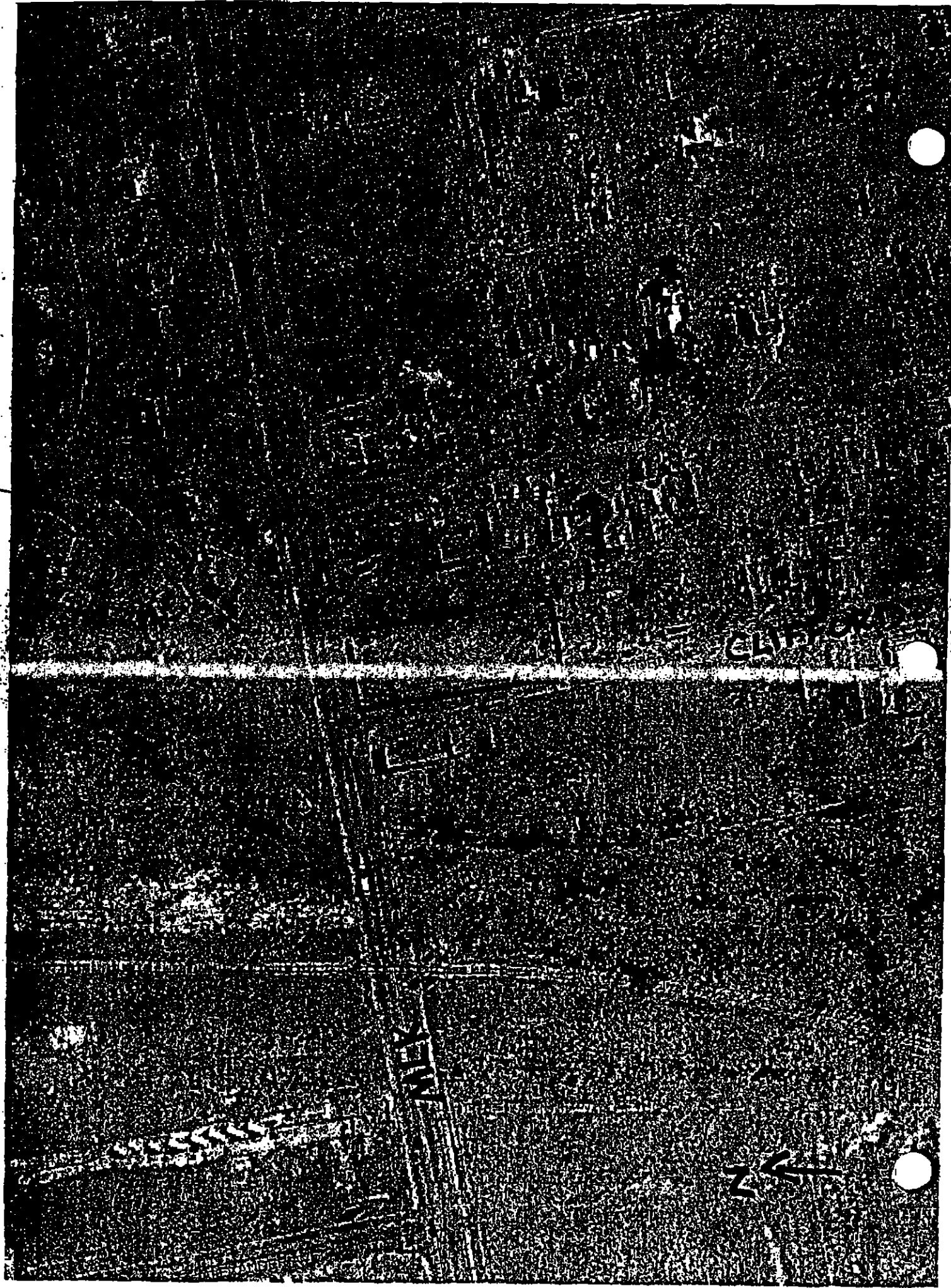
ORDINANCE READINGS:1st2nd3rd**ORDINANCE NUMBER:****ZONING CASE MANAGER:** Robert Heil

e-mail address: robert.heil@ci.austin.tx.us

PHONE: 974-2330



10-2011



→ 2

MILK

CLIFFORD

CLIFFORD

CLIFFORD

CLIFFORD

RESTRICTIVE COVENANT

9.00

THE STATE OF TEXAS
COUNTY OF TRAVIS

E 14 -79-191

~~ME 79-0000~~ 8797 * 9.00

2-35-8273

WHEREAS, EDWARD L. ROBERTS of Travis County, Texas, is
the owner of the following described property, to-wit:

LOT 14 of Henry Uitt's Unrecorded Subdivision
Outlot 28 Division 2
Tract of Land Conveyed to Edward L. Roberts
Probate # 2926V

WHEREAS, the City of Austin and Edward L. Roberts
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, Edward L. Roberts for and in consideration
of One and No/100 Dollars (\$1.00) and other good and valuable consider-
ation in hand to the undersigned paid by the City of Austin, the re-
ceipt of which is hereby acknowledged, does hereby agree with respect to
said property described above, such agreement to be deemed and con-
sidered as a covenant running with the land, and which shall be bind-
ing on him, his successors and assigns, as follows, to-wit:

1. "No development shall occur on the above described
property except in accordance with the site plan approved by the City
Council of the City of Austin on January 3, 1980, said site plan
being attached hereto and marked EXHIBIT 'A'."

2. If any person, persons, corporation 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 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.

3. 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 nowise affect any of the other provisions of this

agreement, and such remaining portion of this agreement shall remain in full force and effect.

4. 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.

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, 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.

EXECUTED this the 21st day of July, 1980.

2-35-8274
Edward L. Roberts
Owner's signature
Edward L. Roberts

THE STATE OF TEXAS
COUNTY OF TRAVIS

BEFORE ME, the undersigned authority, a Notary Public in and for said County and State, on this personally appeared EDWARD L. ROBERTS 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.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, this the 21st day of July, 1980.

NOTARY SEAL

James Feuge

James Feuge
Notary Public in and for
TRAVIS County, Texas

(DATE)

(INITIALS)

7085 120

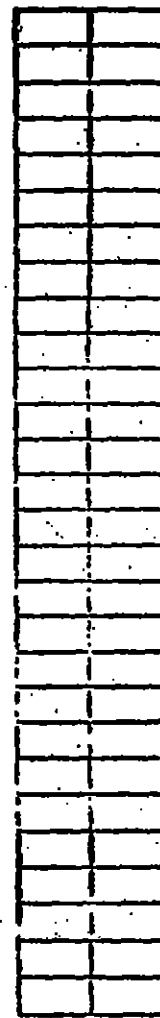
EXHIBIT "A"

M.L.K. BLVD.

2-35-8275

ENTRANCE

CLIFFORD AVE.



7085

121